

3/17/98 *Managers*

FEB 24 1998
STATE GOVERNMENT

HOUSE FILE 2414
BY JOCHUM

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for voluntary limitations of campaign
2 expenditures and contributions for certain elective officers,
3 providing for disclosure for candidates who do not elect to
4 voluntarily limit campaign expenditures and contributions,
5 providing for a tax credit for qualified contributions, and
6 providing penalties and an effective date.

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

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HF 2414

1 Section 1. Sections 1 through 8 of this Act are created as
2 a new subchapter of chapter 56, entitled "Restricted
3 Campaigns".

4 Sec. 2. NEW SECTION. 56.31 DEFINITIONS.

5 As used in this subchapter, unless the context requires
6 otherwise:

7 1. "Advocacy information" is material published or
8 broadcast which discusses public issues, candidates, or voting
9 records from which a reasonable person could draw a fair
10 inference that the material recommends the defeat or election
11 of an identifiable candidate in a restricted campaign.

12 2. "Benefited candidate" means a candidate in a restricted
13 campaign whose election is recommended or whose opponent's
14 defeat is recommended by advocacy information or by the fair
15 inferences drawn from the advocacy information by a reasonable
16 person as determined by the board.

17 3. "Eligible office" means the offices of state
18 representative, state senator, secretary of agriculture,
19 secretary of state, treasurer of state, auditor of state,
20 attorney general, and governor. The office of lieutenant
21 governor shall not be considered a separate eligible office
22 but shall be considered with the office of governor for
23 purposes of this subchapter.

24 4. "Political action committee" means any political
25 committee except a county statutory political committee, a
26 state statutory political committee, a national political
27 party, or a nonparty political organization under chapter 44.

28 5. "Qualifying nomination" means a nomination by a
29 political party as defined by section 43.2, or a nomination
30 under chapter 44 or 45.

31 6. "Restricted campaign" means a campaign for an eligible
32 office in which there are two or more candidates with
33 qualifying nominations and all of those candidates have
34 registered with the board and voluntarily agreed to limit
35 campaign expenditures and contributions pursuant to section

1 56.33.

2 Sec. 3. NEW SECTION. 56.32 REGISTRATION FOR A RESTRICTED
3 CAMPAIGN.

4 Each candidate for an eligible office shall register with
5 the board and shall indicate whether the candidate voluntarily
6 agrees to limit campaign expenditures and contributions in a
7 restricted campaign prior to or with the filing of nomination
8 papers pursuant to chapter 43, 44, or 45.

9 Notwithstanding section 43.20, the nomination petition of a
10 candidate who does not agree to a restricted campaign must
11 contain signatures of at least fifteen percent of the total
12 number of votes cast in the last general election for that
13 office. A candidate nominated pursuant to section 43.66 who
14 does not agree to a restricted campaign must file a nomination
15 petition within fifteen days of nomination containing
16 signatures of at least fifteen percent of the total number of
17 votes cast in the last general election for that office in
18 order to be placed on the general election ballot. A
19 candidate who agrees to a restricted campaign and whose
20 opponent does not agree to a restricted campaign is not
21 required to obtain signatures under this section, is not
22 subject to the limitations on campaign expenditures or
23 contributions imposed in this subchapter, and shall be
24 considered as a candidate who agreed to a restricted campaign
25 for purposes of this section.

26 Notwithstanding the dates required for filing disclosure
27 reports pursuant to section 56.6, a candidate who does not
28 agree to a restricted campaign pursuant to this section shall
29 file a disclosure report each month until June 30 of the year
30 of the election. Beginning July 1 of the year of the
31 election, the candidate shall file a disclosure report every
32 fourteen days until the date of the general election. After
33 the date of election, the candidate shall file a disclosure
34 report each month until the candidate files nomination papers
35 for the same or another public office, or closes the

1 candidate's campaign account.

2 The commissioner required to publish notice of the election
3 and the ballot pursuant to section 49.53 shall, simultaneously
4 with such publication, publish the names of candidates who
5 agree and do not agree to a restricted campaign using the
6 following language where applicable: "These candidates
7 refused to limit their campaign spending."; or "These
8 candidates voluntarily agreed to limit their campaign
9 spending."

