

SENATE BILL No. 128

January 31, 2007, Introduced by Senators CHERRY, JACOBS, PATTERSON and GLEASON and referred to the Committee on Campaign and Election Oversight.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 3, 5, 7, 10, and 11 (MCL 169.203, 169.205, 169.207, 169.210, and 169.211), section 3 as amended by 1989 PA 95, section 5 as amended by 1999 PA 237, section 7 as amended by 2001 PA 250, and section 11 as amended by 1996 PA 590, and by adding sections 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 103, 105, 107, 108, and 109.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Candidate" means an individual ~~;~~ ~~(a) who files~~

2 **WHO MEETS 1 OR MORE OF THE FOLLOWING CRITERIA:**

3 **(A) FILES** a fee, **AN** affidavit of incumbency, or **A** nominating
4 petition for an elective office. ~~;~~ ~~(b) whose nomination~~

5 **(B) IS NOMINATED** as a candidate for elective office by a

1 political party caucus or convention **AND THE NOMINATION** is
2 certified to the appropriate filing official. ~~+(e) who receives~~

3 **(C) RECEIVES** a contribution, makes an expenditure, or gives
4 consent for another person to receive a contribution or make an
5 expenditure with a view to bringing about the individual's
6 nomination or election to an elective office, whether or not the
7 specific elective office for which the individual will seek
8 nomination or election is known at the time the contribution is
9 received or the expenditure is made. ~~+or (d) who is~~

10 **(D) IS** an officeholder who is the subject of a recall vote.
11 ~~Unless~~

12 **(E) HOLDS AN ELECTIVE OFFICE, UNLESS** the officeholder is
13 constitutionally or legally barred from seeking reelection or fails
14 to file for reelection to that office by the applicable filing
15 deadline. ~~+an elected officeholder shall be~~ **AN INDIVIDUAL**
16 **DESCRIBED IN THIS SUBDIVISION IS** considered to be a candidate for
17 reelection to that same office for the purposes of this act only.

18 ~~(2) For purposes of sections 61 to 71, "candidate" only means~~
19 **"CANDIDATE" MEANS, FOR PURPOSES OF SECTIONS 61 TO 71 ONLY,** in a
20 primary election, a candidate for the office of governor and, in a
21 general election, a candidate for the office of governor or
22 lieutenant governor. However, **FOR THE PURPOSES OF SECTIONS 61 TO**
23 **71,** the candidates for the office of governor and lieutenant
24 governor of the same political party in a general election shall be
25 considered as 1 candidate.

26 ~~(3) (2)~~ "Candidate committee" means the committee designated
27 in a candidate's filed statement of organization as that

1 individual's candidate committee. A candidate committee shall be
2 under the control and direction of the candidate named in the same
3 statement of organization. Notwithstanding subsection ~~(4)~~ **(6)**, an
4 individual shall form a candidate committee ~~pursuant to~~ **UNDER**
5 section 21 ~~when~~ **IF** the individual becomes a candidate under
6 subsection (1).

7 **(4) "CERTIFIED CANDIDATE" MEANS A PARTICIPATING JUDICIAL**
8 **CANDIDATE SEEKING ELECTION TO THE SUPREME COURT WHO HAS BEEN**
9 **CERTIFIED BY THE SECRETARY OF STATE UNDER SECTION 97.**

10 **(5)** ~~(3)~~ "Closing date" means the date through which a campaign
11 statement is required to be complete.

12 **(6)** ~~(4)~~ "Committee" means a person who receives contributions
13 or makes expenditures for the purpose of influencing or attempting
14 to influence the action of the voters for or against the nomination
15 or election of a candidate, or the qualification, passage, or
16 defeat of a ballot question, if contributions received total
17 \$500.00 or more in a calendar year or expenditures made total
18 \$500.00 or more in a calendar year. An individual, other than a
19 candidate, does not constitute a committee. A person, other than a
20 committee registered under this act, making an expenditure to a
21 ballot question committee, shall **NOT**, for that reason, ~~not~~ be
22 considered a committee for the purposes of this act unless the
23 person solicits or receives contributions for the purpose of making
24 an expenditure to that ballot question committee.

25 Sec. 5. (1) "Domestic dependent sovereign" means an Indian
26 tribe that has been acknowledged, recognized, restored, or
27 reaffirmed as an Indian tribe by the secretary of the interior

1 ~~pursuant to~~ **UNDER THE INDIAN REORGANIZATION ACT**, chapter 576, 48
2 Stat. 984, 25 U.S.C. ~~461 to 463, 464 to 465, 466 to 470, 471 to~~
3 ~~472, 473, 474 to 475, 476 to 478, and 479, commonly referred to as~~
4 ~~the Indian reorganization act~~ **USC 461 TO 479**, or has otherwise been
5 acknowledged by the United States government as an Indian tribe.

