

MAR 4 2005
STATE GOVERNMENT

HOUSE FILE 571
BY FALLON

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

A BILL FOR

1 An Act establishing an Iowa clean election Act and fund,
2 providing penalties, and providing effective and retroactive
3 applicability dates.

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

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HF 571

1 Section 1. NEW SECTION. 68A.801 CITATION AND PURPOSE.

2 This subchapter may be known and cited as the "Iowa Clean
3 Election Act". This subchapter establishes an alternative
4 campaign financing option available to candidates running for
5 statewide office or the general assembly. This alternative
6 campaign financing option is available to candidates for
7 elections to be held beginning in the year 2006. The Iowa
8 ethics and campaign disclosure board shall administer this Act
9 and the fund. Candidates participating in the Iowa clean
10 election Act must also comply with all other applicable
11 election and campaign laws and rules.

12 Sec. 2. NEW SECTION. 68A.802 DEFINITIONS.

13 As used in this subchapter, unless the context otherwise
14 indicates, the following terms have the following meanings:

15 1. "Certified candidate" means a candidate running for
16 statewide office or the general assembly who chooses to
17 participate in the Iowa clean election Act and who is
18 certified as an Iowa clean election Act candidate.

19 2. "Contribution" means the same as in section 68B.102.

20 3. "Fund" means the Iowa clean election fund established
21 in section 68A.803.

22 4. "Nonparticipating candidate" means a candidate running
23 for statewide office or the general assembly who does not
24 choose to participate in the Iowa clean election Act or who is
25 not seeking to be certified as an Iowa clean election Act
26 candidate.

27 5. "Participating candidate" means a candidate who is
28 running for statewide office or the general assembly who is
29 seeking to be certified as an Iowa clean election Act
30 candidate.

31 6. "Qualifying contribution" means a donation meeting all
32 of the following requirements:

33 a. Made in the amount of five dollars in the form of a
34 check, money order, credit card, or debit card payable to the
35 fund in support of a specific candidate.

1 b. Made by a registered voter within the jurisdiction for
2 the office a candidate is seeking.

3 c. Made during the designated qualifying period with the
4 knowledge and approval of the candidate.

5 d. That is acknowledged by a written receipt that
6 identifies the name and address of the donor on forms provided
7 by the board.

8 7. "Qualifying period" means the following:

9 a. For a participating candidate seeking statewide office,
10 the qualifying period begins November 1 immediately preceding
11 an election year and ends at five p.m. on April 15 of the
12 election year, unless the candidate is not a candidate of a
13 political party, as that term is defined in section 43.2, in
14 which case the period ends at five p.m. on June 2 of the
15 election year.

16 b. For a participating candidate seeking election to the
17 general assembly, the qualifying period begins January 1 of
18 the election year and ends at five p.m. on April 15 of that
19 election year, unless the candidate is not a candidate of a
20 political party, as that term is defined in section 43.2, in
21 which case the period ends at five p.m. on June 2 of that
22 election year.

23 8. "Seed money contribution" means a contribution of no
24 more than one hundred dollars per individual made to a
25 candidate, including a contribution from the candidate or the
26 candidate's family. To be eligible for certification, a
27 candidate may collect and spend only seed money contributions
28 subsequent to becoming a candidate and throughout the
29 qualifying period. A candidate shall not collect or spend
30 seed money contributions after certification as an Iowa clean
31 election Act candidate. A seed money contribution must be
32 reported according to rules adopted by the board.

33 Sec. 3. NEW SECTION. 68A.803 IOWA CLEAN ELECTION FUND
34 ESTABLISHED -- SOURCES OF FUNDING.

35 1. FUND ESTABLISHED. An Iowa clean election fund is

1 established in the office of the state treasurer under the
2 control of the board for the purposes of financing the
3 election campaigns of certified Iowa clean election Act
4 candidates running for statewide office or the general
5 assembly and paying the administrative and enforcement costs
6 of the board related to this subchapter. Notwithstanding
7 section 8.33, moneys appropriated to the fund and moneys
8 remaining in the fund at the end of a fiscal year shall not
9 revert to the general fund of the state.

