# SENATE BILL No. 466

DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-9-4-16; IC 3-9.5; IC 3-10-1-19; IC 3-11; IC 3-14-1-3; IC 6-3-9.

**Synopsis:** Campaign finance. Establishes a system of public funding for candidates for governor and the general assembly who agree to limit contributions from private sources and expenditures to the public funds allocated. Establishes criteria for candidates to qualify for public funding, including voluntary limits on contributions from private sources during the qualifying period. Provides for political parties to make limited contributions to candidates who participate in the public funding program. Provides that all expenditures by participating candidates, except for small expenditures, must be made with a public

(Continued next page)

**Effective:** January 1, 1999.

**Hume**

January 14, 1998, read first time and referred to Committee on Elections.

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election debit card drawn against money in the public election campaign fund. Provides for increasing a participating candidate's funding to offset certain expenditures by nonparticipating opponents, independent expenditures, and issue advertising. Prohibits an individual who holds a state or a legislative office from making certain mailings with public funds unless the individual has publicly stated that the individual will not seek reelection or election to certain other offices. Requires the Indiana election commission to impose civil penalties for violations of the campaign financing law. Authorizes the commission, and under certain circumstances, private persons to seek judicial remedies and gives the attorney general powers to prosecute criminal violations of the statute. Establishes the public election campaign fund to finance the election campaigns of participating candidates. Provides that the fund consists of: (1) appropriations; (2) money transferred from the state general fund through an individual income tax checkoff; (3) certain contributions and funds required to be paid by participating candidates; (4) civil penalties imposed by the commission under Indiana election law; (5) voluntary contributions; and (6) interest earned on money in the fund. Makes an annual appropriation of $5.25 million from the state general fund to the fund. Establishes a voluntary program under which individuals may designate $2 to the fund from the state general fund on their Indiana income tax returns. Requires the auditor of state annually to transfer the total amount designated by individuals on their income tax returns from the state general fund to the public election campaign fund. Provides that the tax liability of an individual is not affected by a designation.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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# SENATE BILL No. 466

A BILL FOR AN ACT to amend the Indiana Code concerning elections and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 3-9-4-16, AS AMENDED BY P.L.3-1997, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive

contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars ($10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars ($100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars ($50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars ($1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars ($1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil

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penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

(2) One thousand dollars ($1,000).

(g) All civil penalties collected under this section shall be deposited with the treasurer of state in the ~~campaign finance enforcement account.~~ **public election campaign fund established by IC 3-9.5-8-1.**

(h) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 2. IC 3-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]:

**ARTICLE 9.5. PUBLICLY FUNDED ELECTION CAMPAIGNS**

**Chapter 1. Application**

**Sec. 1. (a) Except as provided in subsection (b), this article applies only to the following:**

**(1) A candidate for governor.**

**(2) A candidate for a legislative office.**

**(b) IC 3-9.5-4-11 applies to an individual who holds a state office.**

**Sec. 2. To the extent not inconsistent with this article, IC 3-9 applies to a candidate covered by this article.**

**Chapter 2. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index for Indiana, all items, all urban consumers, or its successor index.**

**Sec. 3. "Excess expenditure amount" means the amount of money spent or obligated to be spent by a nonparticipating candidate in excess of public election campaign funds allocated to**

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**participating candidates for the same office.**

**Sec. 4. (a) "Express advocacy" means a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising that does either of the following:**

**(1) The communication or advertising advocates the election or defeat of a clearly identified candidate, including a communication that contains words such as "vote for", "re-elect", "support", "cast your ballot for", "(name of candidate) for (name of office)", "(name of candidate) in (year)", "vote against", "defeat", "reject", or similar words.**

**(2) The communication contains campaign slogans or individual words that in context can have no reasonable meaning other than to recommend the election or defeat of one (1) or more clearly identified candidates.**

**(b) The term does not include any of the following:**

**(1) A news story, a commentary, or an editorial by a broadcasting station, a newspaper, a magazine, or another publication, but only if the person disseminating the news story, commentary, or editorial is not owned by or affiliated with a candidate or the candidate's committee.**

**(2) A regularly published newsletter or another communication whose circulation is limited to:**

**(A) a person's members, employees, shareholders, other affiliated individuals; and**

**(2) those who request or purchase the publication.**

**Sec. 5. "Fund" refers to the public election campaign fund established by IC 3-9.5-8-1.**

**Sec. 6. "General campaign period" refers to the period:**

**(1) beginning the day after primary election day; and**

**(2) ending on general election day.**

**Sec. 7. (a) "Independent expenditure" means an expenditure made by a person other than a candidate or the candidate's committee that is made:**

