

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1011 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 3-5-2-37 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 37. (a) Except as
5 provided in subsection (b) **or (c)**, "political action committee" means an
6 organization located within or outside Indiana that satisfies all of the
7 following:
8 (1) The organization proposes to influence:
9 (A) the election of a candidate for state, legislative, local, or
10 school board office; or
11 (B) the outcome of a public question.
12 (2) The organization accepts contributions or makes expenditures
13 during a calendar year:
14 (A) to influence the election of a candidate for state, legislative,
15 local, or school board office or the outcome of a public
16 question that will appear on the ballot in Indiana; and
17 (B) that in the aggregate exceed one hundred dollars (\$100).
18 (3) The organization is not any of the following:
19 (A) An auxiliary party organization.
20 (B) A legislative caucus committee.
21 (C) A regular party committee.
22 (D) A candidate's committee.
23 (b) A corporation or labor organization that makes a contribution in
24 accordance with IC 3-9-2 or makes an expenditure is not considered a
25 political action committee.
26 **(c) A group of individuals all of whom are related by blood,**
27 **marriage, or adoption is not considered a political action**
28 **committee.**
29 **(d) For purposes of subsection (c), an individual is considered**

1 **to be related to another individual by blood, marriage, or adoption**
2 **if the individual is the spouse, parent, father-in-law, mother-in-law,**
3 **child, son-in-law, daughter-in-law, grandparent, grandchild,**
4 **brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew,**
5 **or niece of the other individual as the result of birth, marriage, or**
6 **adoption."**

7 Page 26, between lines 16 and 17, begin a new paragraph and insert:
8 "SECTION 62. IC 3-9-3-2.5 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2.5. (a) This
10 section does not apply to any of the following:

- 11 (1) A communication relating to an election to a federal office.
- 12 (2) A communication relating to the outcome of a public question.
- 13 (3) A communication described by this section in a medium
- 14 regulated by federal law to the extent that federal law regulates the
- 15 appearance, content, or placement of the communication in the
- 16 medium.
- 17 (4) Bumper stickers, pins, buttons, pens, and similar small items
- 18 upon which the disclaimer required by this section cannot be
- 19 conveniently printed.
- 20 (5) Skywriting, water towers, wearing apparel, or other means of
- 21 displaying an advertisement on which the inclusion of a disclaimer
- 22 would be impracticable.
- 23 (6) Checks, receipts, and similar items of minimal value that do
- 24 not contain a political message and are used for purely
- 25 administrative purposes.
- 26 (7) A communication by a political action committee organized
- 27 and controlled by a corporation soliciting contributions to the
- 28 political action committee by the stockholders, executives, or
- 29 employees of the corporation and the families of those individuals.
- 30 (8) A communication by a political action committee organized
- 31 and controlled by a labor organization soliciting contributions to
- 32 the political action committee by the members or executive
- 33 personnel of the labor organization and the families of those
- 34 individuals.
- 35 (9) A direct mailing of one hundred (100) or less substantially
- 36 similar pieces of mail.

37 (b) This section applies whenever a person:
38 (1) makes an expenditure for the purpose of financing
39 communications expressly advocating the election or defeat of a
40 clearly identified candidate; or
41 (2) solicits a contribution;
42 through a newspaper, a magazine, an outdoor advertising facility, a
43 poster, a yard sign, a direct mailing, or any other type of general public
44 political advertising.