10 2. SOURCES OF FUNDING. All of the following must be
11 deposited in the fund:

12 a. The qualifying contributions when those contributions
13 are submitted to the board.

14 b. Any moneys appropriated to the fund by the general
15 assembly. If the board determines that the fund will not have
16 sufficient revenues to cover the likely demand for moneys from
17 the fund in an upcoming calendar year, the board shall report
18 by January 1 its projections of the balances in the fund to
19 the general assembly and the governor.

20 c. Revenues from the Iowa clean election fund tax checkoff
21 provided for in section 422.12G.

22 d. Seed money contributions remaining unspent after a
23 candidate has been certified as an Iowa clean election Act
24 candidate.

25 e. Fund moneys that were distributed to an Iowa clean
26 election Act candidate and that remain unspent after the
27 candidate has lost a primary election or after the general
28 election.

29 f. Other unspent fund moneys distributed to any Iowa clean
30 election Act candidate who does not remain a candidate
31 throughout a primary or general election cycle.

32 g. Voluntary donations made directly to the fund.

33 h. Civil penalties collected under section 68B.32D,
34 section 1, paragraph "h", or section 68A.806.

35 3. DETERMINATION OF FUND AMOUNT. By September 1 preceding

1 each election year, the board shall publish an estimate of
2 moneys in the fund available for distribution to certified
3 candidates during the upcoming year's elections and an
4 estimate of the likely demand for fund moneys during that
5 election. The board may submit proposed legislation to
6 request additional funding.

7 Sec. 4. NEW SECTION. 68A.804 TERMS OF PARTICIPATION.

8 1. DECLARATION OF INTENT. A participating candidate must
9 file a declaration of intent to seek certification as an Iowa
10 clean election Act candidate and to comply with the
11 requirements of this subchapter. The declaration of intent
12 must be filed with the board prior to or during the qualifying
13 period, except as provided in subsection 10, according to
14 forms and procedures developed by the board. A participating
15 candidate must submit a declaration of intent prior to
16 collecting qualifying contributions under this subchapter.

17 2. RESTRICTIONS ON CONTRIBUTIONS FOR PARTICIPATING
18 CANDIDATES. Subsequent to becoming a candidate and prior to
19 certification, a participating candidate shall not accept
20 contributions, except for seed money contributions. A
21 participating candidate must limit the candidate's seed money
22 contributions to the following amounts:

23 a. One hundred thousand dollars for a candidate for
24 statewide office.

25 b. Five thousand dollars for a candidate for the state
26 senate.

27 c. Two thousand five hundred dollars for a candidate for
28 the state house of representatives.

29 3. QUALIFYING CONTRIBUTIONS. Participating candidates
30 must obtain qualifying contributions during the qualifying
31 period as follows:

32 a. For a candidate for statewide office, at least two
33 thousand five hundred registered voters of this state must
34 support the candidacy by making a qualifying contribution to
35 that candidate.

1 b. For a candidate for the state senate, at least two
2 hundred registered voters from the candidate's district must
3 support the candidacy by making a qualifying contribution to
4 that candidate.

5 c. For a candidate for the state house of representatives,
6 at least one hundred registered voters from the candidate's
7 district must support the candidacy by making a qualifying
8 contribution to that candidate.

9 A payment, gift, or anything of value shall not be given in
10 exchange for a qualifying contribution. A candidate may pay
11 the fee for a money order which is a qualifying contribution,
12 as long as the donor making the qualifying contribution pays
13 the full five dollar amount reflected on the money order. Any
14 money order fees paid by a participating candidate must be
15 paid for with seed money and reported in accordance with board
16 rules.

17 4. FILING WITH BOARD. A participating candidate must
18 submit qualifying contributions to the board during the
19 qualifying period according to procedures developed by the
20 board, except as provided under subsection 10.

