

Fair and Clean Elections Bill Summary
as of June 2005
(HF 1065, SF 863)
(with rationales)

Clean Elections Candidates

Qualifying contributions

To qualify for a public subsidy, a candidate must raise at least the following number (.5% of their district) of contributions, in amounts between \$5 and \$50, from people eligible to vote in Minnesota. At least 1/2 of the qualifying contributions must come from their district. A candidate may accept contributions from out-of-state residents and Political Action Committees (PACs) of up to \$50, but may not count these contributions towards the number they need to collect to qualify. Participating candidates are allowed to contribute up to 10 times the regular contribution limit to their own campaign (\$500).

	<u># Needed</u>	<u>Minimum \$</u>	<u>Private Funds Spending Limit</u>
(1) Governor	4500	\$22,500	\$50,000
(2) AG, SoS or SA	2500	\$12,500	\$25,000
(3) Senate	360	\$1800	\$8,000
(4) House	180	\$900	\$4,000

Candidates can begin collecting their qualifying contributions as early as January 1st of the year prior to the election and have until the filing date to complete their collection. There is also a limit on how much money the candidate can spend before qualifying for public funds. The limits listed can be used between Jan. 1 of the year after the last election and when they qualify for the subsidy. After that date they cannot use private funds for campaign expenditures.

This proposal combines what we currently have in Minnesota with the Clean Elections laws in other states. It is important that the size of the qualifying contribution remain low so that everyone can participate in the process of helping a candidate qualify for the public subsidy. The maximum amount of private money that candidates are allowed to spend on campaign expenditures is set at a number at which the candidates should have enough funds to raise the qualifying contributions that they need. It is also set at a level at which candidates will be able to ask for some smaller contributions. (If all they collected were \$50 contributions, then they would collect significantly more than they are allowed to spend before they qualified. Otherwise candidates might feel a need to do all of their solicitations and doorknocking among folks that could afford the larger contributions.)

Candidates are allowed to get some support from PACs and out-of-state residents, but have to have in-state support from individuals in order to qualify for the public funds. The number of contributions that candidates for legislative seats have to raise is set at .5% of the average population of a district. This number will be adjusted after every federal census. Candidates have to be able to show that they have some support in their district, but do not have to collect all of their qualifying contributions there, because that often hurts candidates of color and women candidates

Candidates can raise as much as they'd like in contributions of up to \$50, but have a limit on how much private money they can spend on campaign expenditures. As long as a candidate keeps to these limits between January 1st of the year after the last general election and when they are certified as a Clean Elections candidate, they will remain eligible to participate in the Clean Election system come the following election.

Subsidy Payments

The first date that candidates can turn in their Qualifying Receipts is January 1st of the election year. Candidates that qualify will immediately receive a payment of 20% of the public subsidy. After filings for candidacy, candidates with primary and/or general election opponents will receive a pre-primary payment of 20%. The final payment of 60% occurs just after the primary election. Candidates without general election opponents receive 10% of what they would otherwise receive.

<u>Office</u>	<u>Total Subsidy</u>	<u>Pre-Primary</u>	<u>Post-Primary</u> (Opposed)	<u>Total Spending Limit</u> (inc. Party contribution)
(1) Governor/Lt. Governor	\$1,520,000	\$608,000	\$912,000	\$1,900,000
(2) AG, SoS, SA	\$300,000	\$120,000	\$180,000	\$375,000
(3) State Senator	\$48,000	\$19,200	\$28,800	\$60,000
(4) State Representative	\$24,000	\$9,600	\$14,400	\$30,000

A first-time candidate will continue to receive a 10% increase in their base public subsidy (not on matching funds). After the campaign, all candidates will have to return any unspent public money.

We do not differentiate between major and minor party candidates, because we believe that if a candidate can collect the qualifying contributions then they should receive the public money regardless of their party affiliation.

The size of the subsidy was set so that if political parties give candidates the maximum allowable contribution (25% of the subsidy), the overall spending limit for Governor will be the same as 1998 spending limits, and the limit for the State Senate and House seats will only be slightly less. The overall spending limits for the other constitutional officers, on the other hand, are substantially larger than the current spending limits, as a response to previous candidates who argued that they were not allowed to spend enough to run an adequate statewide campaign.

Candidates will get money as soon as they qualify, so that they will have funds to try to get their party's endorsement.

Candidates would wait to get the balance of their pre-primary payment until after filings, at which point we would know whether or not they were going to be opposed in either the primary election or the general election.

This proposal gives full funding in July to all candidates that have either a primary or a general election opponent since a candidate without a primary fight often needs just as much money as others, because they won't be getting much media attention without it. Also, there are many times when even though candidates are ostensibly running against others for their party's primary endorsement, much of their rhetoric during this period is aimed at the candidate who the winner of the primary will be up against in the general election. Only candidates who, after filings, do not have an opponent in the primary or the general election would not be eligible for any public money in July.