**(1) for a communication that contains express advocacy; and**

**(2) without the participation of, cooperation of, or the coordination with the candidate or the candidate's committee.**

**(b) For purposes of this section, an expenditure is "coordinated" if the expenditure is made:**

**(1) for a communication or anything of value to influence the outcome of an election; and**

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**(2) by a person:**

**(A) in cooperation, consultation, or concert with, a candidate, a candidate's committee, or an agent acting on behalf of a candidate or a candidate's committee, at the request or suggestion of, or under a particular understanding with a candidate, a candidate's committee, or an agent acting on behalf of a candidate or a candidate's committee;**

**(B) for the dissemination, distribution, or republication, in whole or in part, of a broadcast or a written, graphic, or other form of campaign material prepared by a candidate, a candidate's committee, or an agent of a candidate or a candidate's committee; and**

**(C) based on specific information about the candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intention of having the payment made.**

**(c) The following expenditures are not considered independent expenditures:**

**(1) If the person making the expenditure, during the same election cycle in which the expenditure is made, is serving or has served as a member, employee, fundraiser, or agent of the candidate's committee in an executive or policy making position.**

**(2) If the person making the expenditure has:**

**(A) served in a formal policy or advisory position with the candidate's campaign; or**

**(B) participated in strategic or policy making discussions with the candidate's campaign relating to the candidate's pursuit of nomination or election;**

**in the same election cycle as the election cycle in which the expenditure is made.**

**(3) If the person making the expenditure:**

**(A) makes the expenditure for the professional services of another person; and**

**(B) in a nonministerial capacity, has provided or is providing campaign related services in the same election cycle to a candidate who seeks nomination or election to the same office as any of the candidates to whom the communication refers.**

**Sec. 8. "Issue advertisement" means a communication made**

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**through a broadcasting station, a newspaper, a magazine, an outdoor advertising facility, a mailing, or another type of general public political advertising that:**

**(1) is not an independent expenditure or a contribution;**

**(2) costs, in the aggregate, one thousand dollars ($1,000) or more;**

**(3) contains the name or likeness of one (1) or more candidates;**

**(4) is communicated during a primary or general campaign period; and**

**(5) recommends a position on a political issue.**

**Sec. 9. "Nonparticipating candidate" is a candidate who:**

**(1) is on the ballot; and**

**(2) has:**

**(A) chosen not to become a participating candidate; or**

**(B) applied but has not satisfied the requirements to become a participating candidate.**

**Sec. 10. "Participating candidate" means a candidate who qualifies for public election campaign funds.**

**Sec. 11. "Party candidate" refers to a candidate of a political party required to hold a primary election under IC 3-10-1-2.**

**Sec. 12. "Professional services" refers to professional services supporting a candidate's nomination or election to office. The term includes polling, media advice, direct mail, fundraising, and campaign research.**

**Sec. 13. "Primary campaign period" refers to the period:**

**(1) beginning ninety (90) days before the primary election; and**

**(2) ending on primary election day.**

**Sec. 14. "Public election debit card" refers to the card issued by the election division under IC 3-9.5-4-3 that permits a participating candidate to draw on the line of credit issued to the candidate.**

**Sec. 15. "Qualifying contribution" refers to a contribution that satisfies all of the following:**

**(1) The amount of the contribution is not more than five dollars ($5).**

**(2) The contribution is made to a candidate seeking to become a participating candidate.**

**(3) The contribution is made by a registered voter who resides within the candidate's election district.**

**(4) The contribution was received by the candidate during the qualifying period.**

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**(5) The contribution was not solicited by a person paid to solicit contributions on behalf of the candidate.**

**Sec. 16. "Qualifying period" for an elected office refers to the period:**

**(1) beginning one hundred eighty (180) days before the primary election for that office; and**

**(2) ending thirty (30) days before the primary election.**

**Sec. 17. "Seed money contribution" refers to a contribution of not more than one hundred dollars ($100) made by an adult individual during the seed money period.**

**Sec. 18. "Seed money period" for an elected office refers to the period:**

**(1) beginning the day following the previous general election for that office; and**

**(2) ending on the last day of the qualifying period.**

**Chapter 3. Candidate Eligibility for Public Election Campaign Funding**

**Sec. 1. A candidate becomes a participating candidate for the primary campaign period when the candidate does all of the following:**

**(1) Files a statement with the election division that the candidate has complied, and will comply, with all of the requirements of this article, including the requirement that during the seed money period and the qualifying period, the candidate will not accept or spend private contributions from a source other than seed money contributions and qualifying contributions.**