45 (c) For purposes of this section, a candidate is clearly identified if
46 any of the following apply:

- 1 (1) The name of the candidate involved appears.
- 2 (2) A photograph or drawing of the candidate appears.
- 3 (3) The identity of the candidate is apparent by unambiguous
- 4 reference.
- 5 (d) A communication described in subsection (b) must contain a
- 6 disclaimer that appears and is presented in a clear and conspicuous
- 7 manner to give the reader or observer adequate notice of the identity of
- 8 persons who paid for and, when required, who authorized the
- 9 communication. A disclaimer does not comply with this section if the
- 10 disclaimer is difficult to read or if the placement of the disclaimer is
- 11 easily overlooked.
- 12 (e) A communication that would require a disclaimer if distributed
- 13 separately must contain the required disclaimer if included in a package
- 14 of materials.
- 15 (f) This subsection does not apply to a communication, such as a
- 16 billboard, that contains only a front face. The disclaimer need not
- 17 appear on the front or cover page of the communication if the disclaimer
- 18 appears within the communication.
- 19 (g) Except as provided in subsection (h), a communication described
- 20 in subsection (b) must satisfy one (1) of the following:
- 21 (1) If the communication is paid for and authorized by:
- 22 (A) a candidate;
- 23 (B) an authorized political committee of a candidate; or
- 24 (C) the committee's agents;
- 25 the communication must clearly state that the communication has
- 26 been paid for by the authorized political committee.
- 27 (2) If the communication is paid for by other persons but
- 28 authorized by:
- 29 (A) a candidate;
- 30 (B) an authorized political committee of a candidate; or
- 31 (C) the committee's agents;
- 32 the communication must clearly state that the communication is
- 33 paid for by the other persons and authorized by the authorized
- 34 political committee.
- 35 (3) If the communication is not authorized by:
- 36 (A) a candidate;
- 37 (B) an authorized political committee of a candidate; or
- 38 (C) the committee's agents;
- 39 the communication must clearly state the name of the person who
- 40 paid for the communication and state that the communication is
- 41 not authorized by any candidate or candidate's committee.
- 42 (4) If the communication is a solicitation directed to the general
- 43 public on behalf of a political committee that is not a candidate's
- 44 committee, the solicitation must clearly state the full name of the
- 45 person who paid for the communication.
- 46 (h) A communication by a regular party committee consisting of:

- 1 (1) a printed slate card, a sample ballot, or other printed listing of
 2 three (3) or more candidates for public office at an election;
 3 (2) campaign materials such as handbills, brochures, posters, party
 4 tabloids or newsletters, and yard signs distributed by volunteers
 5 and used by the regular party committee in connection with
 6 volunteer activities on behalf of any nominee of the party; or
 7 (3) materials distributed by volunteers as part of the regular
 8 party's voter registration or get-out-the-vote efforts;

9 must clearly state the name of the person who paid for the
 10 communication but is not required to state that the communication is
 11 authorized by any candidate or committee.

12 **(i) An individual or organization that makes an expenditure for**
 13 **the purpose of financing a communication described in subsection**
 14 **(b) is required to report the expenditure in accordance with**
 15 **IC 3-9-8."**

16 Page 27, between lines 40 and 41, begin a new paragraph and insert:
 17 "SECTION 64. IC 3-9-4-16, AS AMENDED BY P.L.221-2005,
 18 SECTION 20, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JANUARY 1, 2007]: Sec. 16. (a) In addition to any other
 20 penalty imposed, a person who does any of the following is subject to
 21 a civil penalty under this section:

- 22 (1) Fails to file with the election division a report in the manner
 23 required under IC 3-9-5 or IC 3-9-8.
 24 (2) Fails to file a statement of organization required under
 25 IC 3-9-1.
 26 (3) Is a committee or a member of a committee who disburses or
 27 expends money or other property for any political purpose before
 28 the money or other property has passed through the hands of the
 29 treasurer of the committee.
 30 (4) Makes a contribution other than to a committee subject to this
 31 article or to a person authorized by law or a committee to receive
 32 contributions on the committee's behalf.
 33 (5) Is a corporation or labor organization that exceeds any of the
 34 limitations on contributions prescribed by IC 3-9-2-4.
 35 (6) Makes a contribution in the name of another person.
 36 (7) Accepts a contribution made by one (1) person in the name of
 37 another person.
 38 (8) Is not the treasurer of a committee subject to this article, and
 39 pays any expenses of an election or a caucus except as authorized
 40 by this article.
 41 (9) Commingles the funds of a committee with the personal funds
 42 of an officer, a member, or an associate of the committee.
 43 (10) Wrongfully uses campaign contributions in violation of
 44 IC 3-9-3-4.
 45 (11) Violates IC 3-9-2-12.
 46 (12) Fails to designate a contribution as required by IC 3-9-2-5(c).