10 Sec. 4. NEW SECTION. 56.33 RESTRICTED CAMPAIGNS --
11 LIMITS ON EXPENDITURES.

12 If a restricted campaign exists, the candidate's committees
13 of those candidates with qualifying nominations to that
14 eligible office are subject to the following limits on
15 expenditures:

16 1. Governor. Total expenditure limit, five hundred
17 thousand dollars in a primary election if there is no primary
18 opponent, one million dollars in a primary election if there
19 is a primary opponent, and one million five hundred thousand
20 dollars in a general election.

21 2. Attorney general, secretary of agriculture, secretary
22 of state, treasurer of state, and auditor of state. Total
23 expenditure limit, fifty thousand dollars in a primary
24 election if there is no primary opponent, one hundred thousand
25 dollars in a primary election if there is a primary opponent,
26 and one hundred thousand dollars in a general election.

27 3. State senator. Total expenditure limit, ten thousand
28 dollars in a primary election if there is no primary opponent,
29 twenty-five thousand dollars in a primary election if there is
30 a primary opponent, and twenty-five thousand dollars in a
31 general election.

32 4. State representative. Total expenditure limit, five
33 thousand dollars in a primary election if there is no primary
34 opponent, fifteen thousand dollars in a primary election if
35 there is a primary opponent, and fifteen thousand dollars in a

1 general election.

2 For purposes of this subchapter, an expenditure occurs at
3 the time of performance and not at the time of payment.

4 Actions involving an expenditure taken on behalf of a
5 candidate in a restricted campaign shall be accepted,
6 reported, and credited against the limits of this section, or
7 disavowed pursuant to section 56.13. Actions taken by a
8 county or state statutory political committee or a national
9 political party which benefit the political party generally
10 and which benefit more than one candidate shall not be
11 considered as expenditures under this subchapter.

12 The board shall, by July 1 in each odd-numbered year,
13 adjust the limitations on expenditures to reflect any increase
14 in the consumer price index as released by the federal
15 government.

16 Sec. 5. NEW SECTION. 56.34 PERIODS THE EXPENDITURE
17 LIMITS ARE IN EFFECT.

18 If a restricted campaign exists, the limitations of section
19 56.33 apply to expenses incurred during the following periods:

20 1. During an even-numbered year, from the date the
21 candidate or the candidate's treasurer files a statement of
22 organization as required by section 56.5, or from the date the
23 candidate or the candidate's designee files an affidavit of
24 candidacy with the state commissioner of elections, whichever
25 date is earlier, through the date of the general election for
26 that office.

27 2. During a special election, from the date the candidate
28 or the candidate's treasurer files a statement of organization
29 as required by section 56.5, or from the date the candidate or
30 the candidate's designee files an affidavit of candidacy with
31 the state commissioner of elections, whichever date is
32 earlier, through the date of the special election for that
33 office.

34 Sec. 6. NEW SECTION. 56.35 ADJUSTMENTS FOR BENEFITED
35 CANDIDATES AND OPPONENTS.

1 1. A person or political committee which causes the
2 publication, mass mailing, or broadcast of advocacy
3 information in a restricted campaign shall give notice to the
4 board and to the benefited candidate. The notice shall be
5 given by certified restricted mail within twenty-four hours
6 after the publication, mailing, or broadcast of the advocacy
7 information and be accompanied by the text of the advocacy
8 information and the amount of the publication, mailing, or
9 broadcasting expenditures.

10 2. The benefited candidate shall notify the board within
11 seventy-two hours of receipt of notice given pursuant to
12 subsection 1 whether the candidate accepts or disavows the
13 expenditure. If the candidate accepts the expenditure, the
14 anticipated expenditure shall be credited against the
15 candidate's expenditure limit. If the candidate files a
16 statement of disavowal, the commissioner or board shall
17 forward a copy of the statement to the candidate's opponent.

18 3. For the purposes of this section, the board shall
19 disregard the first five hundred dollars of aggregate
20 disavowed expenditures regarding a benefited candidate for the
21 general assembly, the first one thousand dollars of aggregate
22 disavowed expenditures regarding a benefited candidate for a
23 statewide office other than governor, and the first five
24 thousand dollars of aggregate disavowed expenditures regarding
25 a benefited candidate for governor. If the aggregate
26 disavowed expenditures regarding a benefited candidate exceed
27 the amounts provided in this section, the board shall
28 determine if a reasonable person would or would not draw a
29 fair inference that the material assists the election of the
30 benefited candidate or the defeat of an opposing candidate.
31 If the board determines that a candidate is benefited, the
32 board shall attribute the disavowed expenditure to the
33 expenditure limits of the benefited candidate and shall do one
34 of the following: increase the benefited candidate's
35 opponent's expenditure limits by the amount of the disavowed

1 expenditures attributed to the benefited candidate or
2 eliminate the expenditure limit of the benefited candidate's
3 opponent for that election period.