**(2) Meets the following qualifying contribution requirements before the close of the qualifying period:**

**(A) Collects at least the following number of qualifying contributions:**

**(i) Two thousand five hundred (2,500) qualifying contributions for a candidate for governor.**

**(ii) One hundred fifty (150) qualifying contributions for a candidate for state senator.**

**(iii) Fifty (50) qualifying contributions for a candidate for state representative.**

**(B) Documents each qualifying contribution as required by IC 3-9.5-4-2.**

**Sec. 2. (a) A party candidate qualifies as a participating candidate for the general campaign period when the candidate does all of the following:**

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**(1) Is nominated by a political party at a primary election.**

**(2) Files a declaration with the election division that the candidate has complied and will comply with all of the requirements of this article.**

**(3) Is a participating candidate for the primary campaign period.**

**(b) A candidate other than a party candidate qualifies as a participating candidate for the general campaign period when the candidate does all of the following:**

**(1) Before the primary election, meets all of the applicable requirements of this article and files a declaration with the election division that the candidate has fulfilled and will fulfill all of the requirements of a participating candidate.**

**(2) During the primary campaign period, fulfills all the requirements of a participating candidate under section 1 of this chapter.**

**Sec. 3. (a) This section applies to a candidate seeking to become a participating candidate.**

**(b) The only private contributions a candidate may accept before the end of the qualifying period are the following:**

**(1) Qualifying contributions.**

**(2) Seed money contributions.**

**(c) A candidate and a candidate's spouse may not each make more than a:**

**(1) seed money contribution to the candidate's campaign during the seed money contribution period; and**

**(2) qualifying contribution to the candidate's campaign during the qualifying period.**

**(d) The aggregate amount of seed money contributions accepted by a candidate seeking to become a participating candidate may not exceed the following:**

**(1) Fifty thousand dollars ($50,000) for a candidate for governor.**

**(2) Two thousand ($2,000) for a candidate for state senator.**

**(3) One thousand ($1,000) for a candidate for state representative.**

**(e) The election division shall adjust for inflation under section 7 of this chapter the maximum amount of seed money contributions that a candidate may receive.**

**(f) Seed money may:**

**(1) be spent only during the qualifying period; and**

**(2) may not be spent during the primary campaign period or**

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**the general campaign period.**

**Sec. 4. (a) A candidate who wants to become a participating candidate shall do all of the following not later than forty-eight (48) hours after the close of the qualifying period:**

**(1) Fully disclose all the following to the election division:**

**(A) Seed money contributions.**

**(B) Expenditures.**

**(2) Pay the election division all seed money the candidate raised during the seed money period that exceeds the aggregate seed money limit. The election division shall deposit money received under this subdivision in the fund.**

**(3) Submit to the election division documentation concerning the required number of qualifying contributions.**

**(4) Pay to the election division the total of all qualifying contributions received by the candidate.**

**(5) Submit to the election division a declaration stating that the candidate has complied with all other requirements for the candidate to become a participating candidate.**

**(b) A candidate's application to become a participating candidate must be signed by the candidate and the treasurer of the candidate's committee under the penalties for perjury.**

**Sec. 5. (a) Not more than five (5) days after a candidate applies to become a participating candidate, the election division shall certify whether the candidate qualifies.**

**(b) A candidate may appeal an adverse decision of the election division made under subsection (a) to the commission under IC 4-21.5.**

**(c) A commission determination regarding a candidate's qualification is considered a final order under IC 4-21.5.**

**Sec. 6. A candidate who accepts public election campaign funds during the primary campaign period must comply with all the requirements of this article throughout the general campaign period regardless of whether the candidate later discontinues acceptance of public election campaign funds.**

**Sec. 7. (a) After December 31, 2000, the election division shall, before February 1 of each odd-numbered year, adjust the seed money contribution limit that may be accepted by a candidate under section 3 of this chapter under STEP SIX of the following formula:**

**STEP ONE: Determine the percentage change between the CPI as last reported in the previous calendar year and the CPI as last reported in the previous odd-numbered year**

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**before the previous calendar year.**

**STEP TWO: Express the percentage change determined in STEP ONE as a three (3) digit decimal rounded to the nearest thousandth.**

**STEP THREE: Add one (1) to the decimal determined under STEP TWO.**

**STEP FOUR: Determine the limit for the particular office currently in effect under this section.**

**STEP FIVE: Multiply the sum determined under STEP THREE by the number determined under STEP FOUR.**

**STEP SIX: Round the product determined in STEP FIVE up to the nearest even hundred dollars.**

**(b) The adjusted seed money contribution limit for a candidate seeking to become a participating candidate is the amount determined in STEP SIX of subsection (a).**

**(c) Beginning in 2001, the election division shall publish the adjusted limits determined under this section in the February edition of the Indiana Register in each odd-numbered year.**

**Chapter 4. Contributions and Expenditures**

**Sec. 1. During the primary campaign period and the general campaign period a participating candidate may not accept private contributions from any source other than the candidate's political party as provided in section 10 of this chapter.**