Candidates who win the primary but do not have a general election opponent would receive only 10% of the usual subsidy, because they do not need as much money as those who have an opponent, but still need some money to keep their name out there.

Expenditures

Definition of “Expenditure”

Ads that use the “magic words” (“vote for...”, “vote against...”, “support...”, “defeat...”) aired at any time would be considered expenditures. Also, there would be a rebuttable presumption that expenditures of over \$100 in a legislative race or over \$500 in a statewide race that appear 45 days before the primary or 60 days before the general election that identify or depict a candidate are campaign expenditures. If an expenditure meets these criteria but is not electioneering, the speaker would have the option of filing a statement, under the penalty of perjury, stating that this is the case.

This definition is basically the one recommended by the Brennan Center for Justice, based on a comprehensive study of political advertising.

Exemption for membership organizations.

Communications between an organization and its members and corporations and their executive and administrative employees are exempt from the definition of “expenditure”.

This proposal includes language very similar to that used at the federal level.

Independent Expenditures

Definition of “Independent Expenditure”

An expenditure made by a person or group other than a candidate or the candidate's committee is presumed not to be independent if that individual or group uses the same consulting firm as the candidate, replicates the candidate's campaign materials, receives information from the candidate, tells the candidate about the expenditure, or serves as a key player in the candidate's campaign.

Notice/ Reporting of independent expenditures

An individual or association making independent expenditures in excess of \$500 in the aggregate is required to file a report within 48 hours of making the expenditures. During the last 3 weeks before an election, they must be reported within 24 hours.

Reporting requirements for independent expenditures are designed to be as simple as possible: one threshold, regardless if the expenditure is in a legislative or a statewide race; all reports must be made within 48 hours, unless they're made in the last three weeks before an election, in which case they must be made within 24 hours, because timing at that point is critical.

Filing independent expenditures

Groups and individuals that make independent expenditures will be required to turn in copies of the expenditures and/or transcripts of broadcast expenditures when they file their notice of expenditure. If they made multiple nearly-identical expenditures, they need only submit one, along with a list of the races the expenditure was used in. Complaints based on the expenditures must be filed by April 30th.

This will ensure that candidates have access to the information being distributed about them and/or their opponent during the campaign when there is still an opportunity for them to do a response. It will also allow groups to do an analysis of whether or not the law is being followed and how it impacts the nature of campaigns in Minnesota. The short statute of limitations is to assure groups filing their independent expenditures that, by doing so, they are not opening themselves up to the possibility of prosecution indefinitely.

Matching independent expenditures

Under some circumstances, participating candidates will receive an additional public subsidy to match independent expenditures, up to twice their original spending limit. The actions of a group that is supporting a particular candidate cannot trigger matching funds for that candidate.

If an independent expenditure advocates the defeat of a participating candidate, that candidate will receive an amount equal to the value of the independent expenditure.

If an independent expenditure advocates the election of a financially viable candidate, that candidate's participating opponents will receive an amount equal to 1/2 of the independent expenditure.

The goal here is to provide candidates who are adversely affected by independent expenditures with money so that they can respond. Candidates are most obviously hurt by expenditures that advocate their defeat, thus candidates will receive the full amount of the expenditure to respond.

When it comes to independent expenditures that advocate the election of another candidate, only spending in favor of candidates that are viable, at least financially, can trigger matching funds. There is a threshold in place to be sure that a group couldn't spend money advocating the election of a straw candidate and trigger matching money for the candidate they're really supporting. We only give 1/2 of the amount of the expenditure for 2 reasons: 1. candidates are less obviously harmed by independent expenditures for another candidate; and 2. this may cause some groups to do positive advertising, instead of negative, because then their opponent will get fewer matching funds.

Finally, the actions of a group supporting one candidate cannot trigger matching money for that candidate. This is another mechanism to stop groups from spending money on a straw candidate to trigger matching funds for the candidate they are really supporting.

Non-Participating Candidates

Contribution limits

Contribution limits for the whole election cycle for non participating candidates are:

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|------------------------------|---------|
| (1) Governor/Lt. Governor | \$2,000 |
| (2) AG, SoS, SA | \$1,000 |
| (3) State Senator, State Rep | \$500 |

For non-participating candidates, the contribution limits for the election cycle are the same as election year limits are now, except that the limit for SoS and SA have been raised to the same level as that of the AG.

Report & Matching of excess spending

A non-participating candidate is required to report when they have raised contributions in excess of their participating opponent's spending limit within 7 days of having done so. They must file additional reports weekly. During the last 3 weeks before an election, they must file a report within 48 hours of receiving additional large contributions.

A participating candidate will receive an additional public subsidy to match fundraising by a non participating candidate, up to twice their original subsidy.

