

2-26-97 State Gov

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SENATE FILE 218
BY GRONSTAL

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

A BILL FOR

1 An Act relating to contribution and expenditure limits in
2 campaigns and related disclaimers on political advertising,
3 requiring truth in statements made during campaigns, providing
4 penalties, and providing effective dates.

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

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S.F. 218

1 Section 1. Section 56.13, subsection 1, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

3 Action involving a contribution or expenditure which must
4 be reported under this chapter and which is taken by any
5 person, candidate's committee, or political committee on
6 behalf of a candidate, if known and approved by the candidate,
7 shall be deemed action by the candidate and reported by the
8 candidate's committee. If a restricted campaign exists
9 pursuant to section 56.32, such action shall be deemed action
10 by the candidate, shall be reported by the candidate's
11 committee, and shall be credited against the candidate's
12 expenditure or contribution limits pursuant to section 56.33
13 or 56.36. It shall be presumed that a candidate approves the
14 action if the candidate had knowledge of it and failed to file
15 a statement of disavowal with the commissioner-or board and
16 take corrective action within seventy-two hours of the action.
17 A person, candidate's committee, or political committee
18 taking such action independently of that candidate's committee
19 shall notify that candidate's committee in writing within
20 twenty-four hours of taking the action. The notification
21 shall provide that candidate's committee with the cost of the
22 promotion at fair market value. A copy of the notification
23 shall be sent to the board. If a candidate files a statement
24 of disavowal, the board shall forward a copy of the statement
25 to the candidate's opponent.

26 Sec. 2. Section 56.14, subsection 1, Code 1997, is amended
27 by adding the following new paragraph:

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

1 behalf of the candidate. Candidates who have not registered
2 for a restricted campaign shall state, on published material
3 or in commercials, as required by this paragraph, the
4 following: "(name of candidate) refused to limit campaign
5 spending." A candidate who is registered for a restricted
6 campaign may include in materials and commercials a similar
7 statement indicating the candidate's agreement to limit
8 expenditures.

9 Sec. 3. Sections 4 through 11 of this Act are created as a
10 new division of chapter 56.

11 Sec. 4. NEW SECTION. 56.31 DEFINITIONS.

12 As used in this division, unless the context requires
13 otherwise:

14 1. "Advocacy information" is material published or
15 broadcast which discusses public issues, candidates, or voting
16 records from which a reasonable person could draw a fair
17 inference that the material recommends the defeat or election
18 of an identifiable candidate in a restricted campaign.

19 2. "Benefited candidate" means a candidate in a restricted
20 campaign whose election is recommended or whose opponent's
21 defeat is recommended by advocacy information or by the fair
22 inferences drawn from the advocacy information by a reasonable
23 person as determined by the board.

24 3. "Eligible office" means the offices of state
25 representative, state senator, secretary of agriculture,
26 secretary of state, treasurer of state, auditor of state,
27 attorney general, and governor. The office of lieutenant
28 governor shall not be considered a separate eligible office
29 but shall be considered with the office of governor for
30 purposes of this division.

31 4. "Political action committee" means any political
32 committee except a county statutory political committee, a
33 state statutory political committee, a national political
34 party, or a nonparty political organization under chapter 44.

35 5. "Qualifying nomination" means a nomination by a

1 political party as defined by section 43.2, or a nomination
2 under chapter 44 or 45.

3 6. "Restricted campaign" means a campaign for an eligible
4 office in which there are two or more candidates with
5 qualifying nominations and all of those candidates have
6 registered with the board and voluntarily agreed to limit
7 campaign expenditures and contributions pursuant to sections
8 56.33 and 56.36.

9 Sec. 5. NEW SECTION. 56.32 REGISTRATION FOR A RESTRICTED
10 CAMPAIGN.

11 1. Each candidate for an eligible office shall register
12 with the board and shall indicate whether the candidate
13 voluntarily agrees to limit campaign expenditures and
14 contributions in a restricted campaign prior to or with the
15 filing of nomination papers pursuant to chapter 43, 44, or 45.