21 5. CERTIFICATION OF IOWA CLEAN ELECTION ACT CANDIDATES.

22 Upon receipt of a final submittal of qualifying contributions
23 by a participating candidate, the board shall determine
24 whether or not the candidate has done all of the following:

25 a. Signed and filed a declaration of intent to participate
26 as an Iowa clean election Act candidate.

27 b. Submitted the appropriate number of valid qualifying
28 contributions.

29 c. Qualified as a candidate as provided by law.

30 d. Not accepted contributions, except for seed money
31 contributions, and otherwise complied with seed money
32 restrictions.

33 e. Not run for the same office as a nonparticipating
34 candidate in a primary election in the same election year.

35 f. Otherwise met the requirements for participation as an

1 Iowa clean election Act candidate.

2 The board shall certify a candidate complying with the
3 requirements of this section as an Iowa clean election Act
4 candidate as soon as possible and no later than three days
5 after final submittal of qualifying contributions. Upon
6 certification, a candidate must transfer to the fund any
7 unspent seed money contributions. A certified candidate must
8 comply with all requirements of this subchapter after
9 certification and throughout the primary and general election
10 periods.

11 6. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES FOR
12 CERTIFIED CANDIDATES. After certification, a candidate must
13 limit the candidate's campaign expenditures and obligations,
14 including outstanding obligations, to the moneys distributed
15 to the candidate from the fund and shall not accept any
16 contributions unless specifically authorized by the board.
17 All revenues distributed to certified candidates from the fund
18 must be used for campaign-related purposes. The board shall
19 adopt rules establishing permissible campaign-related
20 expenditures.

21 7. TIMING OF FUND DISTRIBUTION. The board shall
22 distribute to certified candidates moneys from the fund in
23 amounts determined under subsection 8 in the following manner:

24 a. Within three days after certification, for candidates
25 certified prior to March 15 of the election year, moneys from
26 the fund must be distributed as if the candidates are in an
27 uncontested primary election.

28 b. Within three days after certification, for all
29 candidates certified between March 15 and April 15 of the
30 election year, moneys from the fund must be distributed
31 according to whether the candidate is in a contested or
32 uncontested primary election.

33 c. For candidates in contested primary elections receiving
34 a distribution under paragraph "a", additional moneys from the
35 fund must be distributed within three days of March 15 of the

1 election year.

2 d. Within three days after the primary election results
3 are certified, for general election certified candidates,
4 moneys from the fund must be distributed according to whether
5 the candidate is in a contested or uncontested general
6 election.

7 8. AMOUNT OF FUND DISTRIBUTION. At least every four years
8 the board shall determine the amount of funds to be
9 distributed, subject to available funding, to participating
10 candidates based on the type of election and office as
11 follows:

12 a. For contested legislative primary elections, the amount
13 of moneys to be distributed is the average amount of campaign
14 expenditures made by each candidate during all contested
15 primary election races for the immediately preceding two
16 primary elections, as reported in the initial filing period
17 subsequent to the primary election, for the respective offices
18 of state senate and state house of representatives.

19 b. For uncontested legislative primary elections, the
20 amount of moneys distributed is the average amount of campaign
21 expenditures made by each candidate during all uncontested
22 primary election races for the immediately preceding two
23 primary elections, as reported in the initial filing period
24 subsequent to the primary election, for the respective offices
25 of state senate and state house of representatives.

26 c. For contested legislative general elections, the amount
27 of moneys distributed is the average amount of campaign
28 expenditures made by each candidate during all contested
29 general election races for the immediately preceding two
30 general elections, as reported in the initial filing period
31 subsequent to the general election, for the respective offices
32 of state senate and state house of representatives.

33 d. For uncontested legislative general elections, the
34 amount of moneys to be distributed from the fund is forty
35 percent of the amount distributed to a participating candidate

1 in a contested general election.

2 e. For statewide primary elections, the amount of moneys
3 distributed is two hundred thousand dollars per candidate in
4 the primary election.