**Sec. 2. (a) This section applies to qualifying contributions and seed money contributions.**

**(b) A person making a qualifying contribution shall include all of the following information with the contribution:**

**(1) The contributor's name.**

**(2) The contributor's home address.**

**(3) The contributor's telephone number.**

**(4) The name of the candidate on whose behalf the contribution is made.**

**(5) A statement that the contributor:**

**(A) understands that the contribution:**

**(i) is made to help the candidate become a participating candidate; and**

**(ii) will be paid to the election division; and**

**(B) makes the contribution without coercion or reimbursement.**

**(6) The contributor's signature.**

**(c) A person making a seed money contribution shall include all of the following information with the contribution:**

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**(1) The contributor's printed name.**
**(2) The contributor's address.**
**(3) A statement that the contributor:**
**(A) understands the purpose of the contribution; and**
**(B) makes the contribution without coercion or reimbursement.**
**(4) If the contribution is for at least twenty-five dollars ($25), the following information:**
**(A) The contributor's ZIP code.**
**(B) The contributor's telephone number.**
**(C) The contributor's occupation.**
**(D) The name of the contributor's employer.**
**(5) The contributor's signature.**

**(d) A candidate or the candidate's committee may not accept a contribution if the information required by this section is not received.**

**(e) A candidate shall do the following with the information required by this section:**
**(1) Give a copy to the individual making the contribution.**
**(2) Keep a copy for the candidate's records.**
**(3) Provide a copy to the election division as required by this article or rules adopted under this article.**

**(f) A candidate may not receive a qualifying contribution or a seed money contribution from a person other than from the person identified by the information required by this section.**

**Sec. 3. (a) Whenever a candidate becomes a participating candidate, but not earlier than the beginning of the primary campaign period, the election division shall issue the following to the candidate:**
**(1) A public election debit card with a debit line that entitles the candidate and individuals authorized by the candidate to draw money from an account established in the fund for the candidate. The debit line may not exceed the amount of public election campaign funds allocated to the candidate, minus the amount of petty cash issued to the candidate under subdivision (2).**
**(2) A warrant drawn on the fund for use as petty cash under section 4 of this chapter in the amount of the following :**
**(A) Five thousand dollars ($5,000), if the participating candidate is a candidate for governor.**
**(B) One thousand five hundred dollars ($1,500), if the participating candidate is a candidate for a legislative**

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**office.**

**(b) Except as provided in section 4 of this chapter, a participating candidate and the candidate's committee shall pay all campaign expenditures with the candidate's public election debit card issued under this section.**

**(c) Upon application by a participating candidate and subject to the rules of the commission, the election division may issue more than one (1) public election debit card to the candidate.**

**Sec. 4. (a) A participating candidate and the candidate's committee may pay campaign expenditures from a petty cash account held by the candidate's committee and established with money given to the candidate under section 3(a)(2) of this chapter.**

**(b) Petty cash expenditures may not exceed the following during any day:**

**(1) Five hundred dollars ($500), if the participating candidate is a candidate for governor.**

**(2) One hundred fifty dollars ($150), if the participating candidate is a candidate for a legislative office.**

**(c) A participating candidate is entitled to reimbursement to the candidate's petty cash account from the fund by submitting the following information to the election division:**

**(1) The date of the expenditure.**

**(2) The amount of the expenditure.**

**(3) The purpose of the expenditure.**

**(4) A receipt documenting the expenditure.**

**(d) If a participating candidate submits the information under subsection (c), the election division shall do the following within five (5) working days after the date the election division receives the information:**

**(1) Issue a warrant to the candidate's committee in the amount of total petty cash expenditures documented under subsection (c).**

**(2) Deduct the amount of the warrant from the participating candidate's debit line under section 3 of this chapter.**

**Sec. 5. (a) During a primary campaign period, a participating candidate may make expenditures using only public election campaign funds allocated to the candidate for the primary campaign period.**

**(b) During a general campaign period, a participating candidate may make expenditures using only public election campaign funds allocated to the candidate for the general campaign period.**

**Sec. 6. (a) A participating candidate is entitled to receive public**

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**election campaign funds for the primary campaign period on the date the election division (or the commission) certifies the candidate as a participating candidate.**

**(b) A qualifying candidate is entitled to receive public election campaign funds for the general campaign period not later than forty-eight (48) hours after certification of the primary election results.**

**Sec. 7. (a) A participating candidate shall furnish complete campaign finance records, including all records of seed money contributions and qualifying contributions, to the election division at times required by this article, with reports filed by the candidate under IC 3-9-5, and on request of the election division.**