16 2. Notwithstanding section 43.20, the nomination petition
17 of a candidate who does not agree to a restricted campaign
18 must contain signatures of at least twenty percent of the
19 total number of votes cast in the last general election for
20 that office. A candidate nominated pursuant to section 43.66
21 who does not agree to a restricted campaign must file a
22 nomination petition within fifteen days of nomination
23 containing signatures of at least twenty percent of the total
24 number of votes cast in the last general election for that
25 office in order to be placed on the general election ballot.
26 A candidate who agrees to a restricted campaign and whose
27 opponent does not agree to a restricted campaign is not
28 required to obtain signatures under this section and is not
29 subject to the limitations on campaign expenditures or
30 contributions imposed in this division, but shall be
31 considered as a candidate who agreed to a restricted campaign
32 for all other purposes of this division.

33 3. Notwithstanding the dates required for filing
34 disclosure reports pursuant to section 56.6, a candidate who
35 does not agree to a restricted campaign pursuant to this

1 section shall file a disclosure report each month until June
2 30 of the year of the election. Beginning July 1 of the year
3 of the election, the candidate shall file a disclosure report
4 every fourteen days until the date of the general election.
5 After the date of election, the candidate shall file a
6 disclosure report each month until the candidate files
7 nomination papers for the same or another public office, or
8 closes the candidate's campaign account.

9 The commissioner shall publish with the publication of
10 notice of the election and the ballot pursuant to section
11 49.53, the names of candidates who agree and do not agree to a
12 restricted campaign using the following language where
13 applicable: "These candidates refused to limit their campaign
14 spending."; or "These candidates voluntarily agreed to limit
15 their campaign spending."

16 Sec. 6. NEW SECTION. 56.33 RESTRICTED CAMPAIGNS --
17 LIMITS ON EXPENDITURES.

18 If a restricted campaign exists, the candidate's committees
19 of those candidates with qualifying nominations to eligible
20 offices are subject to the following limits on expenditures:

21 1. Governor. Total expenditure limit, five hundred
22 thousand dollars in a primary election if there is no primary
23 opponent, one million dollars in a primary election if there
24 is a primary opponent, and one million five hundred thousand
25 dollars in a general election.

26 2. Attorney general, secretary of agriculture, secretary
27 of state, treasurer of state, and auditor of state. Total
28 expenditure limit, fifty thousand dollars in a primary
29 election if there is no primary opponent, one hundred thousand
30 dollars in a primary election if there is a primary opponent,
31 and one hundred thousand dollars in a general election.

32 3. State senator. Total expenditure limit, ten thousand
33 dollars in a primary election if there is no primary opponent,
34 twenty-five thousand dollars in a primary election if there is
35 a primary opponent, and twenty-five thousand dollars in a

1 general election.

2 4. State representative. Total expenditure limit, five
3 thousand dollars in a primary election if there is no primary
4 opponent, fifteen thousand dollars in a primary election if
5 there is a primary opponent, and fifteen thousand dollars in a
6 general election.

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

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

17 The board shall, by July 1 in each odd-numbered year,
18 adjust the limitations on expenditures to reflect any increase
19 in the consumer price index as published in the federal
20 register by the United States department of labor, bureau of
21 labor statistics.

22 Sec. 7. NEW SECTION. 56.34 PERIODS THE EXPENDITURE
23 LIMITS ARE IN EFFECT.

24 If a restricted campaign exists, the limitations of section
25 56.33 apply to expenses incurred during the following periods:

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

33 2. During a special election, from the date the candidate
34 or the candidate's treasurer files a statement of organization
35 as required by section 56.5, or from the date the candidate or

1 the candidate's designee files an affidavit of candidacy with
2 the state commissioner of elections, whichever date is
3 earlier, through the date of the special election for that
4 office.

5 Sec. 8. NEW SECTION. 56.35 ADJUSTMENTS FOR BENEFITED
6 CANDIDATES AND OPPONENTS.

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

16 2. The benefited candidate shall notify the board within
17 seventy-two hours of receipt of notice given pursuant to
18 subsection 1 whether the candidate accepts or disavows the
19 expenditure. If the candidate accepts the expenditure, the
20 expenditure shall be credited against the candidate's
21 expenditure limit. If the candidate files a statement of
22 disavowal, the board shall forward a copy of the statement to
23 the candidate's opponent.