5 f. For statewide general elections, the amount of moneys
6 distributed is four hundred thousand dollars per candidate in
7 the general election.

8 If the immediately preceding election cycles do not contain
9 sufficient electoral data, the board shall use information
10 from the most recent applicable elections.

11 9. MATCHING FUNDS. When any campaign, finance, or
12 election report shows that the sum of a candidate's
13 expenditures or obligations, or funds raised or borrowed,
14 whichever is greater, alone or in conjunction with independent
15 expenditures reported under section 68A.401, exceeds the
16 distribution amount under subsection 8, the board shall issue
17 immediately to any opposing Iowa clean election Act candidate,
18 subject to available funding, an additional amount equivalent
19 to the reported excess. Matching funds are limited to two
20 times the amount originally distributed under subsection 8,
21 paragraph "a", "c", "e", or "f", whichever is applicable.

22 10. CANDIDATE WHO IS NOT A CANDIDATE OF A POLITICAL PARTY.
23 A candidate who is not a candidate of a political party, who
24 is certified by April 15 preceding the primary election, is
25 eligible for moneys from the fund in the same amounts and at
26 the same time as an uncontested primary election candidate and
27 a general election candidate as specified in subsections 7 and
28 8. For such a candidate not certified by April 15 at five
29 p.m. the deadline for filing qualifying contributions is June
30 2 at five p.m. preceding the general election. A candidate
31 certified after April 15 at five p.m. is eligible for revenues
32 from the fund in the same amounts as a general election
33 candidate, as specified in subsections 7 and 8.

34 11. OTHER PROCEDURES. The board shall establish by rule
35 procedures for qualification, certification, disbursement of

1 fund moneys and return of unspent fund moneys for races
2 involving special elections, recounts, vacancies, withdrawals,
3 or replacement candidates.

4 12. REPORTING -- UNSPENT MONEYS. Notwithstanding any
5 other provision of law, participating and certified candidates
6 shall report any money collected, all campaign expenditures,
7 obligations, and related activities to the board according to
8 rules adopted by the board. Upon the filing of a final report
9 for any primary election in which a candidate was defeated and
10 for the general election the candidate shall return all
11 unspent fund moneys to the board. In developing these
12 procedures, the board shall utilize existing campaign
13 reporting procedures whenever practicable. The board shall
14 ensure timely public access to campaign finance data.

15 13. DISTRIBUTIONS NOT TO EXCEED AMOUNT IN FUND. The board
16 shall not distribute moneys to certified candidates in excess
17 of the total amount of moneys deposited in the fund.
18 Notwithstanding any other provisions of this subchapter, if
19 the board determines that the moneys in the fund are
20 insufficient to meet distributions under subsections 8 and 9,
21 the board may permit certified candidates to accept and spend
22 contributions, reduced by any seed money contributions,
23 aggregating no more than five hundred dollars per donor per
24 election for statewide candidates and two hundred fifty
25 dollars per donor per election for state senate and state
26 house of representatives candidates, up to the applicable
27 amounts set forth in subsections 8 and 9 according to rules
28 adopted by the board.

29 14. APPEALS. A candidate who has been denied
30 certification as an Iowa clean election Act candidate or the
31 opponent of a candidate who has been granted certification as
32 an Iowa clean election Act candidate may challenge a
33 certification decision by the board as follows:

34 a. A challenger may appeal to the full board within three
35 days of the certification decision. The appeal must be in

1 writing and must set forth the reasons for the appeal.

2 b. Within five days after an appeal is properly made and
3 after notice is given to the challenger and any opponent, the
4 board shall hold a hearing pursuant to chapter 17A. The board
5 must rule on the appeal within three days after the completion
6 of the hearing.

7 c. Judicial review of the decision of the board may be
8 sought in accordance with chapter 17A.

