

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 3-9-2-3 IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JANUARY 1, 2013]: Sec. 3. (a) Notwithstanding
- 5 IC 23-15-5 or any other statute, **but subject to subsection (d)**, a
- 6 corporation or labor organization may make a contribution to aid in the:
- 7 (1) election or defeat of a candidate; or
- 8 (2) the success or defeat of:
- 9 (A) a political party; or
- 10 (B) a public question submitted to a vote in an election.
- 11 (b) Contributions by a corporation or labor organization are limited
- 12 to those authorized by sections 4, 5, and 6 of this chapter.
- 13 (c) A national bank or a corporation organized by authority of any
- 14 law of Congress must comply with contribution restrictions applicable
- 15 to Indiana elections under 2 U.S.C. 441b.
- 16 **(d) A corporation may not make a contribution authorized**
- 17 **under this chapter unless the contribution has been authorized by**
- 18 **the shareholders of the corporation at the annual meeting of the**
- 19 **shareholders. A contribution is considered authorized by the**
- 20 **shareholders under this section only if all the following apply:**
- 21 (1) **A written statement of intended contributions is provided**
- 22 **to the shareholders not later than ten (10) days before the date**
- 23 **of the annual meeting. The written description must contain**
- 24 **the following information:**

- 1           **(A) A statement of the corporation's criteria for making**  
 2           **contributions.**
- 3           **(B) The names of candidates, political parties, political**  
 4           **action committees, and public questions the corporation**  
 5           **intends to support or oppose by making contributions.**
- 6           **(C) The total amount of contributions the corporation**  
 7           **intends to make. If the corporation intends to make**  
 8           **contributions to specific candidates, political parties, or**  
 9           **political action committees or in support of or opposition**  
 10           **to public questions disclosed under clause (B), a statement**  
 11           **of the approximate amount of contributions the**  
 12           **corporation intends to make to each candidate, political**  
 13           **party, and political action committee and in support of or**  
 14           **opposition to each public question.**
- 15           **(D) A procedure by which a shareholder is permitted to**  
 16           **opt out of the corporation's political contributions as**  
 17           **provided in subdivision (5).**
- 18           **(2) The shareholders approve the statement required by**  
 19           **subdivision (1) in the same manner that shareholders are**  
 20           **required to approve other measures under the corporation's**  
 21           **by laws.**
- 22           **(3) The contribution falls fairly within the description of the**  
 23           **statement required by subdivision (1) as to:**
- 24                   **(A) the criteria for making contributions; or**  
 25                   **(B) the identity of the recipient of the contribution and the**  
 26                   **amount of the contribution to the recipient.**
- 27           **(4) The amount of the contribution, when added to the**  
 28           **amount of other contributions the corporation has made since**  
 29           **the shareholders approved the statement, is not greater than**  
 30           **the total amount of contributions that was disclosed under**  
 31           **subdivision (1)(C).**
- 32           **(5) An individual shareholder is permitted to opt out of**  
 33           **participation in the corporation's political contributions, even**  
 34           **if the shareholders approve the statement required by**  
 35           **subdivision (1). If a shareholder opts out of participation, the**  
 36           **corporation must pay to the shareholder an amount equal to**  
 37           **the total amount of the contributions disclosed under**  
 38           **subdivision (1)(C) divided by the number of shareholders.**
- 39           SECTION 2. IC 3-9-2-5 IS AMENDED TO READ AS FOLLOWS  
 40           [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) A contribution:  
 41                   (1) authorized under subsection (c) or section 4 of this chapter;  
 42                   (2) to a committee by a corporation or labor organization; and  
 43                   (3) designated by that corporation or labor organization for  
 44                   disbursement to a specific candidate, central committee, or other  
 45                   regular party committee;  
 46           is subject to the limitations in section 4 of this chapter.  
 47                   (b) A corporation or labor organization may make a donation to

1 cover any amount of administrative costs (as described in  
 2 IC 3-5-2-15(e)) to a political action committee established and  
 3 controlled by the corporation or labor organization. A donation made  
 4 under this subsection is not considered a contribution or an expenditure  
 5 by the corporation or labor organization.