**(b) A participating candidate shall cooperate with an audit required by the election division.**

**Sec. 8. (a) This section applies in addition to the requirements of IC 3-9-3-2.5.**

**(b) All broadcast and print advertisements placed by a participating candidate or the candidate's committee must include a clear written or spoken statement indicating that the candidate has approved of the content of the advertisement.**

**Sec. 9. Public election campaign funds may not be used:**

**(1) in violation of the law; or**

**(2) to repay personal, family or business loans, expenditures, or debts.**

**Sec. 10. (a) This article does not restrict the value of in-kind contributions made by a regular party committee to a participating candidate.**

**(b) Subject to this section, a participating candidate may receive and spend cash contributions from a regular party committee.**

**(c) The amount of cash contributions that a participating candidate receives from all regular party committees may not exceed, in the aggregate, five percent (5%) of the total line of debit given to the candidate (but excluding lines of debit given to a candidate under subsection (e)).**

**(d) A participating candidate must:**

**(1) report to the election division the amount of cash contributions given to the candidate by a regular party committee; and**

**(2) pay that amount to the election division;**

**within five (5) working days after receiving the cash contribution.**

**(e) Upon receiving a report and payment under subsection (d), the election division shall do the following:**

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**(1) Deposit the amount of the payment in the fund.**

**(2) Increase the participating candidate's debit line by the amount that the cash contribution does not exceed the limit set by subsection (c).**

**(f) This article does not restrict a regular party committee from spending committee funds for any of the following:**

**(1) Committee general operating expenses.**

**(2) Conventions.**

**(3) Nomination and endorsement of candidates.**

**(4) Identifying, researching, and developing the committee's position on issues.**

**(5) Party platform activities.**

**(6) Voter registration activities that are unrelated to specific participating candidates.**

**(7) Get out the vote drives that have no reference to a participating candidate.**

**(8) Travel expenses for committee officers or employees who are not participating candidates.**

**(9) Party development activities that are unrelated to a participating candidate.**

**Sec. 11. (a) As used in this section, "mass mailing" refers to a mailing of at least two hundred (200) identical or nearly identical pieces of mail sent by an elected officials to the voters, residents, or postal box holders within the election district from which the elected official is elected. The term includes substantially identical letters, newsletters, pamphlets, brochures, or other written material. The term does not include any of the following:**

**(1) A mailing made in direct response to communications from persons or groups to whom the matter is mailed.**

**(2) A mailing to federal, state, or local government officials.**

**(3) News releases to the communications media.**

**(b) Except as provided in subsection (c), an individual who holds a state office or a legislative office may not make a mass mailing paid for from public funds between January 1 of an election year and the date of the general election for the office, unless the individual has made a public announcement that the individual will not be a candidate for reelection to:**

**(1) the office; or**

**(2) any other legislative or federal office;**

**during the election cycle.**

**Chapter 5. Allocation of Money to Participating Candidates**

**Sec. 1. The amount of public election campaign funds that a**

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**participating party candidate is entitled to receive for the primary campaign period is the following:**

**(1) In a contested primary election, seventy-five percent (75%) of the average candidate expenditures for the last two contested primary elections for the office in the election district, adjusted for inflation as provided under section 5 of this chapter.**

**(2) If the most recent primary election in an election district was not contested, a participating candidate in a contested primary election in that election district is entitled to receive public election campaign funds equal to seventy-five percent (75%) of the average candidate expenditure for the elected office for the last two (2) contested primary elections on a statewide basis, adjusted for inflation as provided under section 5 of this chapter.**

**Sec. 2. The amount of public election campaign funds that a participating candidate is entitled to receive for the general campaign period is the following:**

**(1) In a contested general election, a participating candidate is entitled to receive public election campaign funds for the general campaign period equal to seventy-five (75%) of the average candidate expenditure for the last two contested general elections for that office in that election district, adjusted for inflation as provided under section 5 of this chapter.**

**(2) If the last general election in an election district was not contested, a participating candidate in a contested general election in that election district is entitled to receive public election campaign funds equal to seventy-five percent (75%) of the average candidate expenditure for the elected office for the last two contested general elections on a statewide basis, adjusted for inflation as provided under section 5 of this chapter.**

**Sec. 3. Subject to section 4 of this chapter, a participating candidate is entitled to receive additional public elections campaign funds to match:**

**(1) an excess expenditure amount spent by a nonparticipating candidate as provided in IC 3-9.5-6-1;**

**(2) an independent expenditure made in opposition to the candidate or on behalf of an opposing candidate as provided in IC 3-9.5-6-2; and**

**(3) the amount spent for any issue advertisements made in**

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**opposition to the candidate or on behalf of an opposing candidate as provided in IC 3-9.5-6-3.**

