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## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

February 25, 2022

Michael Boal, Senior Legal Counsel  
Office of the Governor  
1007 East Grand Ave.  
Des Moines, IA 50319

Sent via email to [michael.boal@governor.iowa.gov](mailto:michael.boal@governor.iowa.gov)

Mr. Boal,

The purpose of this letter is to memorialize our conversations regarding Governor Reynolds' upcoming response to President Biden's State of the Union Address. To summarize, multiple sites are currently being considered for the location where Governor Reynolds will give her address. The two most likely sites are the State Historical Building and the Governor's formal office at the State Capitol.

Iowa Code section 68A.505(1) prohibits the expenditure of public moneys for political purposes. A political purpose is defined in Iowa Code section 68A.102(19) as, "the express advocacy of a candidate or ballot issue." Iowa Administrative Code rule 351-5.3 further defines political purpose as meaning, "to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue." Furthermore, Iowa Code section 68A.505(2) states, in relevant part, "This section shall not be construed to limit the freedom of speech of officials or employees of the state..."

A response to the State of the Union Address does not qualify as a political purpose as defined above. The response will not be used to expressly advocate for any specific candidate or ballot issue. Rather, it is expected to promote certain policies and criticize others; such conduct is inherent to the everyday activities of the Governor of Iowa. To that end, Governor Reynolds' predecessors have given comparable addresses. Then-Governor Vilsack, on no fewer than four occasions, delivered addresses on behalf of the Democratic Party in response to addresses given by President George W. Bush.<sup>1</sup>

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<sup>1</sup> Democratic Radio Addresses given on February 8, 2003, December 27, 2003, February 14, 2004, and November 27, 2004. See <https://www.c-span.org/person/?57584/ThomasTomJVilsack>

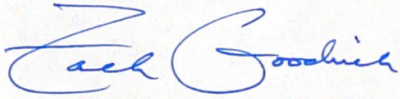
Even if Governor Reynolds' address qualified as a political purpose, aside from *de minimis* expenditures on items such as building lights and heating, you have informed me that no public moneys will be expended to provide a site for the address. In keeping with legal precedent, any expenses related to the routine operation of a public building would not constitute an expenditure for a political purpose merely because of the conduct occurring in the building.

The Iowa District Court has clarified that such *de minimis* expenses do not constitute an expenditure, even if for a political purpose. In *Slockett v. Iowa Ethics and Campaign Disclosure Board*, the Iowa District Court for Polk County held that an elected county official did not violate Iowa Code chapter 68A by making and receiving phone calls related to his campaign on a private phone while in his publicly provided office.<sup>2</sup> The Court clarified that, while distasteful, the conduct at issue did not result in any expenditures of public moneys.

Based on the facts you have provided and for the aforementioned reasons, Governor Reynolds would not be in violation of Iowa Code chapter 68A if she were to give her address either at the State Historical Building or in her formal office at the State Capitol.

Please contact our office if we can be of further service.

Sincerely,



Zach Goodrich

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<sup>2</sup> *Tom Slockett v. Iowa Ethics and Campaign Disclosure Board*, CVCV049899 (Iowa District Court, 2017), accessed at [https://www.aclu-ia.org/sites/default/files/2017-2-28\\_-\\_judicial\\_review\\_order.pdf](https://www.aclu-ia.org/sites/default/files/2017-2-28_-_judicial_review_order.pdf)