6 (c) A corporation or labor organization may make a contribution to  
 7 a political action committee if the contribution:

8 (1) does not exceed any of the limits prescribed under section 4  
 9 of this chapter; and

10 (2) is designated for disbursement to a specific candidate or  
 11 committee listed under section 4 of this chapter.

12 **A contribution to a political action committee by a corporation is**  
 13 **subject to section 3 of this chapter.**

14 SECTION 3. IC 3-9-2-6 IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a) Sections 4 and 5 of this  
 16 chapter do not apply to the following:

17 (1) Nonpartisan registration and get-out-the-vote campaigns:

18 (A) by a corporation aimed at its stockholders and employees;

19 or

20 (B) by a trade association or labor organization aimed at its  
 21 members.

22 (2) A contribution or transfer by an incorporated nonpartisan  
 23 political action committee to any other committee.

24 (3) A contribution supporting or opposing the approval of a public  
 25 question submitted to the electorate of the entire state or a local  
 26 public question.

27 **(b) Section 3(d) of this chapter applies to contributions by a**  
 28 **corporation for any purpose described in subsection (a).**

29 SECTION 4. IC 3-9-4-16, AS AMENDED BY P.L.225-2011,  
 30 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JANUARY 1, 2013]: Sec. 16. (a) In addition to any other penalty  
 32 imposed, a person who does any of the following is subject to a civil  
 33 penalty under this section:

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

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

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

42 (4) Makes a contribution other than to a committee subject to this  
 43 article or to a person authorized by law or a committee to receive  
 44 contributions on the committee's behalf.

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

- 1 (6) Makes a contribution in the name of another person.  
 2 (7) Accepts a contribution made by one (1) person in the name of  
 3 another person.  
 4 (8) Is not the treasurer of a committee subject to this article, and  
 5 pays any expenses of an election or a caucus except as authorized  
 6 by this article.  
 7 (9) Commingles the funds of a committee with the personal funds  
 8 of an officer, a member, or an associate of the committee.  
 9 (10) Wrongfully uses campaign contributions in violation of  
 10 IC 3-9-3-4.  
 11 (11) Violates IC 3-9-2-12.  
 12 (12) Fails to designate a contribution as required by IC 3-9-2-5(c).  
 13 (13) Violates IC 3-9-3-5.  
 14 (14) Serves as a treasurer of a committee in violation of any of the  
 15 following:  
 16 (A) IC 3-9-1-13(1).  
 17 (B) IC 3-9-1-13(2).  
 18 (C) IC 3-9-1-18.  
 19 (15) Fails to comply with section 4(d) of this chapter.  
 20 (16) Violates IC 3-9-3-2.5 by making a communication that  
 21 contains a disclaimer that is not presented in a clear and  
 22 conspicuous manner required by IC 3-9-3-2.5(d) and  
 23 IC 3-9-3-2.5(e). This subdivision does not apply to a person  
 24 whose sole act is, in the normal course of business, participating  
 25 in the preparation, printing, distribution, or broadcast of the  
 26 communication containing the disclaimer.  
 27 (b) This subsection applies to a person who is subject to a civil  
 28 penalty under subsection (a)(1) or (a)(2) for filing a defective report or  
 29 statement. If the commission determines that a person failed to file the  
 30 amended report or statement of organization not later than noon five (5)  
 31 days after being given notice under section 14 of this chapter, the  
 32 commission may assess a civil penalty. The penalty is ten dollars (\$10)  
 33 for each day the report is late after the expiration of the five (5) day  
 34 period, not to exceed one hundred dollars (\$100) plus any investigative  
 35 costs incurred and documented by the election division. The civil  
 36 penalty limit under this subsection applies to each report separately.  
 37 (c) This subsection applies to a person who is subject to a civil  
 38 penalty under subsection (a)(1) or (a)(2) for a delinquent report or  
 39 statement. If the commission determines that a person failed to file the  
 40 report or statement of organization by the deadline prescribed under  
 41 this article, the commission shall assess a civil penalty. The penalty is  
 42 fifty dollars (\$50) for each day the report or statement is late, with the  
 43 afternoon of the final date for filing the report or statement being  
 44 calculated as the first day. The civil penalty under this subsection may  
 45 not exceed one thousand dollars (\$1,000) plus any investigative costs  
 46 incurred and documented by the election division. The civil penalty

1 limit under this subsection applies to each report separately.

