

Senate Amendment 3386

Amendment Text

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1 1 Amend [Senate File 470](#) as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 "Section 1. Section [56.2](#), Code 1999, is amended by
1 5 adding the following new subsections:
1 6 NEW SUBSECTION. 5A. "Clearly identified" means
1 7 that a communication contains an unambiguous reference
1 8 to a particular candidate or ballot issue, including
1 9 but not limited to one or more of the following:
1 10 a. Use of the name of the candidate or ballot
1 11 issue.
1 12 b. Use of a photograph or drawing of the
1 13 candidate, or the use of a particular symbol
1 14 associated with a specific ballot issue.
1 15 c. Use of a candidate's initials, nickname,
1 16 office, or status as a candidate, or use of acronym,
1 17 popular name, or characterization of a ballot issue.
1 18 NEW SUBSECTION. 12A. "Express advocacy" or to
1 19 "expressly advocate" means communication that can be
1 20 characterized according to at least one of the
1 21 following descriptions:
1 22 a. The communication is political speech made in
1 23 the form of a contribution.
1 24 b. In advocating the election or defeat of one or
1 25 more clearly identified candidates or the passage or
1 26 defeat of one or more clearly identified ballot
1 27 issues, the communication includes explicit words that
1 28 unambiguously indicate that the communication is
1 29 recommending or supporting a particular outcome in the
1 30 election with regard to any clearly identified
1 31 candidate or ballot issue.
1 32 c. When taken as a whole and with limited
1 33 reference to external events such as the proximity to
1 34 the election, the communication could only be
1 35 interpreted by a reasonable person as supporting or
1 36 recommending the election, passage, or defeat of one
1 37 or more clearly identified candidates or ballot issues
1 38 because both of the following conditions are met:
1 39 (1) The communication, as it relates to the
1 40 election or defeat of the candidate or ballot issue,
1 41 is unmistakable, unambiguous, and suggestive of only
1 42 one meaning.
1 43 (2) Reasonable minds could not differ as to
1 44 whether the communication encourages action to
1 45 nominate, elect, approve, or defeat one or more
1 46 clearly identified candidates or a ballot issue or
1 47 whether the communication encourages some other kind
1 48 of action.
1 49 Sec. 2. Section [56.2](#), subsections 16 and 17, Code
1 50 1999, are amended to read as follows:
2 1 16. "Political committee" means

—
— either of the
2 2 following:
2 3 a. A committee, but not a candidate's committee,
2 4

~~which~~

- ~~that~~ accepts contributions in excess of five
2 5 hundred dollars in the aggregate, makes expenditures
2 6 in excess of five hundred dollars in the aggregate, or
2 7 incurs indebtedness in excess of five hundred dollars
2 8 in the aggregate in any one calendar year

~~for the~~

-
2 9

~~purpose of supporting or opposing~~

- ~~to expressly~~
2 10 advocate the nomination, election, or defeat of a
2 11 candidate for public office, or

~~for the purpose of~~

-
2 12

~~supporting or opposing~~

- ~~to expressly advocate the~~
2 13 passage or defeat of a ballot issue

~~; "political~~

-
2 14

~~committee" also means an~~

- 2 15 b. An association, lodge, society, cooperative,
2 16 union, fraternity, sorority, educational institution,
2 17 civic organization, labor organization, religious
2 18 organization, or professional organization

~~which~~

- ~~that~~
2 19 accepts contributions in excess of five hundred
2 20 dollars in the aggregate, makes expenditures in excess
2 21 of five hundred dollars in the aggregate, or incurs
2 22 indebtedness in excess of five hundred dollars in the
2 23 aggregate in any one calendar year

~~for the purpose of~~

-
2 24

~~supporting or opposing~~

- ~~to expressly advocate the~~
2 25 nomination, election, or defeat of a candidate for
2 26 public office, or

~~for the purpose of supporting or~~

-
2 27

~~opposing~~

- ~~to expressly advocate the passage or defeat~~
2 28 of a ballot issue.