The goal of the matching money is to give participating candidates a way to continue to get their message out, when being outspent by non-participating candidates. Receiving this information once a week should be frequent enough for most of the campaign. Then during the last 3 weeks, participating candidates would need this information (and the matching funds) more quickly. The reports are based on contributions instead of expenditures, because once the candidate has the funds they have the option of spending them whenever they wish.

Political Parties

Contributions

Political party units are prohibited from accepting contributions of more than \$10,000 in aggregate contributions from an individual or association.

The goal here is to allow parties to continue to raise enough to be parties -- recruit and train candidates, do issue education, get people involved, get candidates elected and get out the vote -- but also to limit the amount of influence any particular person or entity can have on a party.

Political parties may participate the Political Contribution Refund program as long as they agree not to make any independent expenditures. Political parties will have until the end of February after the general election to sign the agreement. If another major political party doesn't sign the agreement, they have until March 4th to rescind the

agreement. The Department of Revenue would not be authorized to distribute refund checks for the new election cycle to individuals until after March 4th.

As an effort to help parties raise funds in small contributions, they will continue to be able to use the \$50 Political Contribution Refund program. Since there are activities we would like parties to refrain from that we cannot otherwise prohibit, we have made them conditions of participating in the program. We want parties to stop doing independent expenditures, and instead to work closely with their candidates to get them elected; it's hard for some to believe that parties can work closely with the candidates and also do expenditures that are not coordinated at the same time. The ability to rescind the agreement is important for parties who are concerned that they would be disadvantaged if other parties do not participate. We only give them a short time to make this decision, however, so that parties that do decide to take advantage of the PCR can do so without too much delay.

Expenditures

All units of a political party are allowed to spend, in aggregate, up to 25% of the candidate's subsidy in coordination with a participating candidate. The maximum party contribution applies to single-candidate and multi-candidate expenditures (with a few exceptions, including sample ballots).

Office	Public Subsidy	Maximum Party Contribution	Total Spending Limit
(1) Governor	\$1,520,000	\$380,000	\$1,900,000
(2) AG, SoS, SA	\$300,000	\$75,000	\$375,000
(3) Senate	\$48,000	\$12,000	\$60,000
(4) House	\$24,000	\$6,000	\$30,000

We want political parties to work on getting candidates elected; thus in almost all cases we allow parties to spend money in coordination with candidates. Because multi-candidate expenditures sometimes act as a loophole in current law, but are also good for party building, they are allowed, but there are limits on what can be spent. We set the limit at 25% of the candidate's spending limit, because this number would allow parties to play a substantial role in candidates' campaigns, but would not drown out the voice of independent or small-party candidates.

Political parties may not contribute more than 10 times the contribution limit for individuals to non-participating candidates. (current law)

Non-candidate party spending

Political parties may spend, without limit, funds on advertising that does not use the name or likeness of any candidate or funds for producing an official sample ballot. Funds for running the party office, staff, etc. will not count against the candidate spending limit.

Limiting the amount of money that political parties can spend in coordination with or on behalf of their candidates is not meant to curtail their other activities. For instance, they will still be able to do, without limit, things that build the party or advance the party's platform.

Other Limits

PACs are prohibited from accepting more than \$1,000 each year in aggregate contributions from an individual and from accepting any contributions from another PAC.

Since PACs are supposed to accumulate money from lots of people a few people shouldn't be able to fully fund all of a PAC's expenditures.

Individuals are prohibited from making more than \$10,000 in aggregate contributions for any purpose to all candidates, political committees, political funds, and party units per election cycle.

The idea is to limit the amount of influence that any one individual can have. Aggregate limits have been upheld at the federal level.

Miscellaneous

Voter guides - public

The Secretary of State is required to produce a voters guide with biographical information and statements submitted by the candidates. The Secretary of State would be required to mail it to every household and post it on their web site.

A state sponsored voters guide would give candidates another way to get their message out, providing voters with more information at no cost to participating candidates.

Free TV time

Public TV and radio stations are required to provide some free TV/radio time to participating statewide candidates, similar to the way that MPR provided time for the US Senate candidates. Public TV and radio stations would be required to put video and audio clips of legislative candidates on their web site.

TV, in particular, is one of the most expensive items for candidates. We cannot require commercial TV or radio stations to provide candidates with free air time at the state level (only the federal government can do this), but we can require public stations to provide participating candidates with free air time as a condition of receiving their state funding.

Cost

On average, the FACE system costs less than 1¢ per day per person (\$13.5 million per year). This estimate is based upon generous assumptions regarding the cost of basic Fair And Clean Elections grants to participating candidates and the cost of additional funding to respond to independent expenditures and excess spending by privately financed candidates.

Funding

The funding for the Fair and Clean Elections Bill comes from closing a corporate tax loophole.

**Prepared by Minnesotans for Fair and Clean Elections (FACE).
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