4 4. The board by rule may delegate decisions under
5 subsection 3 to a panel of three members of the board. If
6 delegated, the decisions of the panel constitute final agency
7 action for the purposes of chapter 17A. Notwithstanding
8 section 17A.19, a petition for judicial review of a decision
9 under this section shall be filed only in Polk county district
10 court, the court shall not stay the increase or elimination of
11 the limits for the candidates opposing the benefited candidate
12 pending the outcome of the judicial review proceeding, the
13 petitioner has only two days after filing to provide notice or
14 copies to the other parties, and the proceeding shall receive
15 the highest priority among the cases before the district
16 court.

17 The decisions under subsection 3 shall be made within two
18 days of the board's receipt of the benefited candidate's
19 disavowal and the benefited candidate and opponents shall be
20 promptly notified.

21 Advocacy information caused by a county or state statutory
22 political committee or a national political party which
23 benefit the political party generally and which benefit more
24 than one candidate are not subject to the requirements of this
25 section.

26 Sec. 7. NEW SECTION. 56.36 RESTRICTED CAMPAIGNS --
27 LIMITS ON ACCEPTANCE OF CONTRIBUTIONS.

28 If a restricted campaign exists, the acceptance of
29 contributions by candidates for the following offices from
30 political action committees and individuals is subject to the
31 following limitations:

32 1. Governor.

33 a. Total political action committee contributions, thirty-
34 five percent of the candidate's applicable expenditure limit
35 in a primary election, and thirty-five percent of the

1 candidate's expenditure limit in a general election.

2 b. Largest political action committee contribution, five
3 thousand dollars.

4 c. Largest individual contribution, excluding
5 contributions made by a candidate to the candidate's own
6 campaign, one thousand dollars.

7 2. Attorney general, secretary of agriculture, secretary
8 of state, treasurer of state, and auditor of state.

9 a. Total political action committee contributions, thirty-
10 five percent of the candidate's applicable expenditure limit
11 in a primary election, and thirty-five percent of the
12 candidate's expenditure limit in a general election.

13 b. Largest political action committee contribution, five
14 thousand dollars.

15 c. Largest individual contribution, excluding
16 contributions made by a candidate to the candidate's own
17 campaign, one thousand dollars.

18 3. State senator.

19 a. Total political action committee contributions, thirty-
20 five percent of the candidate's applicable expenditure limit
21 in a primary election, and thirty-five percent of the
22 candidate's expenditure limit in a general election.

23 b. Largest political action committee contribution, one
24 thousand dollars.

25 c. Largest individual contribution, excluding
26 contributions made by a candidate to the candidate's own
27 campaign, five hundred dollars.

28 4. State representative.

29 a. Total political action committee contributions, thirty-
30 five percent of the candidate's applicable expenditure limit
31 in a primary election, and thirty-five percent of the
32 candidate's expenditure limit in a general election.

33 b. Largest political action committee contribution, one
34 thousand dollars.

35 c. Largest individual contribution, excluding

1 contributions made by the candidate to the candidate's own
2 campaign, five hundred dollars.

3 5. Individual contributions to the candidate or
4 candidate's committee made by one individual of a cumulative
5 value of one hundred dollars or more shall be reported,
6 including the name, address, occupation, and place of business
7 of the contributor.

8 Sec. 8. NEW SECTION. 56.37 PENALTIES.

9 1. A candidate who voluntarily agrees to a restricted
10 campaign, and who exceeds the expenditure or contribution
11 limitations in this subchapter, shall be subject to a fine
12 which is based on the percentage by which the candidate
13 exceeds permitted expenditures or contributions, so that the
14 candidate shall pay a percentage of the excess campaign
15 expenditures or contributions as follows:

16 a. Governor. For excess campaign expenditures or
17 contributions of under two thousand dollars, one percent; for
18 excess campaign expenditures or contributions of two thousand
19 to ten thousand dollars, ten percent; for excess campaign
20 expenditures or contributions of ten thousand one to twenty
21 thousand dollars, twenty-five percent; for excess campaign
22 expenditures or contributions of over twenty thousand dollars,
23 fifty percent.