~~"Political committee" also~~

-
2 29

~~includes a committee which accepts contributions in~~

-

2 30

~~excess of five hundred dollars in the aggregate, makes~~

2 31

~~expenditures in excess of five hundred dollars in the~~

2 32

~~aggregate, or incurs indebtedness in excess of five~~

2 33

~~hundred dollars in the aggregate in a calendar year to~~

2 34

~~cause the publication or broadcasting of material in~~

2 35

~~which the public policy positions or voting record of~~

2 36

~~an identifiable candidate is discussed and in which a~~

2 37

~~reasonable person could find commentary favorable or~~

2 38

~~unfavorable to those public policy positions or voting~~

2 39

~~record.~~

2 40 17. "Political purpose" or "political purposes"

2 41 means the

~~support or opposition~~

~~express advocacy~~ of a

2 42 candidate or ballot issue.

2 43 Sec. 3. Section [56.4](#), unnumbered paragraphs 2 and

2 44 3, Code 1999, are amended to read as follows:

2 45 Political committees

~~supporting or opposing~~

2 46 expressly advocating the nomination, election, or

2 47 defeat of candidates for both federal office and any

2 48 elected office created by law or the Constitution of

2 49 the state of Iowa shall file statements and reports

2 50 with the board in addition to any federal reports

3 1 required to be filed with the board. However, a

3 2 political committee which is registered and filing

3 3 full disclosure reports of all financial activities

3 4 with the federal election commission may file verified

3 5 statements as provided in section 56.5.

3 6 Political committees

~~supporting or opposing~~

3 7 expressly advocating the nomination, election, or

3 8 defeat of candidates or the passage or defeat of
3 9 ballot issues for statewide elections and for county,
3 10 municipal or school elections may file all activity on
3 11 one report with the board and shall send a copy to the
3 12 commissioner responsible under section 47.2 for
3 13 conducting the election.

3 14 Sec. 4. Section 56.5, subsection 2, paragraph f,
3 15 Code 1999, is amended to read as follows:

3 16 f. A signed statement by the treasurer of the
3 17 committee and the candidate, in the case of a
3 18 candidate's committee, which shall verify that they
3 19 are aware of the requirement to file disclosure
3 20 reports if the committee, the committee officers, the
3 21 candidate, or both the committee officers and the
3 22 candidate receive contributions in excess of five
3 23 hundred dollars in the aggregate, make expenditures in
3 24 excess of five hundred dollars in the aggregate, or
3 25 incur indebtedness in excess of five hundred dollars
3 26 in the aggregate in a calendar year

~~for the purpose of~~

3 27

~~supporting or opposing~~
~~to expressly advocate the~~

3 28 nomination, election, or defeat of any candidate for
3 29 public office. In the case of political committees,
3 30 statements shall be made by the treasurer of the
3 31 committee and the chairperson.

3 32 Sec. 5. Section 56.5A, Code 1999, is amended to
3 33 read as follows:

3 34 56.5A CANDIDATE'S COMMITTEE.

3 35 1. Each candidate for state, county, city, or
3 36 school office shall organize one, and only one,
3 37 candidate's committee for a specific office sought
3 38 when the candidate receives contributions in excess of
3 39 five hundred dollars in the aggregate, makes
3 40 expenditures in excess of five hundred dollars in the
3 41 aggregate, or incurs indebtedness in excess of five
3 42 hundred dollars in the aggregate in a calendar year.

3 43 2. A political committee shall not be established
3 44 to

~~support or oppose~~

~~expressly advocate the~~

3 45 nomination, election, or defeat of only one candidate
3 46 for office, except that a political committee may be
3 47 established to

~~support or oppose~~

~~expressly advocate~~

3 48 the passage or defeat of approval of a single judge
3 49 standing for retention.