9 d. A candidate whose certification by the board as an Iowa
10 clean election Act candidate is revoked on appeal must return
11 to the board any unspent moneys distributed from the fund. If
12 the board or court finds that an appeal was made frivolously
13 or to cause delay or hardship, the board or court may require
14 the moving party to pay costs of the board, court, and
15 opposing parties, if any.

16 Sec. 5. NEW SECTION. 68A.805 BOARD TO ADOPT RULES.

17 The board shall adopt rules to ensure effective
18 administration of this subchapter. The rules shall include
19 but must not be limited to procedures for obtaining qualifying
20 contributions, certification as an Iowa clean election Act
21 candidate, circumstances involving special elections,
22 vacancies, recounts, withdrawals, or replacements, collection
23 of moneys for the fund, distribution of fund moneys to
24 certified candidates, return of unspent fund disbursements,
25 disposition of equipment purchased with fund moneys, and
26 compliance with this subchapter.

27 Sec. 6. NEW SECTION. 68A.806 VIOLATIONS.

28 1. CIVIL PENALTY. In addition to any other penalties that
29 may be applicable, a person who violates any provision of this
30 subchapter or rules of the board is subject to a civil penalty
31 not to exceed ten thousand dollars per violation payable to
32 the fund. In addition to any penalty, for good cause shown, a
33 candidate found in violation of this subchapter or rules of
34 the board may be required to return to the fund all moneys
35 distributed to the candidate from the fund. If the board

1 makes a finding that a violation of this subchapter or rules
2 of the board has occurred, the board shall assess a civil
3 penalty or transmit the finding to the attorney general for
4 prosecution. Civil penalties paid under this section shall be
5 deposited in the fund. In determining whether or not a
6 candidate is in violation of the expenditure limits of this
7 subchapter, the board may consider as a mitigating factor any
8 circumstances out of the candidate's control.

9 2. CRIMINAL PENALTY. A person who willfully or knowingly
10 violates this subchapter or rules of the board or who
11 willfully or knowingly makes a false statement in any report
12 required by this subchapter commits a simple misdemeanor and,
13 if certified as an Iowa clean election Act candidate, must
14 return to the fund all moneys distributed to the candidate.

15 Sec. 7. NEW SECTION. 68A.807 STUDY REPORT.

16 By January 30, 2008, and every four years after that date,
17 the board shall prepare for submission to the general assembly
18 a report documenting, evaluating, and making recommendations
19 relating to the administration and enforcement of this
20 subchapter.

21 Sec. 8. NEW SECTION. 422.12G INCOME TAX CHECKOFF FOR THE
22 IOWA CLEAN ELECTION FUND.

23 1. A person who files an individual or a joint income tax
24 return with the department of revenue under section 422.13 may
25 designate one dollar or more to be paid to the Iowa clean
26 election fund as established in section 68A.803. If the
27 refund due on the return or the payment remitted with the
28 return is insufficient to pay the additional amount designated
29 by the taxpayer to the Iowa clean election fund, the amount
30 designated shall be reduced to the remaining amount of the
31 refund or the remaining amount remitted with the return. The
32 designation of a contribution to the Iowa clean election fund
33 under this section is irrevocable.

34 2. The director of revenue shall draft the income tax form
35 to allow the designation of contributions to the Iowa clean

1 election fund on the tax return. The department of revenue,
2 on or before January 31, shall certify the total amount
3 designated on the tax return forms due in the preceding
4 calendar year and shall report the amount to the treasurer of
5 state. The treasurer of state shall credit the amount to the
6 Iowa clean election fund. However, before a checkoff pursuant
7 to this section shall be permitted, all liabilities on the
8 books of the department of revenue and accounts identified as
9 owing under section 421.17 and the political contribution
10 allowed under section 68A.601 shall be satisfied.

11 3. The income tax checkoff for the Iowa clean election
12 fund is not subject to the provisions of section 422.12E.

13 4. The department of revenue shall adopt rules to
14 administer this section.