**Sec. 4. The maximum aggregate amount of additional funding a participating candidate may receive under section 3 of this chapter is two (2) times the full amount of public election campaign funds allocated to the participating candidate for the particular primary or general campaign period.**

**Sec. 5. (a) The election division shall adjust expenditure amounts for inflation under subsection (b) before it computes average expenditure amounts under section 1 or 2 of this chapter.**

**(b) The election division shall adjust expenditures for inflation under sections 1 and 2 of this chapter under STEP SIX of the following formula:**

**STEP ONE: Determine the expenditure amount for the relevant year.**

**STEP TWO: Determine the percentage change between the CPI as last reported in the relevant year and the CPI as most recently reported.**

**STEP THREE: Express the percentage change determined in STEP TWO as a three (3) digit decimal rounded to the nearest thousandth.**

**STEP FOUR: Add one (1) to the decimal determined under STEP THREE.**

**STEP FIVE: Multiply the sum determined under STEP FOUR by the expenditure amount determined under STEP ONE:**

**STEP SIX: Round the product determined under STEP FIVE to the nearest thousand dollar amount.**

**(c) The election division shall determine average candidate expenditures under section 1 or 2 of this chapter by using the amount determined under STEP SIX of subsection (b).**

**Chapter 6. Independent Expenditures, Excess Expenditures of Nonparticipating Candidates, and Issue Advertisement Expenditures**

**Sec. 1. (a) If a nonparticipating candidate's total expenditures exceed the amount of public election campaign funds allocated to the candidate's opponents who are participating candidates, the nonparticipating candidate shall report to the election division the nonparticipating candidate's excess expenditures as follows:**

**(1) Except as provided in subdivision (2), each expenditure amount that, in the aggregate, is more than one thousand dollars ($1,000) must be reported within forty-eight (48)**

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**hours of when the expenditure is made or is obligated to be made.**

**(2) If an expenditure is made during the last twenty (20) days before the end of the relevant campaign period, each expenditure amount that, in the aggregate is more than five hundred dollars ($500) must be reported within twenty-four (24) hours of when the expenditure is made or is obligated to be made.**

**(b) Upon receiving a report under subsection (a), the election division shall, subject to IC 3-9.5-5-4, immediately increase the debit line of each opposing participating candidate by an amount equal to the excess expenditure amount the nonparticipating candidate has spent or intends to spend.**

**Sec. 2. (a) A person who makes or is obligated to make independent expenditures during a primary or general campaign period shall report the expenditures to the election division as follows:**

**(1) If the independent expenditures, in the aggregate, exceed one thousand dollars ($1,000), the person shall report each expenditure to the election division within forty-eight (48) hours after making or becoming obligated to make the expenditure.**

**(2) If an independent expenditure is made during the last twenty (20) days before the end of the relevant campaign period and if independent expenditures made by the person, in the aggregate exceed five hundred dollars ($500), the person shall report each expenditure within twenty-four (24) hours after making or becoming obligated to make the expenditure.**

**(b) Upon receiving a report under subsection (a), the election division shall, subject to IC 3-9.5-5-4, immediately increase the debit line of each participating candidate in opposition to whom the independent expenditure is made in an amount equal to the amount of the independent expenditure.**

**Sec. 3. (a) A person that makes or is obligated to make an expenditure to purchase an issue advertisement shall file a report with the election division not later than forty-eight (48) hours after making or becoming obligated to make the expenditure.**

**(b) The report required by subsection (a) must contain the following information:**

**(1) The name and address of the person making the expenditure.**

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**(2) The amount of the expenditure.**

**(3) The purpose of the issue advertisement.**

**(c) Upon:**

**(1) receiving a report under this section that an issue advertisement has been made or is obligated to be made; and**

**(2) determining that an issue advertisement may reasonably be interpreted as having the effect of promoting the defeat of a participating candidate or the election that candidate's opponent;**

**the election division shall, subject to IC 3-9.5-5-4, immediately increase the debit line of the participating candidate in an amount equal to the cost of the issue advertisement.**

**Sec. 4. A report required by this section must include a statement by the person making the report that the report is a true statement made under penalty of perjury.**

**Sec. 5. (a) A person may file a complaint with the commission if either of the following apply:**

**(1) The person believes that another person:**

**(A) is required to file a report under this chapter; and**

**(B) did not file a report.**

**(2) The person believes the statement required by section 4 of this chapter is false.**

**(b) The commission shall make a prompt determination about a complaint filed under this chapter under IC 4-21.5.**

**Chapter 7. Administration and Enforcement**

**Sec. 1. (a) The commission may adopt rules under IC 4-22-2 to implement this article.**

**(b) The commission shall prescribe forms to implement this article.**

**Sec. 2. (a) After each primary and general election, the election division shall conduct a random audit of candidates to ensure compliance with this article.**