3 50 Sec. 6. Section 56.6, subsection 1, paragraph d,
4 1 Code 1999, is amended to read as follows:

4 2 d. Committees for municipal and school elective
4 3 offices and local ballot issues shall file their first
4 4 reports five days prior to any election in which the
4 5 name of the candidate or the local ballot issue which
4 6 they

~~support or oppose~~

~~expressly advocate~~ appears on

4 7 the printed ballot and shall file their next report on
4 8 the first day of the month following the final
4 9 election in a calendar year in which the candidate's

4 10 name or the ballot issue appears on the ballot. A
4 11 committee

~~supporting or opposing~~
~~expressly advocating~~

4 12 the nomination, election, or defeat of a candidate for
4 13 a municipal or school elective office or the passage
4 14 or defeat of a local ballot issue shall also file
4 15 disclosure reports on the nineteenth day of January
4 16 and October of each year in which the candidate or
4 17 ballot issue does not appear on the ballot and on the
4 18 nineteenth day of January, May, and July of each year
4 19 in which the candidate or ballot issue appears on the
4 20 ballot, until the committee dissolves. These reports
4 21 shall be current to five days prior to the filing
4 22 deadline and are considered timely filed if mailed
4 23 bearing a United States postal service postmark on or
4 24 before the due date.

4 25 Sec. 7. Section [56.12A](#), unnumbered paragraph 1,
4 26 Code 1999, is amended to read as follows:

4 27 The state and the governing body of a county, city,
4 28 or other political subdivision of the state shall not
4 29 expend or permit the expenditure of public moneys for
4 30 political purposes, including

~~supporting or opposing~~

4 31 expressly advocating the passage or defeat of a ballot
4 32 issue.

4 33 Sec. 8. Section [56.13](#), subsections 1, 2, and 3,
4 34 Code 1999, are amended to read as follows:

4 35 1. Action involving a contribution or expenditure
4 36 which must be reported under this chapter and which is
4 37 taken by any person, candidate's committee or
4 38 political committee on behalf of a candidate, if known
4 39 and approved by the candidate, shall be deemed action
4 40 by the candidate and reported by the candidate's
4 41 committee. It shall be presumed that a candidate
4 42 approves the action if the candidate had knowledge of
4 43 it and failed to file a statement of disavowal with
4 44 the commissioner or board and take corrective action
4 45 within seventy-two hours of the action. A person,
4 46 candidate's committee or political committee taking
4 47 such action independently of that candidate's
4 48 committee shall notify that candidate's committee in
4 49 writing within twenty-four hours of taking the action.
4 50 The notification shall provide that candidate's
5 1 committee with the cost of the promotion at fair
5 2 market value. A copy of the notification shall be
5 3 sent to the board.

5 4 Any person who makes expenditures or incurs
5 5 indebtedness, other than incidental expenses incurred
5 6 in performing volunteer work,

~~in support or opposition~~

5 7 to expressly advocate the nomination, election, or
5 8 defeat of a candidate for public office shall notify
5 9 the appropriate committee and provide necessary
5 10 information for disclosure reports.

5 11 2. If a person, other than a political committee,
5 12 makes one or more expenditures in excess of five
5 13 hundred dollars in the aggregate, or incurs
5 14 indebtedness in excess of five hundred dollars in the
5 15 aggregate, in any one calendar year

~~for purposes of~~

~~supporting or opposing~~

~~to expressly advocate the~~

5 17 passage or defeat of a ballot issue, the person shall
5 18 file a statement of activity within ten days of taking
5 19 the action exceeding the threshold. The statement
5 20 shall contain information identifying the person
5 21 filing the statement, identifying the ballot issue,
5 22 and indicating the position urged by the person with
5 23 regard to the ballot issue. The person shall file
5 24 reports indicating the dates on which the expenditures
5 25 or incurrence of indebtedness took place; a
5 26 description of the nature of the action taken which
5 27 resulted in the expenditures or debt; and the cost of
5 28 the promotion at fair market value. For a local
5 29 ballot issue, the reports shall be filed five days
5 30 prior to any election in which the ballot issue
5 31 appears and on the first day of the month following
5 32 the election, as well as on the nineteenth day of
5 33 January, May, and July of each year in which the
5 34 ballot issue appears on the ballot and on the
5 35 nineteenth day of January and October of each year in
5 36 which the ballot issue does not appear on the ballot.
5 37 For a statewide ballot issue, reports shall be filed
5 38 on the nineteenth day of January, May, and July of
5 39 each year. The reports shall be current to five days
5 40 prior to the filing deadline, and are considered
5 41 timely filed if mailed bearing a United States postal
5 42 service postmark on or before the due date. Filing
5 43 obligations shall cease when the person files a
5 44 statement of discontinuation indicating that the
5 45 person's financial activity

