

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Elections, to which was referred House Bill No. 1112, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1           Page 3, after line 39, begin a new paragraph and insert:  
2           "SECTION 2. IC 3-9-3-6 IS ADDED TO THE INDIANA CODE AS  
3           A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
4           2013]: **Sec. 6. (a) This section does not apply to the following:**  
5                 **(1) A communication relating to an election to a federal office.**  
6                 **(2) A person whose sole act is, in the normal course of**  
7                 **business, participating in the preparation, printing,**  
8                 **distribution, or broadcast of the advertising or material**  
9                 **containing the representation.**  
10           **(b) A person may not knowingly or intentionally authorize,**  
11           **finance, sponsor, or participate in the preparation, distribution, or**  
12           **broadcast of paid political advertising or campaign material that**  
13           **falsely represents that a write-in candidate in any election is**  
14           **affiliated with a political party described by IC 3-8-4-1.**  
15           **(c) In enforcing this section, the commission or a county election**  
16           **board may consider evidence that the name of the political party**  
17           **or a symbol commonly associated with the political party has been**  
18           **included in the communication.**  
19           SECTION 3. IC 3-9-4-16, AS AMENDED BY P.L.225-2011,  
20           SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21           JULY 1, 2013]: **Sec. 16. (a) In addition to any other penalty imposed,**

1 a person who does any of the following is subject to a civil penalty  
2 under this section:

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

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

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

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

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

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

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

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

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

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

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

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

28 (13) Violates IC 3-9-3-5 **or IC 3-9-3-6.**

29 (14) Serves as a treasurer of a committee in violation of any of the  
30 following:

31 (A) IC 3-9-1-13(1).

32 (B) IC 3-9-1-13(2).

33 (C) IC 3-9-1-18.

34 (15) Fails to comply with section 4(d) of this chapter.

35 (16) Violates IC 3-9-3-2.5 by making a communication that  
36 contains a disclaimer that is not presented in a clear and  
37 conspicuous manner required by IC 3-9-3-2.5(d) and  
38 IC 3-9-3-2.5(e). This subdivision does not apply to a person  
39 whose sole act is, in the normal course of business, participating  
40 in the preparation, printing, distribution, or broadcast of the  
41 communication containing the disclaimer.

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

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

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

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

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

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

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

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

1 penalty under subsection (a)(12). If the commission determines that a  
 2 corporation or a labor organization has failed to designate a  
 3 contribution in violation of IC 3-9-2-5(c), the commission shall assess  
 4 a civil penalty equal to the greater of the following, plus any  
 5 investigative costs incurred and documented by the election division:

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

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

8 (h) This subsection applies to a person who is subject to a civil  
 9 penalty under subsection (a)(13). If the commission determines, by  
 10 unanimous vote of the entire membership of the commission, that a  
 11 person has violated IC 3-9-3-5 or **IC 3-9-3-6**, the commission may  
 12 assess a civil penalty of not more than five hundred dollars (\$500), plus  
 13 any investigative costs incurred and documented by the election  
 14 division.

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

22 (j) This subsection applies to a person who is subject to a civil  
 23 penalty under subsection (a)(15). The commission may assess a civil  
 24 penalty equal to the costs incurred by the election division for the  
 25 manual entry of the data contained in the report or statement, plus any  
 26 investigative costs incurred and documented by the election division.

27 (k) This subsection applies to a person who is subject to a civil  
 28 penalty under subsection (a)(16). If the commission determines that a  
 29 person is subject to a civil penalty under subsection (a)(16), the  
 30 commission may assess a civil penalty of not more than one thousand  
 31 dollars (\$1,000) for each communication circulated or published (but  
 32 not for each of the copies of the communication actually circulated or  
 33 published), plus any investigative costs incurred and documented by  
 34 the election division.

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

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

40 SECTION 4. IC 3-9-4-17, AS AMENDED BY P.L.225-2011,  
 41 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2013]: Sec. 17. (a) In addition to any other penalty imposed,

1 a person who does any of the following is subject to a civil penalty  
2 under this section:

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

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

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

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

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

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

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

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

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

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

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

27 (12) Violates IC 3-9-3-5 **or IC 3-9-3-6.**

28 (13) Serves as a treasurer of a committee in violation of any of the  
29 following:

30 (A) IC 3-9-1-13(1).

31 (B) IC 3-9-1-13(2).

32 (C) IC 3-9-1-18.

33 (14) Violates IC 3-9-3-2.5 by making a communication that  
34 contains a disclaimer that is not presented in a clear and  
35 conspicuous manner, as required by IC 3-9-3-2.5(d) and  
36 IC 3-9-3-2.5(e). This subdivision does not apply to a person  
37 whose sole act is, in the normal course of business, participating  
38 in the preparation, printing, distribution, or broadcast of the  
39 communication containing the disclaimer.

40 (b) This subsection applies to a person who is subject to a civil  
41 penalty under subsection (a)(1) or (a)(2) for filing a defective report or  
42 statement. If the county election board determines that a person failed

1 to file the report or a statement of organization not later than noon five  
2 (5) days after being given notice under section 14 of this chapter, the  
3 county election board may assess a civil penalty. The penalty is ten  
4 dollars (\$10) for each day the report is late after the expiration of the  
5 five (5) day period, not to exceed one hundred dollars (\$100) plus any  
6 investigative costs incurred and documented by the board. The civil  
7 penalty limit under this subsection applies to each report separately.

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

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

25 (e) This subsection applies to a person who is subject to a civil  
26 penalty under subsection (a)(5). If the county election board determines  
27 that a person is subject to a civil penalty under subsection (a)(5), the  
28 board may assess a civil penalty of not more than three (3) times the  
29 amount of the contribution in excess of the limit prescribed by  
30 IC 3-9-2-4, plus any investigative costs incurred and documented by  
31 the board.

32 (f) This subsection applies to a person who is subject to a civil  
33 penalty under subsection (a)(11). If the county election board  
34 determines that a corporation or a labor organization has failed to  
35 designate a contribution in violation of IC 3-9-2-5(c), the board shall  
36 assess a civil penalty equal to the greater of the following, plus any  
37 investigative costs incurred and documented by the board:

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

40 (g) This subsection applies to a person who is subject to a civil  
41 penalty under subsection (a)(12). If the county election board  
42 determines, by unanimous vote of the entire membership of the board,

1 that a person has violated IC 3-9-3-5 or IC 3-9-3-6, the board may  
2 assess a civil penalty of not more than five hundred dollars (\$500), plus  
3 any investigative costs incurred and documented by the board.

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

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

18 (j) All civil penalties collected under this section shall be deposited  
19 with the county treasurer to be deposited by the county treasurer in a  
20 separate account to be known as the campaign finance enforcement  
21 account. The funds in the account are available, with the approval of  
22 the county fiscal body, to augment and supplement the funds  
23 appropriated for the administration of this article.

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

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

28 Renumber all SECTIONS consecutively.

(Reference is to HB 1112 as printed January 25, 2013.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 7, Nays 0.

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**Senator Landske, Chairperson**