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

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

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

- 21 (1) Two (2) times the amount of any contributions received.
- 22 (2) One thousand dollars (\$1,000).

23 (g) This subsection applies to a person who is subject to a civil  
24 penalty under subsection (a)(12). If the commission determines that a  
25 corporation or a labor organization has failed to designate a  
26 contribution in violation of IC 3-9-2-5(c), the commission shall assess  
27 a civil penalty equal to the greater of the following, plus any  
28 investigative costs incurred and documented by the election division:

- 29 (1) Two (2) times the amount of the contributions undesignated.
- 30 (2) One thousand dollars (\$1,000).

31 (h) This subsection applies to a person who is subject to a civil  
32 penalty under subsection (a)(13). If the commission determines, by  
33 unanimous vote of the entire membership of the commission, that a  
34 person has violated IC 3-9-3-5, the commission may assess a civil  
35 penalty of not more than five hundred dollars (\$500), plus any  
36 investigative costs incurred and documented by the election division.

37 (i) This subsection applies to a person who is subject to a civil  
38 penalty under subsection (a)(14). If the commission determines, by  
39 unanimous vote of the entire membership of the commission, that a  
40 person has served as the treasurer of a committee in violation of any of  
41 the statutes listed in subsection (a)(14), the commission may assess a  
42 civil penalty of not more than five hundred dollars (\$500), plus any  
43 investigative costs incurred and documented by the election division.

44 (j) This subsection applies to a person who is subject to a civil  
45 penalty under subsection (a)(15). The commission may assess a civil  
46 penalty equal to the costs incurred by the election division for the

1 manual entry of the data contained in the report or statement, plus any  
2 investigative costs incurred and documented by the election division.

3 (k) This subsection applies to a person who is subject to a civil  
4 penalty under subsection (a)(16). If the commission determines that a  
5 person is subject to a civil penalty under subsection (a)(16), the  
6 commission may assess a civil penalty of not more than one thousand  
7 dollars (\$1,000) for each communication circulated or published (but  
8 not for each of the copies of the communication actually circulated or  
9 published), plus any investigative costs incurred and documented by  
10 the election division.

11 (l) All civil penalties collected under this section shall be deposited  
12 with the treasurer of state in the campaign finance enforcement  
13 account.

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

16 SECTION 5. IC 3-9-4-17, AS AMENDED BY P.L.225-2011,  
17 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JANUARY 1, 2013]: Sec. 17. (a) In addition to any other penalty  
19 imposed, a person who does any of the following is subject to a civil  
20 penalty under this section:

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

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

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

29 (4) Makes a contribution other than to a committee subject to this  
30 article or to a person authorized by law or a committee to receive  
31 contributions in the committee's behalf.

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

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

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

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

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

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

44 (11) Fails to designate a contribution as required by IC 3-9-2-5(c).

45 (12) Violates IC 3-9-3-5.