~~in support of or in~~

~~opposition~~

~~to expressly advocate the passage or defeat~~

5 47 of the ballot issue has ceased. Statements and
5 48 reports shall be filed with the commissioner
5 49 responsible under section 47.2 for conducting the
5 50 election at which the issue is voted upon, except that
6 1 reports on a statewide ballot issue shall be filed
6 2 with the board.
6 3 3. A person taking action involving the making of
6 4 an expenditure or incurrence of indebtedness

~~in~~

~~support or opposition~~

~~to expressly advocate the~~

6 6 passage or defeat of a ballot issue independently of a
6 7 political committee shall, within seventy-two hours of
6 8 taking the action, notify in writing any political
6 9 committee which advocates the same position with
6 10 regard to the ballot issue as the person taking the
6 11 action. The notification shall provide the political
6 12 committee with the cost of the promotion at fair
6 13 market value. A copy of the notification shall be
6 14 sent to the board. It shall be presumed that a
6 15 benefited committee approves the action if the
6 16 committee fails to file a statement of disavowal with

6 17 the commissioner or board and takes corrective action
6 18 within ten days of the action. Action approved by a
6 19 committee shall be reported as a contribution by the
6 20 committee.
6 21 Sec. 9. Section [56.14](#), subsection 1, paragraph a,
6 22 Code 1999, is amended to read as follows:
6 23 1. a. A person who causes the publication or
6 24 distribution of published material designed to

~~promote~~

6 25

~~or defeat~~

~~expressly advocate the nomination.~~

~~or~~

6 26 election, or defeat of a candidate for public office
6 27 or the passage or defeat of a constitutional amendment
6 28 or public measure shall include conspicuously on the
6 29 published material the identity and address of the
6 30 person responsible for the material. If the person
6 31 responsible is an organization, the name of one
6 32 officer of the organization shall appear on the
6 33 material. However, if the organization is a committee
6 34 which has filed a statement of organization under this
6 35 chapter, only the name of the committee is required to
6 36 be included on the published material. Published
6 37 material designed to

~~promote or defeat~~

~~expressly~~

6 38 advocate the nomination.

~~or~~

~~election, or defeat~~ of a

6 39 candidate for public office or the passage or defeat
6 40 of a constitutional amendment or public measure which
6 41 contains language or depictions which a reasonable
6 42 person would understand as asserting that an entity
6 43 which is incorporated or is a registered committee had
6 44 authored the material shall, if the entity is not
6 45 incorporated or a registered committee, include
6 46 conspicuously on the published material a statement
6 47 that the apparent organization or committee is not
6 48 incorporated or a registered committee in addition to
6 49 the attribution statement required by this section.
6 50 For purposes of this section, "registered committee"
7 1 means a committee which has an active statement of
7 2 organization filed under section 56.5.

7 3 Sec. 10. Section [56.15](#), subsections 1, 2, and 4,
7 4 Code 1999, are amended to read as follows:

7 5 1. Except as provided in subsections 3 and 4, it
7 6 is unlawful for an insurance company, savings and loan
7 7 association, bank, credit union, or corporation
7 8 organized pursuant to the laws of this state, the
7 9 United States, or any other state, territory, or
7 10 foreign country, whether for profit or not, or an
7 11 officer, agent, or representative acting for such
7 12 insurance company, savings and loan association, bank,
7 13 credit union, or corporation, to contribute any money,
7 14 property, labor, or thing of value, directly or
7 15 indirectly, to a committee, or