- 1 (13) Violates IC 3-9-3-5.
2 (14) Serves as a treasurer of a committee in violation of any of the
3 following:
4 (A) IC 3-9-1-13(1).
5 (B) IC 3-9-1-13(2).
6 (C) IC 3-9-1-18.
7 (15) Fails to comply with section 4(d) of this chapter.
- 8 (b) This subsection applies to a person who is subject to a civil
9 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
10 statement. If the commission determines that a person failed to file the
11 amended report or statement of organization not later than noon five (5)
12 days after being given notice under section 14 of this chapter, the
13 commission may assess a civil penalty. The penalty is ten dollars (\$10)
14 for each day the report is late after the expiration of the five (5) day
15 period, not to exceed one hundred dollars (\$100) plus any investigative
16 costs incurred and documented by the election division. The civil
17 penalty limit under this subsection applies to each report separately.
- 18 (c) This subsection applies to a person who is subject to a civil
19 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
20 statement. If the commission determines that a person failed to file the
21 report or statement of organization by the deadline prescribed under this
22 article, the commission shall assess a civil penalty. The penalty is fifty
23 dollars (\$50) for each day the report or statement is late, with the
24 afternoon of the final date for filing the report or statement being
25 calculated as the first day. The civil penalty under this subsection may
26 not exceed one thousand dollars (\$1,000) plus any investigative costs
27 incurred and documented by the election division. The civil penalty limit
28 under this subsection applies to each report separately.
- 29 (d) This subsection applies to a person who is subject to a civil
30 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
31 (a)(10). If the commission determines that a person is subject to a civil
32 penalty under subsection (a), the commission may assess a civil penalty
33 of not more than one thousand dollars (\$1,000), plus any investigative
34 costs incurred and documented by the election division.
- 35 (e) This subsection applies to a person who is subject to a civil
36 penalty under subsection (a)(5). If the commission determines that a
37 person is subject to a civil penalty under subsection (a)(5), the
38 commission may assess a civil penalty of not more than three (3) times
39 the amount of the contribution in excess of the limit prescribed by
40 IC 3-9-2-4, plus any investigative costs incurred and documented by the
41 election division.
- 42 (f) This subsection applies to a person who is subject to a civil
43 penalty under subsection (a)(11). If the commission determines that a
44 candidate or the candidate's committee has violated IC 3-9-2-12, the
45 commission shall assess a civil penalty equal to the greater of the
46 following, plus any investigative costs incurred and documented by the

1 election division:

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

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

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

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

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

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

30 (k) All civil penalties collected under this section shall be deposited
31 with the treasurer of state in the campaign finance enforcement account.

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

34 SECTION 65. IC 3-9-4-17 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) In addition
36 to any other penalty imposed, a person who does any of the following
37 is subject to a civil penalty under this section:

- 38 (1) Fails to file with a county election board a report in the manner
39 required under IC 3-9-5 **or IC 3-9-8.**
- 40 (2) Fails to file a statement of organization required under
41 IC 3-9-1.
- 42 (3) Is a committee or a member of a committee who disburses or
43 expends money or other property for any political purpose before
44 the money or other property has passed through the hands of the
45 treasurer of the committee.
- 46 (4) Makes a contribution other than to a committee subject to this

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

1 penalty of not more than one thousand dollars (\$1,000), plus any
2 investigative costs incurred and documented by the board.

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

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

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

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

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

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

37 (j) Money in the campaign finance enforcement account does not
38 revert to the county general fund at the end of a county fiscal year.