15 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

16 1. Except as provided in subsection 2, this Act takes
17 effect July 1, 2005, and applies to candidates in elections to
18 be held beginning in the year 2006.

19 2. The section of this Act enacting section 422.12G, being
20 deemed of immediate importance, takes effect upon enactment
21 and applies retroactively for tax years beginning on or after
22 January 1, 2005.

23 EXPLANATION

24 Under this bill, certified candidates for statewide office
25 and the general assembly have the option of having their
26 campaigns publicly financed. The bill first applies to
27 elections beginning in the year 2006.

28 Before certification by the Iowa ethics and campaign
29 disclosure board as a clean election Act candidate, a
30 candidate is permitted to accept seed money contributions,
31 which are a specifically limited amount of money from private
32 sources to help that candidate collect the qualifying
33 contributions required for certification. Seed money
34 contributions must come from individuals. No single
35 contribution may exceed \$100 per contributor, and the total

1 amount of seed money contributions a candidate may accept is
2 limited to \$2,500 for candidates for state representative,
3 \$5,000 for candidates for state senate, and \$100,000 for
4 candidates for statewide office. In order to be eligible to
5 receive public funds, a candidate must receive a minimum
6 number of qualifying contributions. Each qualifying
7 contribution must be in the amount of \$5 in the form of a
8 check or money order payable to the fund. The contributions
9 may be made only by registered voters within the jurisdiction
10 of the office the candidate is seeking. For a candidate for
11 statewide office, at least 2,500 registered voters of this
12 state must provide a qualifying contribution; for a candidate
13 for the state senate, at least 200 registered voters from the
14 candidate's district must provide a qualifying contribution;
15 and for a candidate for the state house of representatives, at
16 least 100 registered voters from the candidate's district must
17 provide a qualifying contribution.

18 After a candidate has been certified, the candidate can no
19 longer accept contributions in any amount and must finance the
20 campaign solely from the clean election Act fund.

21 The Iowa clean election Act fund consists of moneys from
22 the following sources: qualifying contributions, state
23 appropriations, seed money contributions remaining after a
24 candidate has been certified, voluntary donations made to the
25 fund, fines collected from violations of the bill, other
26 unspent funds distributed to a candidate who does not remain a
27 candidate throughout the election, and revenues generated from
28 a tax checkoff program.

29 The distribution of the fund to the certified candidates
30 will be equal to the average amount of campaign expenditures
31 for the office in question for the preceding two contested
32 primaries, or contested general elections, as applicable. The
33 board cannot distribute amounts in excess of what is contained
34 in the fund. If the amount determined for distribution
35 exceeds the amount available from the fund, the board will

1 allow candidates to accept or spend contributions.

2 Regardless of any other provisions of the law, certified
3 candidates must report any moneys collected, all campaign
4 expenditures, obligations, and related activities to the board
5 according to procedures created by the board. In addition,
6 all unspent moneys must be returned to the fund.

7 An expedited appeal process is established to contest
8 certification decisions. A candidate whose certification by
9 the board as an Iowa clean election Act candidate is revoked
10 must return to the board any unspent moneys distributed from
11 the fund. Judicial review is available pursuant to Code
12 chapter 17A.

13 Any person who violates any provision of this subchapter or
14 rules of the board is subject to a civil penalty not to exceed
15 \$10,000 per violation payable to the fund. In addition to any
16 civil penalty, for good cause shown, a candidate found in
17 violation of this subchapter or rules of the board may be
18 required to return to the fund all moneys distributed to the
19 candidate. A person who willfully or knowingly violates these
20 provisions or who willfully or knowingly makes a false
21 statement in any report required by law commits a simple
22 misdemeanor and, if certified as an Iowa clean election Act
23 candidate, must return to the fund all moneys distributed to
24 the candidate.

25 The bill takes effect July 1, 2005, applying to candidates
26 in elections beginning in the calendar year in 2006. The
27 income tax checkoff for the Iowa clean election fund is made
28 retroactive to tax years beginning on or after January 1,
29 2005.

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