24 3. For the purposes of this section, a benefited candidate
25 may claim up to the following amounts of aggregate disavowed
26 expenditures without review by the board:

27 a. Five hundred dollars for a benefited candidate for the
28 general assembly.

29 b. One thousand dollars for a benefited candidate for a
30 statewide office other than governor.

31 c. Five thousand dollars for a benefited candidate for
32 governor.

33 4. If the aggregate disavowed expenditures regarding a
34 benefited candidate exceed the amounts provided in subsection
35 3, the board shall review all material disavowed by the

1 candidate and determine if a reasonable person would or would
2 not draw a fair inference that the material assists the
3 election of the benefited candidate or the defeat of an
4 opposing candidate. However, the board shall not review a
5 disavowed expenditure more than once after the candidate has
6 exceeded the limits in subsection 3. If the board determines
7 that a candidate is benefited, the board shall attribute the
8 disavowed expenditure to the expenditure limits of the
9 benefited candidate and shall do one of the following:
10 increase the benefited candidate's opponent's expenditure
11 limits by the amount of the disavowed expenditures attributed
12 to the benefited candidate or eliminate the expenditure limit
13 of the benefited candidate's opponent for that election
14 period.

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

28 6. The decisions under subsection 4 shall be made within
29 two days of the board's receipt of the benefited candidate's
30 disavowal of any expenditure which exceeds the limits in
31 subsection 3 and the benefited candidate and opponents shall
32 be promptly notified.

33 7. Advocacy information caused by a county or state
34 statutory political committee or a national political party
35 which benefits the political party generally and which

1 benefits more than one candidate are not subject to the
2 requirements of this section.

3 Sec. 9. NEW SECTION. 56.36 RESTRICTED CAMPAIGNS --
4 LIMITS ON ACCEPTANCE OF CONTRIBUTIONS.

5 If a restricted campaign exists, the acceptance of
6 contributions by candidates for the following offices from
7 political action committees and individuals is subject to the
8 following limitations:

9 1. Governor.

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

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

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

19 2. Attorney general, secretary of agriculture, secretary
20 of state, treasurer of state, and auditor of state.

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

25 b. Largest political action committee contribution, five
26 thousand dollars.

27 c. Largest individual contribution, excluding
28 contributions made by a candidate to the candidate's own
29 campaign, one thousand dollars.

30 3. State senator.

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

35 b. Largest political action committee contribution, one

1 thousand dollars.

2 c. Largest individual contribution, excluding
3 contributions made by a candidate to the candidate's own
4 campaign, five hundred dollars.

5 4. State representative.

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

10 b. Largest political action committee contribution, one
11 thousand dollars.

12 c. Largest individual contribution, excluding
13 contributions made by the candidate to the candidate's own
14 campaign, five hundred dollars.

15 5. Individual contributions to the candidate or
16 candidate's committee made by one individual of a cumulative
17 value of one hundred dollars or more shall be reported to the
18 board, including the name, address, occupation, and place of
19 business of the contributor.

20 Sec. 10. NEW SECTION. 56.37 PENALTIES.

21 1. A candidate who voluntarily agrees to a restricted
22 campaign, and who exceeds the expenditure or contribution
23 limitations in this division, shall be subject to a fine which
24 is based on the amount by which the candidate exceeds
25 permitted expenditures or contributions, so that the candidate
26 shall pay a percentage of the excess campaign expenditures or
27 contributions as follows:

28 a. Governor. Under two thousand dollars, one percent; two
29 thousand to ten thousand dollars, ten percent; ten thousand
30 one to twenty thousand dollars, twenty-five percent; over
31 twenty thousand dollars, fifty percent.

32 b. Attorney general, secretary of agriculture, secretary
33 of state, treasurer of state, and auditor of state. Under one
34 thousand dollars, one percent; one thousand to five thousand
35 dollars, ten percent; five thousand one to ten thousand

1 dollars, twenty-five percent; over ten thousand dollars, fifty
2 percent.

3 c. State senator. Under five hundred dollars, one
4 percent; five hundred to one thousand dollars, ten percent;
5 one thousand one to five thousand dollars, twenty-five
6 percent; over five thousand dollars, fifty percent.

