

8-19-97 State Gov

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SENATE FILE 166

BY HALVORSON

(COMPANION TO LSB 1784HH  
BY JOCHUM)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for voluntary limitation 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, and  
5 providing penalties and an effective date.

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

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1 Section 1. Sections 1 through 8 of this Act are created as  
2 a new division of chapter 56.

3 Sec. 2. NEW SECTION. 56.31 DEFINITIONS.

4 As used in this division, unless the context requires  
5 otherwise:

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

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

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

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

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

30 6. "Restricted campaign" means a campaign for an eligible  
31 office in which there are two or more candidates with  
32 qualifying nominations and all of those candidates have  
33 registered with the board and voluntarily agreed to limit  
34 campaign expenditures and contributions pursuant to section  
35 56.33.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 1. A person or political committee which causes the

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

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

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

1 eliminate the expenditure limit of the benefited candidate's  
2 opponent for that election period.

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

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

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

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

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

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

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

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

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

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

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

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

17 3. State senator.

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

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

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

27 4. State representative.

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

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

34 c. Largest individual contribution, excluding  
35 contributions made by the candidate to the candidate's own



1 campaign, five hundred dollars.

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

7 Sec. 8. NEW SECTION. 56.37 PENALTIES.

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

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

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

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

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

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

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

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

18 3. The criminal penalty of section 56.16 applies to  
19 violations of this division.

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

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

32 Action involving a contribution or expenditure which must  
33 be reported under this chapter and which is taken by any  
34 person, candidate's committee or political committee on behalf  
35 of a candidate, if known and approved by the candidate, shall

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

23 Sec. 10. Section 56.14, subsection 1, paragraph a, Code  
24 1997, is amended by adding the following new unnumbered  
25 paragraph:

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

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

5 Sec. 11. ANTISEVERABILITY CLAUSE. Notwithstanding section  
6 4.12, if section 56.35, subsection 3 or 4, or section 56.37,  
7 subsection 3, as enacted in this Act, or the application  
8 thereof is invalid, this Act shall be invalid.

9 Sec. 12. EFFECTIVE DATE. This Act takes effect January 1,  
10 1998.

11 EXPLANATION

12 This bill creates a new division in Code chapter 56  
13 relating to voluntary expenditure limits in certain campaigns.

14 Code section 56.31 establishes definitions for the terms  
15 "advocacy information", "benefited candidate", "eligible  
16 office", "political action committee", "qualifying  
17 nomination", and "restricted campaign" which are used in the  
18 division, and effectively limits application of the division  
19 to candidates for governor, lieutenant governor, statewide  
20 elected office, the senate, or the house of representatives  
21 who have registered with the ethics and campaign disclosure  
22 board for a restricted campaign.

23 Code section 56.32 establishes the registration procedure  
24 for restricted campaigns. Candidates who wish to voluntarily  
25 limit their campaign expenditures must indicate that  
26 preference, before or at the time of filing nomination papers,  
27 with the ethics and campaign disclosure board. Candidates who  
28 do not wish to restrict their expenditures must have notarized  
29 signatures from voters in an amount that at least equals 15  
30 percent of the number of votes cast during the last general  
31 election for that office and are subject to monthly disclosure  
32 requirements until June 30 of the year of the election and  
33 biweekly reporting from July 1 until the date of the general  
34 election. After the election candidates that do not agree to  
35 participate in a restricted campaign must again file monthly

1 disclosure reports until they file new nomination papers for  
2 office or close their campaign account. Ballots that are to  
3 be printed for that office will indicate whether a candidate  
4 has registered to participate in a restricted campaign.

5 Code section 56.33 establishes the limits that are imposed  
6 on the various offices for which a candidate can elect to  
7 restrict expenditures.

8 Code section 56.34 establishes the periods of time during  
9 which expenditure limits are applicable if a candidate elects  
10 to participate in a restricted campaign. The period ranges  
11 from the time that either the candidate's treasurer files a  
12 statement of organization or the candidate's affidavit of  
13 candidacy is filed until the date of the election.

14 Code section 56.35 relates to various expenditures by  
15 persons or committees that may be attributable to a candidate  
16 for purposes of calculating how much a candidate has expended.  
17 A procedure is established for notifying the candidate of an  
18 expenditure and for a candidate to disavow and avoid having  
19 the expenditure attributed to the candidate's overall  
20 expenditure limit. The section provides for review of  
21 disavowed expenditures, once they exceed certain amounts.

22 Code section 56.36 places limits on the acceptance of  
23 various kinds of contributions by candidates who agree to  
24 participate in restricted campaigns.

25 Code section 56.37 establishes fines for candidates, who  
26 exceed the limits to which they have agreed as part of a  
27 restricted campaign, based upon the percentage difference  
28 between the amount of excess and the campaign expenditure  
29 limit. Knowing and intentional violations of expenditures  
30 limits in restricted campaigns are class "D" felonies.

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

34 Code section 56.38 provides that action by another person  
35 on behalf of a candidate that is approved by a candidate, if

1 the candidate is participating in a restricted campaign, is to  
2 be reported and attributed to the candidate's expenditure  
3 limits.

4 Code section 56.39 provides that the candidate is to  
5 include on printed materials and radio and television  
6 commercials information regarding participation in a  
7 restricted campaign by the candidate.

8 The bill also provides that if the provisions relating to  
9 attribution of expenditures by other persons to a candidate or  
10 certain penalties contained in the bill are invalid, the  
11 entire bill is invalid.

12 The bill takes effect January 1, 1998.

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