39 (k) Proceedings of the county election board under this section are
40 subject to IC 4-21.5".

41 Page 30, between lines 3 and 4, begin a new paragraph and insert:
42 "SECTION 68. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS
43 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
44 JANUARY 1, 2007]:

45 **Chapter 8. Reports Required for Certain Campaign**
46 **Expenditures**

1 **Sec. 1. Except as provided in section 2 of this chapter, this**
 2 **chapter applies to an individual or an organization:**

- 3 (1) that makes a large expenditure; or
 4 (2) on whose behalf a large expenditure was made;
 5 **for the purpose of financing express advocacy communications**
 6 **through a newspaper, a magazine, an outdoor advertising facility,**
 7 **a poster, a yard sign, a direct mailing, or any other type of general**
 8 **public political advertising.**

9 **Sec. 2. (a) This chapter does not apply to the following:**

- 10 (1) Candidate's committees.
 11 (2) Regular party committees.
 12 (3) Political action committees.
 13 (4) A legislative caucus committee.
 14 (5) An auxiliary party organization.

15 **(b) This chapter does not apply to:**

- 16 (1) a membership organization that is exempt from federal
 17 income taxation under Section 501(c) of the Internal Revenue
 18 Code, to the extent that the organization's express advocacy
 19 communications are made solely to the organization's
 20 members; or
 21 (2) an individual who makes an expenditure using only the
 22 individual's own resources.

23 **Sec. 3. (a) As used in this chapter, "express advocacy**
 24 **communication" means a communication that expressly advocates**
 25 **the election or defeat of a clearly identified candidate.**

26 **(b) For the purposes of subsection (a), a candidate is clearly**
 27 **identified if any of the following apply:**

- 28 (1) The name of the candidate involved appears.
 29 (2) A photograph or drawing of the candidate appears.
 30 (3) The identity of the candidate is apparent by unambiguous
 31 reference.

32 **Sec. 4. As used in this chapter, "large expenditure" means:**

- 33 (1) a single expenditure of at least ten thousand dollars
 34 (\$10,000); or
 35 (2) a total of expenditures of at least ten thousand dollars
 36 (\$10,000).

37 **Sec. 5. (a) An individual or organization that makes a large**
 38 **expenditure described in section 1 of this chapter shall file a report,**
 39 **in a form prescribed by the commission, with:**

- 40 (1) the election division, if the express advocacy
 41 communication is attempting to influence the election of a
 42 candidate for state or legislative office; or
 43 (2) the county election board of each county comprising part
 44 of the affected election district, if the express advocacy
 45 communication is attempting to influence the election of a
 46 candidate for local or school board office.

1 **(b) The report required under subsection (a) must be filed not**
2 **later than forty-eight (48) hours after an expenditure that**
3 **constitutes a large expenditure under this chapter is made.**
4 **Sec. 6. A report required by section 5 of this chapter must**
5 **contain the following information for each expenditure reported:**
6 **(1) The full name, the full mailing address, the occupation, and**
7 **the principal place of business, if any, of the person making**
8 **the expenditure.**
9 **(2) The full name, the full mailing address, the occupation, and**
10 **the principal place of business, if any, of each person to whom**
11 **the expenditure was made.**
12 **(3) The total amount of the expenditure.**
13 **(4) The date and time the expenditure was made.**
14 **(5) The name of and the office sought by the candidate who is**
15 **the subject of the communication financed by the expenditure.**
16 **(6) The full name, the full mailing address, the occupation, and**
17 **the principal place of business of each person who contributed**
18 **or paid at least one hundred dollars (\$100) of the expenditure.**
19 **(7) The full name and the full mailing address of the person**
20 **filing the report.**
21 **Sec. 7. Except where a provision conflicts with this chapter or**
22 **cannot be practicably applied, IC 3-9-4 governs a report filed**
23 **under this chapter."**
24 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1011 as printed February 15, 2006.)

Senator LAWSON C