7 d. State representative. Under two hundred fifty dollars,
8 one percent; two hundred fifty to five hundred dollars, ten
9 percent; five hundred one to two thousand five hundred
10 dollars, twenty-five percent; over two thousand five hundred
11 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. Except as provided in subsection 4, the criminal
19 penalty of section 56.16 applies to violations of this
20 division.

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. 11. NEW SECTION. 56.38 ATTRIBUTION OF SPECIFIC
32 CONTRIBUTIONS.

33 When all general assembly members are invited to an event
34 registered with the board, the costs associated with such an
35 event shall be considered a contribution under this chapter,

1 and not a gift under chapter 68B. Event sponsors shall
2 disclose the costs of the event to the board and provide a
3 signed log of general assembly members attending the event.
4 The board shall attribute the proportionate cost to each
5 member of the general assembly who signs the log at the event,
6 who shall not be required to disclose individually such
7 contributions on the disclosure forms filed with the board.

8 Sec. 12. Sections 13 through 18 of this Act are created as
9 a new division of chapter 56.

10 Sec. 13. NEW SECTION. 56.50 DEFINITIONS.

11 As used in this division, unless the context otherwise
12 requires:

13 1. "Board" means the truth in campaign practices board.

14 2. "Candidate" means a person who has taken affirmative
15 action to seek nomination or election to a state legislative
16 office or to the office of governor, lieutenant governor,
17 secretary of state, auditor of state, treasurer of state,
18 attorney general, or secretary of agriculture.

19 3. "Candidate's committee" means a candidate's committee
20 as defined in section 56.2.

21 4. "Negative statement" means a statement which attacks
22 the record, reputation, or integrity of a candidate or which
23 attacks the reputation or integrity of a member of a
24 candidate's immediate family. For purposes of this chapter, a
25 candidate's spouse, children, parents, and siblings are
26 members of a candidate's immediate family.

27 5. "Political organization" means an organization which is
28 not a political party but which meets the criteria established
29 under section 44.1 for nomination of candidates.

30 6. "Political party" means a political party under section
31 43.2.

32 7. "Statement" means a public written, electronic, or oral
33 communication which is made or transmitted by any means. For
34 purposes of this section, a communication is public if it is
35 made or transmitted in a manner that can be reasonably

1 expected to result in the statement being heard, read, or
2 viewed by members of the general public.

3 Sec. 14. NEW SECTION. 56.51 STATEMENTS BY OR ABOUT
4 CANDIDATES.

5 1. A candidate shall not make or cause to be made
6 untruthful or deliberately misleading statements regarding an
7 opposing candidate. For purposes of this section, a statement
8 shall be deemed to have been caused by a candidate if it is
9 made by a candidate's designated spokesperson, if it is
10 contained in materials produced or paid for by the candidate's
11 committee, or if it is contained in materials imputed to a
12 candidate under section 56.13.

13 2. A person who is not a candidate shall not knowingly
14 make untruthful or deliberately misleading statements about a
15 candidate.

16 3. If a candidate or candidate's committee pays for or
17 sponsors an oral negative statement about a candidate, the
18 statement shall be made by the candidate. For purposes of
19 this section, a statement which is imputed to a candidate
20 under section 56.13 is not sponsored by a candidate or
21 candidate's committee.

22 Sec. 15. NEW SECTION. 56.52 TRUTH IN CAMPAIGN PRACTICES
23 BOARD.

24 1. A three-member truth in campaign practices board is
25 established as an independent agency to investigate, review,
26 and determine the truthfulness or deliberately misleading
27 nature of statements made by candidates and other persons in
28 support or opposition of a candidate, as well as to
29 investigate negative statements made about candidates.
30 Members of the board shall be appointed by the chief justice
31 of the supreme court. Two members of the board shall be
32 affiliated with one of the two political parties whose
33 candidates for president of the United States or for governor,
34 as the case may be, received the largest and next largest
35 number of votes at the last general election but neither shall

1 be affiliated with the same political party. The other member
2 shall not be affiliated with a political party, but may be
3 affiliated with a political organization.