24 b. Attorney general, secretary of agriculture, secretary
25 of state, treasurer of state, and auditor of state. For
26 excess campaign expenditures or contributions under one
27 thousand dollars, one percent; for excess expenditures or
28 contributions of one thousand to five thousand dollars, ten
29 percent; for excess expenditures or contributions of five
30 thousand one to ten thousand dollars, twenty-five percent; for
31 excess expenditures or contributions of over ten thousand
32 dollars, fifty percent.

33 c. State senator. For excess campaign expenditures or
34 contributions of under five hundred dollars, one percent; for
35 excess expenditures or contributions of five hundred to one

1 thousand dollars, ten percent; for excess expenditures or
2 contributions of one thousand one to five thousand dollars,
3 twenty-five percent; for excess expenditures or contributions
4 of over five thousand dollars, fifty percent.

5 d. State representative. For excess campaign expenditures
6 or contributions of under two hundred fifty dollars, one
7 percent; for excess expenditures or contributions of two
8 hundred fifty to five hundred dollars, ten percent; for excess
9 expenditures or contributions of five hundred one to two
10 thousand five hundred dollars, twenty-five percent; for excess
11 expenditures or contributions of over two thousand five
12 hundred dollars, fifty percent.

13 Fines collected pursuant to this section shall be paid to
14 the state political party of the violating candidate's
15 opponent.

16 2. Mileage expenses of the candidate, at a rate determined
17 pursuant to section 2.10, are not subject to the expenditure
18 limits of section 56.33.

19 3. The criminal penalty of section 56.16 applies to
20 violations of this subchapter.

21 4. A candidate who knowingly and intentionally violates
22 the expenditure or contribution limits of section 56.33 or
23 section 56.36 is, upon conviction, guilty of a class "D"
24 felony, but is only subject to a fine and is not subject to
25 imprisonment, notwithstanding the provisions of section 902.9.
26 A candidate shall not take the oath of office pending
27 conviction or acquittal, following trial, on charges brought
28 under this subsection, and a candidate is disqualified from
29 holding office upon conviction obtained pursuant to this
30 subsection.

31 Sec. 9. Section 56.13, subsection 1, unnumbered paragraph
32 1, Code 1997, is amended to read as follows:

33 Action involving a contribution or expenditure which must
34 be reported under this chapter and which is taken by any
35 person, candidate's committee, or political committee on

1 behalf of a candidate, if known and approved by the candidate,
2 shall be deemed action by the candidate and reported by the
3 candidate's committee. If a restricted campaign exists, the
4 action involving an expenditure or contribution which must be
5 reported under this chapter and which is taken by any person,
6 candidate's committee, or political committee on behalf of a
7 candidate, if known and approved by the candidate, shall be
8 reported by the candidate's committee, and shall be credited
9 against the candidate's expenditure or contribution limits
10 pursuant to section 56.33 or 56.36. It shall be presumed that
11 a candidate approves the action if the candidate had knowledge
12 of it and failed to file a statement of disavowal with the
13 commissioner or board and take corrective action within
14 seventy-two hours of the action. A person, candidate's
15 committee, or political committee taking such action
16 independently of that candidate's committee shall notify that
17 candidate's committee in writing within twenty-four hours of
18 taking the action. The notification shall provide that
19 candidate's committee with the cost of the promotion at fair
20 market value. A copy of the notification shall be sent to the
21 board. If a candidate files a statement of disavowal, the
22 commissioner or board shall forward a copy of the statement to
23 the candidate's opponent.

24 Sec. 10. Section 56.14, Code 1997, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 3. In addition to the identification
27 required in this section, a candidate's committee of a
28 candidate who is not registered for a restricted campaign
29 pursuant to section 56.32, shall include, on all printed
30 material, a statement, equal in size to the identification
31 information, that the candidate is not registered for a
32 restricted campaign. A similar disclaimer shall also be
33 included, vocally, in all radio and television commercials
34 purchased on behalf of the candidate. Candidates who have not
35 registered for a restricted campaign shall state the

1 following: "(name of candidate) refused to limit campaign
2 spending." The information required under this subsection may
3 be included on materials and commercials by a candidate who is
4 registered for a restricted campaign.