**(b) The subjects of the audit must be determined by an impartial method described in rules adopted by the commission.**

**Sec. 3. The election division may conduct an audit or an investigation based on anonymous complaints.**

**Sec. 4. The commission may seek an injunction from a court having jurisdiction if all of the following apply:**

**(1) There is a substantial likelihood that a violation of this article has occurred or is about to occur.**

**(2) Failure to obtain an injunction will result in irreparable harm to a person affected by the potential violation.**

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**(3) Obtaining an injunction will not cause undue harm or prejudice to the interest of other persons.**

**(4) The public interest is best served if an injunction is issued.**

**Sec. 5. (a) The commission shall refer possible criminal violations of this article to the attorney general for prosecution.**

**(b) The attorney general has all of the powers of a prosecuting attorney in matters referred under this section.**

**Sec. 6. (a) A person who believes that this article has been violated may file a civil action in a court having jurisdiction requesting appropriate remedies for the violation.**

**(b) Before a person files an action under this section both of the following must apply:**

**(1) The person must file a complaint with the commission regarding the alleged violation.**

**(2) The commission fails to make a determination on the complaint within thirty (30) days after the date of the filing of the complaint.**

**(c) A party that prevails in an action under this section is entitled to the following from the opposing parties:**

**(1) Reasonable attorneys fees.**

**(2) Court costs.**

**Sec. 7. (a) In addition to any other penalty imposed under law, the commission may impose civil penalties under this section for violations of this article.**

**(b) IC 4-21.5 applies to a commission proceeding under this section.**

**(c) An individual must pay any civil penalties assessed under this section from the individual's personal money.**

**(d) A civil penalty collected under this section shall be deposited into the fund.**

**(e) If the commission determines that a candidate has accepted a contribution that the candidate is not authorized to accept by this article, the commission shall assess a civil penalty equal to the sum of:**

**(1) three (3) times the amount of the contribution accepted; and**

**(2) investigative costs incurred and documented by the election division.**

**(f) If the commission determines that a candidate has made expenditures not authorized by this article or in a fashion not authorized by this article, the commission shall assess a civil penalty equal to the sum of:**

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**(1) three (3) times the amount of the expenditure made; and**

**(2) investigative costs incurred and documented by the election division.**

**(g) If the commission determines that an individual has not filed a report or records:**

**(1) required by this article or rules adopted under this article; and**

**(2) in the manner required by this article or rules adopted under this article;**

**the commission shall determine whether to assess a civil penalty and the amount of any civil penalty assessed against the individual under IC 3-9-4-16.**

**(h) If the commission determines that a candidate or the candidate's committee has placed an advertisement that does not contain the statement required by IC 3-9.5-4-8, the commission shall assess a civil penalty equal to the sum of:**

**(1) one thousand dollars ($1,000); and**

**(2) investigative costs incurred and documented by the election division.**

**(i) If the commission determines that a candidate has not paid to the election division money that this article requires the candidate to pay, the commission shall assess a civil penalty equal to the sum of:**

**(1) three (3) times the amount of the amount required to be paid; and**

**(2) investigative costs incurred and documented by the election division.**

**(j) If the commission determines that an individual has violated IC 3-9.5-4-11, the commission shall assess a civil penalty equal to the sum of:**

**(1) three (3) times the amount of the mass mailing sent in violation of IC 3-9.5-4-11; and**

**(2) investigative costs incurred and documented by the election division.**

**Sec. 8. (a) In addition to the civil penalties imposed under section 7 of this chapter, the commission may revoke a candidate's status as a participating candidate under IC 4-21.5 if the candidate violates this article.**

**(b) If the commission revokes a candidate's status as a participating candidate, the candidate must repay to the election division all public election campaign funds spent by the candidate.**

**Sec. 9. Not later than January 1 after a general election, the**

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**commission shall file a report with the legislative council containing the following information:**

**(1) A detailed summary of all of the following:**

**(A) Seed money contributions.**

**(B) Qualifying contributions.**

**(C) The total of all debit lines given to participating candidates.**

**(D) The total of all expenditures made by participating candidates.**

**(2) A summary and evaluation of commission and election division activities under this article.**

**(3) Recommendations relating to administration, enforcement, and implementation of this article.**

**(4) Other information the commission considers relevant.**

**Chapter 8. The Public Election Campaign Fund**

**Sec. 1. The public election campaign fund is established for the following purposes:**

**(1) To provide public financing for the election campaigns of certified participating candidates during primary and general campaign periods; and**