4 2. Members shall serve staggered four-year terms, which
5 shall begin at 12:01 a.m. on May 1 in the year of appointment
6 and end at 12:00 midnight on April 30 in the year of
7 expiration. A vacancy on the board shall be filled by
8 appointment for the unexpired portion of the term, within
9 ninety days of the vacancy and in accordance with the
10 procedures for regular appointments. A member of the board
11 may be reappointed to serve additional terms on the board.
12 Members may be removed in the same manner as provided in
13 section 69.15 except that once a vacancy or resignation
14 occurs, the governor shall notify the chief justice of the
15 supreme court, who shall make another appointment.

16 3. The board shall annually elect one member to serve as
17 the chairperson of the board and one member to serve as vice
18 chairperson. The vice chairperson shall act as the
19 chairperson in the absence or disability of the chairperson,
20 or in the event of a vacancy in that office.

21 4. Members of the board shall receive a per diem as
22 specified in section 7E.6 while conducting business of the
23 board, and payment of actual and necessary expenses incurred
24 in the performance of their duties. Members of the board
25 shall file statements of financial interest under section
26 68B.35.

27 5. The board shall employ a full-time executive director
28 who shall be the board's chief administrative officer. The
29 board shall employ or contract for the employment of legal
30 counsel notwithstanding section 13.7, and may employ any other
31 personnel as may be necessary to carry out the duties of the
32 board. The board's legal counsel shall be the chief legal
33 officer of the board, and shall advise the board on all legal
34 matters relating to the administration of this division. The
35 state may be represented by the board's legal counsel in any

1 civil action regarding the enforcement of this division or, at
2 the board's request, the state may be represented by the
3 office of the attorney general. Notwithstanding section
4 19A.3, all of the board's employees, except for the executive
5 director and legal counsel, shall be employed subject to the
6 merit system provisions of chapter 19A.

7 Sec. 16. NEW SECTION. 56.53 DUTIES OF THE BOARD.

8 The duties of the board shall include, but are not limited
9 to, all of the following:

- 10 1. Adopt rules pursuant to chapter 17A and conduct
11 investigations and hearings pursuant to section 56.54 and
12 chapter 17A, as necessary to carry out the purposes of this
13 division.
- 14 2. Adopt rules pursuant to chapter 17A establishing
15 standards for truthfulness and avoidance of making
16 deliberately misleading statements in campaign advertising by
17 candidates under this division and requiring candidates to
18 personally utter negative statements about candidates if the
19 statement is paid for by the candidate or candidate's
20 committee.
- 21 3. Develop, prescribe, and furnish any forms necessary for
22 the implementation of the procedures contained in this
23 division for the filing and hearing of complaints or the
24 issuance of advisory opinions.
- 25 4. Establish and impose penalties and any other
26 recommendations for punishment of persons who are subject to
27 penalties or punishment by the board for failure to comply
28 with the requirements of this division.
- 29 5. Determine, in case of dispute, at what time a person
30 has become a candidate.
- 31 6. Preserve copies of complaints, requests, and other
32 information filed with the board for a period of at least five
33 years from the date of receipt.
- 34 7. Establish a procedure for requesting and issuing formal
35 and informal board advisory opinions to candidates and

1 representatives of political parties and political
2 organizations. Following advice contained in a formal board
3 advisory opinion shall constitute a defense to a complaint
4 based upon the same facts and circumstances which is filed
5 with the board and which alleges a violation of this division
6 or rules of the board.

7 8. Establish a procedure for informing candidates and
8 other persons of the requirements of this division and rules
9 adopted by the board.

10 9. Establish fees, where necessary, to cover the costs
11 associated with preparing, printing, and distributing
12 materials to persons subject to the authority of the board.

13 Sec. 17. NEW SECTION. 56.54 COMPLAINTS -- INVESTIGATIONS
14 -- HEARINGS.

15 1. A candidate, a representative of a candidate's
16 committee, or a representative of a political party or
17 political organization may file a complaint with the board
18 regarding the truthfulness or deliberately misleading nature
19 of any statement made or caused to be made by a candidate or
20 alleging that a candidate or candidate's committee has paid
21 for or sponsored an oral negative statement which was made by
22 someone other than the candidate. For purposes of this
23 section, a statement is caused to be made by a candidate if it
24 is made by a candidate's designated spokesperson, is contained
25 in materials produced or paid for by the candidate's
26 committee, as defined under this chapter, or if it is action
27 or is a part of action which has been imputed to the candidate
28 under section 56.13.