6 (2) "Election" means a primary, general, special, or millage
7 election held in this state or a convention or caucus of a
8 political party held in this state to nominate a candidate.
9 Election includes a recall vote.

10 (3) "Election cycle" means 1 of the following:

11 (a) For a general election, the period beginning the day
12 following the last general election in which the office appeared on
13 the ballot and ending on the day of the general election in which
14 the office next appears on the ballot.

15 (b) For a special election, the period beginning the day a
16 special general election is called or the date the office becomes
17 vacant, whichever is earlier, and ending on the day of the special
18 general election.

19 (4) **"ELECTIONEERING COMMUNICATION" MEANS AN ELECTRONIC**
20 **COMMUNICATION MADE WITHIN 30 DAYS BEFORE A PRIMARY ELECTION OR 90**
21 **DAYS BEFORE A GENERAL ELECTION THAT CONTAINS THE NAME OR IMAGE OF A**
22 **PARTICIPATING CANDIDATE AND THAT IS NOT REPORTED BY A COMMITTEE AS**
23 **AN EXPENDITURE OR INDEPENDENT EXPENDITURE.**

24 (5) ~~(4)~~—"Elective office" means a public office filled by an
25 election. A person who is appointed to fill a vacancy in a public
26 office that is ordinarily elective holds an elective office.
27 Elective office does not include the office of precinct delegate.

1 Except for the purposes of sections 47, 54, and 55, elective office
2 does not include a school board member in a school district that
3 has a pupil membership of 2,400 or less enrolled on the most recent
4 pupil membership count day. However, elective office includes a
5 school board member in a school district that has a pupil
6 membership of 2,400 or less, if a candidate committee of a
7 candidate for the office of school board member in that school
8 district receives an amount in excess of \$1,000.00 or expends an
9 amount in excess of \$1,000.00. Elective office does not include a
10 federal office except for the purposes of section 57.

11 Sec. 7. (1) "Filed" means the receipt by the appropriate
12 filing official of a statement or report required to be filed under
13 this act.

14 (2) "Filer" means a person required to file a statement or
15 report under this act.

16 (3) "Filing official" means the official designated under this
17 act to receive required statements and reports.

18 (4) **"FUND" MEANS THE PUBLIC CAMPAIGN FUND ESTABLISHED IN**
19 **SECTION 92.**

20 (5) ~~(4)~~ "Fund raising event" means an event such as a dinner,
21 reception, testimonial, rally, auction, or similar affair through
22 which contributions are solicited or received by purchase of a
23 ticket, payment of an attendance fee, making a donation, or
24 purchase of goods or services.

25 (6) **"FUNDING LAW" MEANS THE PUBLIC CAMPAIGN FUNDING LAW**
26 **ALTERNATIVE CAMPAIGN FINANCE PROVISIONS CONTAINED IN SECTIONS 91 TO**
27 **109.**

1 (7) ~~(5)~~—"Gift" means a payment, subscription, advance,
2 forbearance, rendering, or deposit of money, services, or anything
3 of value, unless consideration of equal or greater value is given
4 in exchange.

5 (8) ~~(6)~~—"Honorarium" means a payment of money to a person
6 holding elective office as consideration for an appearance, a
7 speech, an article, or any activity related to or associated with
8 the performance of duties as an elected official. An honorarium
9 does not include any of the following:

10 (a) Reimbursement for the cost of transportation,
11 accommodations, or meals for the person.

12 (b) Wages, salaries, other employee compensation, and expenses
13 authorized to be paid by this state or a political subdivision of
14 this state to the person holding elective office.

15 (c) An award.

16 Sec. 10. (1) "Major political party" means a political party
17 qualified to have its name listed on the general election ballot
18 whose candidate for governor received 25% or more of the popular
19 vote cast in the preceding gubernatorial election. If only 1
20 political party received 25% or more of the popular vote cast for
21 governor in the preceding gubernatorial election, then the
22 political party with the second highest vote ~~shall be deemed~~ **IS** a
23 major **POLITICAL** party.

24 (2) "Minor political party" means a political party qualified
25 to have its name listed on the general election ballot but ~~which~~
26 **THAT** does not qualify as a major **POLITICAL** party.

27 (3) "Nominee" means an individual nominated to be a candidate.

1 (4) "NONPARTICIPATING JUDICIAL CANDIDATE" MEANS A CANDIDATE
2 SEEKING ELECTION TO THE SUPREME COURT WHO IS NOT A PARTICIPATING
3 JUDICIAL CANDIDATE.

4 Sec. 11. (1) "PARTICIPATING CONTRIBUTION" MEANS A CONTRIBUTION
5 TO A PARTICIPATING JUDICIAL CANDIDATE THAT MEETS ALL OF THE
6 FOLLOWING CRITERIA:

7 (A) DOES NOT EXCEED \$500.00.

8 (B) IS MADE DURING THE PARTICIPATING CONTRIBUTION PERIOD.