46 (13) Serves as a treasurer of a committee in violation of any of the

- 1 following:
- 2 (A) IC 3-9-1-13(1).
- 3 (B) IC 3-9-1-13(2).
- 4 (C) IC 3-9-1-18.
- 5 (14) Violates IC 3-9-3-2.5 by making a communication that
- 6 contains a disclaimer that is not presented in a clear and
- 7 conspicuous manner, as required by IC 3-9-3-2.5(d) and
- 8 IC 3-9-3-2.5(e). This subdivision does not apply to a person
- 9 whose sole act is, in the normal course of business, participating
- 10 in the preparation, printing, distribution, or broadcast of the
- 11 communication containing the disclaimer.
- 12 (b) This subsection applies to a person who is subject to a civil
- 13 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
- 14 statement. If the county election board determines that a person failed
- 15 to file the report or a statement of organization not later than noon five
- 16 (5) days after being given notice under section 14 of this chapter, the
- 17 county election board may assess a civil penalty. The penalty is ten
- 18 dollars (\$10) for each day the report is late after the expiration of the
- 19 five (5) day period, not to exceed one hundred dollars (\$100) plus any
- 20 investigative costs incurred and documented by the board. The civil
- 21 penalty limit under this subsection applies to each report separately.
- 22 (c) This subsection applies to a person who is subject to a civil
- 23 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
- 24 statement. If the county election board determines that a person failed
- 25 to file the report or statement of organization by the deadline prescribed
- 26 under this article, the board shall assess a civil penalty. The penalty is
- 27 fifty dollars (\$50) for each day the report is late, with the afternoon of
- 28 the final date for filing the report or statement being calculated as the
- 29 first day. The civil penalty under this subsection may not exceed one
- 30 thousand dollars (\$1,000) plus any investigative costs incurred and
- 31 documented by the board. The civil penalty limit under this subsection
- 32 applies to each report separately.
- 33 (d) This subsection applies to a person who is subject to a civil
- 34 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
- 35 (a)(10). If the county election board determines that a person is subject
- 36 to a civil penalty under subsection (a), the board may assess a civil
- 37 penalty of not more than one thousand dollars (\$1,000), plus any
- 38 investigative costs incurred and documented by the board.
- 39 (e) This subsection applies to a person who is subject to a civil
- 40 penalty under subsection (a)(5). If the county election board determines
- 41 that a person is subject to a civil penalty under subsection (a)(5), the
- 42 board may assess a civil penalty of not more than three (3) times the
- 43 amount of the contribution ~~in excess of the limit prescribed by~~
- 44 ~~IC 3-9-2-4~~, **that violates IC 3-9-2**, plus any investigative costs
- 45 incurred and documented by the board.
- 46 (f) This subsection applies to a person who is subject to a civil

1 penalty under subsection (a)(11). If the county election board  
 2 determines that a corporation or a labor organization has failed to  
 3 designate a contribution in violation of IC 3-9-2-5(c), the board shall  
 4 assess a civil penalty equal to the greater of the following, plus any  
 5 investigative costs incurred and documented by the board:

6 (1) Two (2) times the amount of the contributions undesignated.

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

8 (g) This subsection applies to a person who is subject to a civil  
 9 penalty under subsection (a)(12). If the county election board  
 10 determines, by unanimous vote of the entire membership of the board,  
 11 that a person has violated IC 3-9-3-5, the board may assess a civil  
 12 penalty of not more than five hundred dollars (\$500), plus any  
 13 investigative costs incurred and documented by the board.

14 (h) This subsection applies to a person who is subject to a civil  
 15 penalty under subsection (a)(13). If the county election board  
 16 determines, by unanimous vote of the entire membership of the board,  
 17 that a person has served as the treasurer of a committee in violation of  
 18 any of the statutes listed in subsection (a)(13), the board may assess a  
 19 civil penalty of not more than five hundred dollars (\$500), plus any  
 20 investigative costs incurred and documented by the board.

21 (i) This subsection applies to a person who is subject to a civil  
 22 penalty under subsection (a)(14). If the board determines that a person  
 23 is subject to a civil penalty under subsection (a)(14), the board may  
 24 assess a civil penalty of not more than one thousand dollars (\$1,000)  
 25 for each communication circulated or published (but not for each of the  
 26 copies of the communication actually circulated or published), plus any  
 27 investigative costs incurred and documented by the election division.

28 (j) All civil penalties collected under this section shall be deposited  
 29 with the county treasurer to be deposited by the county treasurer in a  
 30 separate account to be known as the campaign finance enforcement  
 31 account. The funds in the account are available, with the approval of  
 32 the county fiscal body, to augment and supplement the funds  
 33 appropriated for the administration of this article.

34 (k) Money in the campaign finance enforcement account does not  
 35 revert to the county general fund at the end of a county fiscal year.

36 (l) Proceedings of the county election board under this section are  
 37 subject to IC 4-21.5".

38 Page 1, line 4, delete "Right to Work" and insert "**Labor**  
 39 **Organization Membership**".

40 Page 2, delete lines 41 through 42, begin a new paragraph and  
 41 insert:

42 "**Sec. 7. A person may not require an individual to become or**  
 43 **remain a member of a labor organization.**

44 **Sec. 8. Nothing in this chapter shall be construed to prohibit**  
 45 **collective bargaining agreements that require the payment of**  
 46 **representation fees."**

- 1 Delete page 3.
- 2 Page 4, delete lines 1 through 4.
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1001 as printed January 12, 2012.)

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Representative Battles