29 2. A complaint shall include all of the following:

30 a. The name and address of the complainant.

31 b. If the allegation is that an untruthful or deliberately
32 misleading statement was made, a recitation of the statement
33 alleged to be untruthful or deliberately misleading.

34 c. If the allegation is that a negative statement was paid
35 for or sponsored by a candidate or candidate's committee and

1 was made by a person other than the candidate, a recitation of
2 the negative statement.

3 d. To the extent known, the time and place or manner in
4 which the statement was made.

5 e. If the statement complained of was made in writing, a
6 copy of the statement.

7 f. If the allegation is that an untruthful or deliberately
8 misleading statement was made, any circumstances, other than
9 the express language of the statement, which cause the
10 statement to be untruthful or deliberately misleading.

11 g. The name and address, if known, of the candidate or
12 other person who made the statement.

13 h. If the allegation is that an untruthful or deliberately
14 misleading statement was made, a statement of why or how the
15 statement complained of is untruthful or deliberately
16 misleading.

17 i. A certification by the complainant under penalty of
18 perjury that the facts stated to be true are true to the best
19 of the complainant's knowledge.

20 j. Any other relevant information or sources of
21 information.

22 3. The board staff and legal counsel shall review the
23 complaint to determine if the complaint is sufficient as to
24 form and legal substance. Deficiency as to form shall not
25 preclude consideration of a complaint. If the complaint is
26 legally deficient, the complaint shall be returned to the
27 complainant with a statement of the deficiency and shall not
28 be considered by the board until the deficiency is cured. A
29 legally sufficient complaint must meet all of the following
30 requirements:

31 a. Facts must be alleged that would establish either that
32 a candidate made or caused to be made an untruthful or
33 deliberately misleading statement about an opposing candidate
34 or that a candidate caused an oral negative statement to be
35 made by someone other than the candidate.

1 b. The person making the complaint must be a candidate or
2 a representative of a political party or political
3 organization.

4 c. If the allegation is that an untruthful or deliberately
5 misleading statement was made, the complaint must indicate why
6 or demonstrate how the statement is untruthful or deliberately
7 misleading.

8 d. The complaint must be filed within sixty days from the
9 date on which the statement that is complained of was made.

10 4. Upon receiving a legally sufficient complaint, the
11 board shall investigate or cause the investigation of the
12 facts alleged in the complaint. Once the investigation is
13 completed, the board shall meet and make a determination as to
14 whether the statement violates the requirements of this
15 division or rules adopted by the board. The meeting shall be
16 conducted in the manner provided for contested cases under
17 chapter 17A. However, a preponderance of evidence shall be
18 required to support a finding that a statement is untruthful
19 or deliberately misleading. In addition to holding meetings
20 at which two or more members are physically present, meetings
21 may be held electronically as provided under section 21.8.
22 Notwithstanding section 21.4, subsection 2, public notice of a
23 meeting of the board shall be made at a reasonable time before
24 the meeting, but no later than eight hours before the time set
25 for the meeting to begin.

26 5. The board shall render its decision within forty-eight
27 hours of receiving a legally valid complaint. If the forty-
28 eight-hour period concludes on a weekend or holiday, the
29 decision shall be made by the close of business hours on the
30 next succeeding business day. If the board finds that the
31 statement complained of was untruthful or deliberately
32 misleading or that an oral negative statement was made by
33 someone other than a candidate and was paid for by the
34 candidate or candidate's committee, the board's decision shall
35 include an order for any remedy, under section 56.55, that the

1 board deems appropriate.

2 6. At any stage during the investigation or after the
3 filing of a complaint, the board may approve a settlement
4 regarding an allegedly untruthful or deliberately misleading
5 statement or negative statement made by someone other than a
6 candidate. Terms of a settlement shall be reduced to writing
7 and be available for public inspection. In addition, the
8 board may authorize board staff to seek information regarding
9 routine matters brought to the attention of the board or its
10 staff.

11 7. A complaint shall be a public record. The entire
12 record of the board's action, including any investigation,
13 shall also be a public record.