**(2) To pay the administrative and enforcement costs related to this article.**

**Sec. 2. The fund consists of the following:**

**(1) Appropriations made by the general assembly.**

**(2) Money from the general fund transferred under IC 6-3-9-6.**

**(3) Qualifying contributions required under IC 3-9.5-3-4 to be paid by candidates seeking to become participating candidates.**

**(4) Excess seed money contributions of candidates seeking to be paid by candidates seeking to become participating candidates, under IC 3-9.5-3-4.**

**(5) Unused petty cash funds distributed to a participating candidate who does not remain a candidate during the primary or general campaign period for which petty cash funds were distributed.**

**(6) Civil penalties imposed by the commission under this title.**

**(7) Voluntary contributions made to the fund.**

**(8) Interest required to be deposited in the fund under section 5 of this chapter.**

**Sec. 3. The fund shall be administered by the election division.**

**Sec. 4. The expenses of administering the fund shall be paid**

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**from money in the fund.**

**Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.**

**Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**Sec. 7. There is annually appropriated to the fund from the state general fund five million, two hundred fifty thousand dollars ($5,250,000) beginning July 1.**

SECTION 3. IC 3-10-1-19, AS AMENDED BY P.L.3-1997, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

To vote for a person make a voting mark (X or ✓) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

[] (1) AB _____

[] (2) CD _____

[] (3) EF _____

[] (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

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(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-10.5-4-2.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.
(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.
(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):
(1) Precinct committeeman.
(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):
(1) School board offices to be elected at the primary election.
(2) Other local offices to be elected at the primary election.
(3) Local public questions.

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(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"
[] YES
[] NO

**(g) This subsection applies only to a candidate for:**

**(1) governor; or**

**(2) a legislative office.**

**The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."**

SECTION 4. IC 3-11-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 17. (a) This section applies only to a candidate for:**

**(1) governor; or**

**(2) a legislative office.**

**(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."**

SECTION 5. IC 3-11-12-40 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 40. (a) This section applies only to a candidate for:**

**(1) governor; or**

**(2) a legislative office.**

**(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."**

SECTION 6. IC 3-11-13-45 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 45. (a) This section applies only to a candidate for:**

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**(1) governor; or**

**(2) a legislative office.**

**(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."**

SECTION 7. IC 3-11-14-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 35. (a) This section applies only to a candidate for:**

**(1) governor; or**

**(2) a legislative office.**

**(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."**

SECTION 8. IC 3-14-1-3, AS AMENDED BY P.L.3-1997, SECTION 400, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 3. An individual, an organization, or a committee that circulates or publishes material in an election without:

**(1)** the statement required under IC 3-9-3-2.5; **or**

**(2) a statement required by IC 3-9.5-4-8;**

commits a Class A misdemeanor.

SECTION 9. IC 6-3-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]:

**Chapter 9. Donation of Income Tax to the Public Election Campaign Fund**

**Sec. 1. As used in this chapter, "fund" refers to the public election campaign fund established by IC 3-9.5-8-1.**

**Sec. 2. Instructions for the preparation of individual and joint tax forms must explain the purpose of the fund.**

**Sec. 3. (a) A resident individual who files a state adjusted gross income tax return for a particular taxable year may direct a donation of two dollars ($2) to the fund on the individual's income tax form.**

**(b) A husband and wife may:**

**(1) jointly direct a single donation of two dollars ($2) to the fund; or**

**(2) direct a donation of two dollars ($2) each to the fund; on the husband and wife's joint tax form.**

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**Sec. 4. A resident individual may direct a donation even if the individual is not entitled to a refund.**

**Sec. 5. Not later than July 1 of each year, the department shall report to the auditor of state the total amount of donations that have been directed under this chapter.**

**Sec. 6. The auditor of state shall transfer the amount reported by the department under section 5 of this chapter from the state general fund to the fund.**

SECTION 10. [EFFECTIVE JANUARY 1, 1999] **(a) The definitions in IC 3, as amended by this act, apply throughout this SECTION.**

**(b) Notwithstanding IC 3-9.5, as added by this act, a candidate may qualify to become a participating candidate, even if the candidate accepted contributions and made expenditures before January 1, 1999, that would disqualify the candidate from becoming a participating candidate if the candidate's committee does the following with all money held by the committee on December 31, 1998:**

**(1) Returns the money to contributors on a reasonable pro rata basis.**

**(2) Pays the money to the election division. The election division shall deposit money paid under this subdivision in the fund.**

**(c) This SECTION expires January 1, 2003.**

SECTION 11. [EFFECTIVE JANUARY 1, 1999] **IC 6-3-9, as added by this act, applies to the designation of donations to the public election campaign fund established by IC 3-9.5-8-1, as added by this act, by an individual or a husband and wife with respect to income tax returns for taxable years that begin after December 31, 1997, and income tax returns filed after December 31, 1998.**

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