5 Sec. 11. NEW SECTION. 56.6A TAX CREDIT FOR QUALIFIED
6 CONTRIBUTIONS.

7 A credit against taxes pursuant to section 422.12,
8 subsection 4, shall be allowed for a contribution to a
9 candidate who has registered for a restricted campaign
10 pursuant to section 56.32, not to exceed one hundred dollars
11 per person per qualified candidate. Upon request by the
12 state, the contributor shall substantiate the claimed credit
13 with an official receipt from the candidate's committee to
14 which a contribution was made.

15 Sec. 12. Section 422.12, Code 1997, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 4. A tax credit for qualified political
18 contributions pursuant to section 56.6A.

19 Sec. 13. ANTISEVERABILITY CLAUSE. Notwithstanding section
20 4.12, if section 56.35, subsection 3 or 4, or section 56.37,
21 subsection 3, or the application thereof is invalid, this Act
22 shall be invalid.

23 Sec. 14. EFFECTIVE DATE. This Act takes effect January 1,
24 1999.

25 EXPLANATION

26 This bill creates a new subchapter in Code chapter 56
27 regarding restricted campaigns.

28 Code section 56.31 establishes definitions for the terms
29 "advocacy information", "benefited candidate", "eligible
30 office", "political action committee", "qualifying
31 nomination", and "restricted campaign" which are used in the
32 subchapter, and effectively limits application of the
33 subchapter to candidates for governor, lieutenant governor,
34 statewide elected office, the senate, or the house of
35 representatives who have registered with the ethics and

1 campaign disclosure board for a restricted campaign.

2 Code section 56.32 establishes the registration procedure
3 for restricted campaigns. Candidates who wish to voluntarily
4 limit their campaign expenditures must indicate that
5 preference, before or at the time of filing nomination papers,
6 with the ethics and campaign disclosure board. Candidates who
7 do not wish to restrict their expenditures must have notarized
8 signatures from voters in an amount that at least equals 15
9 percent of the number of votes cast during the last general
10 election for that office and are subject to monthly disclosure
11 requirements until June 30 of the year of the election and
12 biweekly reporting from July 1 until the date of the general
13 election. After the election candidates that do not agree to
14 participate in a restricted campaign must again file monthly
15 disclosure reports until they file new nomination papers for
16 office or close their campaign account. Ballots that are to
17 be printed for that office will indicate whether a candidate
18 has registered to participate in a restricted campaign.

19 Code section 56.33 establishes the limits that are imposed
20 on the various offices for which a candidate can elect to
21 restrict expenditures.

22 Code section 56.34 establishes the periods of time during
23 which expenditure limits are applicable if a candidate elects
24 to participate in a restricted campaign. The period ranges
25 from the time that either the candidate's treasurer files a
26 statement of organization or the candidate's affidavit of
27 candidacy is filed until the date of the election.

28 Code section 56.35 relates to various expenditures by
29 persons or committees that may be attributable to a candidate
30 for purposes of calculating how much a candidate has expended.
31 A procedure is established for notifying the candidate of an
32 expenditure and for a candidate to disavow and avoid having
33 the expenditure attributed to the candidate's overall
34 expenditure limit. The section provides for review of
35 disavowed expenditures, once they exceed certain amounts.

1 Code section 56.36 places limits on the acceptance of
2 various kinds of contributions by candidates who agree to
3 participate in restricted campaigns.

4 Code section 56.37 establishes fines for candidates, who
5 exceed the limits to which they have agreed as part of a
6 restricted campaign, based upon the percentage difference
7 between the amount of excess and the campaign expenditure
8 limit. Knowing and intentional violations of expenditures
9 limits in restricted campaigns are class "D" felonies.

10 Charges of violation of the expenditure limits prevent a
11 candidate from being able to be sworn into office and, if
12 convicted, will prevent the candidate from holding office.

13 Code section 56.13 is amended to provide that action by
14 another person on behalf of a candidate that is approved by a
15 candidate, if the candidate is participating in a restricted
16 campaign, is to be reported and attributed to the candidate's
17 expenditure limits.

18 Code section 56.14 is amended to provide that the candidate
19 is to include on printed materials and radio and television
20 commercials information regarding participation in a
21 restricted campaign by the candidate.

22 A tax credit of \$100 per individual is added in new Code
23 section 56.6A for qualified contributions.

24 The bill contains an antiseverability clause that provides
25 that if the provisions relating to attribution of expenditures
26 by other persons to a candidate or certain penalties contained
27 in the bill are invalid, the entire bill is invalid.

28 The bill takes effect January 1, 1999.

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