14 Sec. 18. NEW SECTION. 56.55 REMEDIES.

15 1. If the board finds that a candidate or other person has
16 made or caused to be made an untruthful or deliberately
17 misleading statement, the board shall require a retraction of
18 the statement by any person found to be responsible for making
19 the statement or causing the statement to be made, within a
20 period of time to be specified by the board, in the same
21 manner and at the same cost as the original statement. Any
22 retraction shall be approved by the board before it is made
23 public. The board shall inform the complainant of any
24 proposed retraction and permit the complainant to submit
25 comments prior to the board's decision on approval or
26 disapproval of the proposed language.

27 2. For any violations of this division or rules adopted by
28 the board, the board may impose one or more of the following
29 penalties:

30 a. Issue an order requiring the person to cease and desist
31 from the actions constituting the violation.

32 b. Issue an order requiring the violator to take any
33 remedial action deemed appropriate by the board.

34 c. Publicly reprimand the violator for violations of this
35 division or rules adopted by the board.

1 d. Issue an order requiring the violator to pay a civil
2 penalty of not more than fifty thousand dollars for each
3 violation of this division or rules adopted by the board, to
4 be deposited in the Iowa election campaign fund.

5 3. If a person fails to comply with an order of the board
6 under this section, the board may petition the district court
7 for an order for enforcement of the order of the board.

8 Judicial enforcement of orders of the board shall be sought in
9 accordance with chapter 17A.

10 4. At any stage in a proceeding, the board may refer the
11 complaint and supporting information to the attorney general
12 or appropriate county attorney with a recommendation for
13 prosecution or enforcement of criminal penalties.

14 Sec. 19. ANTISEVERABILITY CLAUSE. Notwithstanding Code
15 section 4.12, if Code section 56.32, or Code section 56.35,
16 subsection 3 or 4, or Code section 56.37, subsection 3, or the
17 application thereof, is invalid, this Act as a whole shall be
18 invalid.

19 Sec. 20. SEVERABILITY CLAUSE. Notwithstanding other
20 sections of this Act, if any of sections 13 through 18 of this
21 Act, or the application of any of those sections, is declared
22 unconstitutional, the invalidity shall not affect the
23 provisions or application of this Act which can be given
24 effect without the invalid provisions or application, and to
25 this end, sections 13 through 18 are severable from this Act.

26 Sec. 21. EFFECTIVE DATE. This Act, except sections 13
27 through 18, takes effect January 1, 1998. Sections 13 through
28 18 of this Act, being deemed of immediate importance, take
29 effect upon enactment.

30 EXPLANATION

31 This bill amends Code chapter 56, relating to regulation of
32 political campaigns. The bill adds a new division to Code
33 chapter 56, allowing candidates for statewide office, as
34 specified in Code section 56.31, subsection 3, to register
35 with the Iowa ethics and campaign disclosure board and thereby

1 agree to voluntarily limit campaign contributions and
2 expenditures.

3 Expenditure limits are contained in Code section 56.33, and
4 contribution limits are contained in section 56.36.

5 Independent expenditures may be attributed to a candidate
6 according to Code sections 56.35 and 56.13. Candidates who do
7 not agree to these limitations will be identified through
8 publication by the election commissioner, pursuant to Code
9 section 56.32, and, pursuant to Code section 56.14, must
10 include a disclaimer in all material published or broadcast on
11 behalf of the candidate which notifies the public of the
12 candidate's refusal to agree to the spending limits.

13 Candidates who agree to but exceed the limitations will be
14 subject to penalties under Code section 56.37.

15 This bill also adds a new division to Code chapter 56
16 relating to truth in campaign practices. The division
17 requires a candidate to make only truthful statements during
18 campaigns and requires oral negative statements paid for or
19 sponsored by a candidate or candidate's committee to be made
20 by the candidate. New Code section 56.52 establishes a truth
21 in campaign practices board to investigate violations and
22 impose penalties. Remedies available to the board are set
23 forth in Code section 56.55.

24 The bill contains both an antiseverability clause
25 pertaining to certain sections of the bill, and a severability
26 clause pertaining to other sections of the bill. The bill
27 also provides for an immediate effective date for the
28 provisions relating to truth in campaign practices and an
29 effective date of January 1, 1998, for the other provisions of
30 the bill.

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