~~for the purpose of~~

~~influencing~~

~~to expressly advocate that~~ the vote of an
 7 17 elector be used to nominate, elect, or defeat a
 7 18 candidate for public office, except that such
 7 19 resources may be so expended in connection with a
 7 20 utility franchise election held pursuant to section
 7 21 364.2, subsection 4, or a ballot issue. All such
 7 22 expenditures are subject to the disclosure
 7 23 requirements of this chapter.
 7 24 2. Except as provided in subsection 3, it is
 7 25 unlawful for a member of a committee, or its employee
 7 26 or representative, except a ballot issue committee, or
 7 27 for a candidate for office or the representative of
 7 28 the candidate, to solicit, request, or knowingly
 7 29 receive from an insurance company, savings and loan
 7 30 association, bank, credit union, or corporation
 7 31 organized pursuant to the laws of this state, the
 7 32 United States, or any other state, territory, or
 7 33 foreign country, whether for profit or not, or its
 7 34 officer, agent, or representative, any money,
 7 35 property, or thing of value belonging to the insurance
 7 36 company, savings and loan association, bank, or
 7 37 corporation for campaign expenses, or

~~for the purpose~~

7 38

~~of influencing~~

~~to expressly advocate that~~ the vote of
 7 39 an elector be used to nominate, elect, or defeat a
 7 40 candidate for public office. This section does not
 7 41 restrain or abridge the freedom of the press or
 7 42 prohibit the consideration and discussion in the press
 7 43 of candidacies, nominations, public officers, or
 7 44 public questions.
 7 45 4. The restrictions imposed by this section
 7 46 relative to making, soliciting or receiving
 7 47 contributions shall not apply to a nonprofit
 7 48 corporation or organization which uses those
 7 49 contributions to encourage registration of voters and
 7 50 participation in the political process, or to
 8 1 publicize public issues, or both, but does not use any
 8 2 part of those contributions to

~~endorse or oppose~~

8 3 expressly advocate the nomination, election, or defeat
 8 4 of any candidate for public office. A nonprofit
 8 5 corporation or organization may use contributions
 8 6 solicited or received to

~~support or oppose~~

~~expressly~~

8 7 advocate the passage or defeat of ballot issues but
 8 8 the expenditures shall be disclosed by the nonprofit
 8 9 corporation or organization in the manner provided for
 8 10 a permanent organization temporarily engaged in a
 8 11 political activity under section 56.6.
 8 12 This section does not prohibit a family farm
 8 13 corporation, as defined in section 9H.1, from placing
 8 14 a yard sign on agricultural land, and does not
 8 15 prohibit the placement of yard signs, with the prior
 8 16 written permission of the individual property owner,
 8 17 on property rented or leased by a corporation from

8 18 private individuals, subject to the requirements of
8 19 section 56.14. This section also does not prohibit
8 20 the placement of a yard sign on residential property
8 21 that is owned by a corporation, but rented or leased
8 22 to a private individual, if the prior permission of
8 23 the renter or lessee is obtained.

8 24 Sec. 11. Section [56.15](#), Code 1999, is amended by
8 25 adding the following new subsection:

8 26 NEW SUBSECTION. 4A. For purposes of this section,
8 27 "committee" shall include statutory political
8 28 committees organized under chapter 43, and nonparty
8 29 political organizations organized under chapter 44.

8 30 Sec. 12. Section [56.22](#), subsection 2, Code 1999,
8 31 is amended to read as follows:

8 32 2. Funds distributed to statutory political
8 33 committees pursuant to this chapter shall not be used
8 34 to

~~support or oppose~~

- ~~expressly advocate~~ the

8 35 ~~nomination, election, or defeat~~ of any candidate.
8 36 Nothing in this subsection shall be construed to
8 37 prohibit a statutory political committee from using
8 38 such funds to pay expenses incurred in arranging and
8 39 holding a nominating convention."

8 40 #2. Title page, by striking lines 2 through 6 and
8 41 inserting the following: "express advocacy of
8 42 candidates and ballot issues."

8 43

8 44

8 45

8 46 MIKE [CONNOLLY](#)

8 47 [SF 470.307](#) 78

8 48 lh/cf