9 (C) IS ACKNOWLEDGED BY A WRITTEN RECEIPT THAT IDENTIFIES THE
10 NAME AND ADDRESS OF THE CONTRIBUTOR ON A FORM PROVIDED BY THE
11 SECRETARY OF STATE.

12 (2) "PARTICIPATING CONTRIBUTION PERIOD" MEANS THE TIME PERIOD
13 THAT BEGINS FEBRUARY 15 OF THE ELECTION YEAR AND ENDS AT 5 P.M. ON
14 AUGUST 31 OF THE ELECTION YEAR.

15 (3) "PARTICIPATING JUDICIAL CANDIDATE" MEANS A CANDIDATE WHO
16 IS SEEKING ELECTION TO THE SUPREME COURT, WHO CHOOSES TO
17 PARTICIPATE UNDER THE FUNDING LAW, AND WHO IS SEEKING TO BE A
18 CERTIFIED CANDIDATE.

19 (4) ~~(1)~~—"Person" means a business, individual, proprietorship,
20 firm, partnership, joint venture, syndicate, business trust, labor
21 organization, company, corporation, association, committee, or any
22 other organization or group of persons acting jointly.

23 (5) ~~(2)~~—"Political committee" means a committee that is not a
24 candidate committee, political party committee, independent
25 committee, or ballot question committee.

26 (6) ~~(3)~~—"Political merchandise" means goods such as bumper
27 stickers, pins, hats, beverages, literature, or other items sold by

1 a person at a fund raiser or to the general public for publicity or
2 for the purpose of raising ~~funds~~ **MONEY** to be used in supporting or
3 opposing a candidate for nomination for or election to an elective
4 office or in supporting or opposing the qualification, passage, or
5 defeat of a ballot question.

6 (7) ~~(4)~~—"Political party" means a political party ~~which~~ **THAT**
7 has a right under law to have the names of its candidates listed on
8 the ballot in a general election.

9 (8) ~~(5)~~—"Political party committee" means a state central,
10 district, or county committee of a political party ~~which~~ **THAT** is a
11 committee. Each state central committee shall designate the
12 official party county and district committees. There shall not be
13 more than 1 officially designated political party committee per
14 county and per congressional district.

15 (9) ~~(6)~~—"Public body" means 1 or more of the following:

16 (a) A state agency, department, division, bureau, board,
17 commission, council, authority, or other body in the executive
18 branch of state government.

19 (b) The legislature or an agency, board, commission, or
20 council in the legislative branch of state government.

21 (c) A county, city, township, village, intercounty, intercity,
22 or regional governing body; a council, school district, special
23 district, or municipal corporation; or a board, department,
24 commission, or council or an agency of a board, department,
25 commission, or council.

26 (d) Any other body that is created by state or local authority
27 or is primarily funded by or through state or local authority,

1 ~~which~~ IF THE body exercises governmental or proprietary authority
2 or performs a governmental or proprietary function.

3 SEC. 91. (1) THIS SECTION AND SECTIONS 92 TO 109 SHALL BE
4 KNOWN AND MAY BE CITED AS THE "PUBLIC CAMPAIGN FUNDING LAW".

5 (2) THE PUBLIC CAMPAIGN FUNDING LAW ESTABLISHES AN ALTERNATIVE
6 CAMPAIGN FINANCING OPTION AVAILABLE TO A CERTIFIED CANDIDATE. THIS
7 ALTERNATIVE CAMPAIGN FINANCING OPTION IS AVAILABLE TO A CANDIDATE
8 FOR AN ELECTION FOR THE SUPREME COURT HELD IN THIS STATE AFTER
9 JANUARY 1, 2008.

10 (3) THE SECRETARY OF STATE AND THE DEPARTMENT OF TREASURY
11 SHALL ADMINISTER THE PUBLIC CAMPAIGN FUNDING LAW. THE STATE
12 TREASURER SHALL ADMINISTER THE FUND UNDER THIS ACT.

13 SEC. 92. (1) THE PUBLIC CAMPAIGN FUND IS ESTABLISHED TO
14 FINANCE THE ELECTION CAMPAIGNS OF CERTIFIED CANDIDATES. THE FUND
15 SHALL PAY ADMINISTRATIVE COSTS OF THE DEPARTMENTS OF TREASURY AND
16 STATE AND ENFORCEMENT COSTS OF THE DEPARTMENT OF STATE RELATED TO
17 THE PUBLIC CAMPAIGN FUNDING LAW.

18 (2) THE FUND IS A SPECIAL, DEDICATED, NONLAPSING FUND.
19 INTEREST GENERATED BY THE FUND IS CREDITED TO THE FUND.

20 (3) THE STATE TREASURER SHALL DEPOSIT ALL OF THE FOLLOWING
21 INTO THE FUND:

22 (A) REVENUE UNDER SECTION 93.

23 (B) MONEY THAT WAS DISTRIBUTED TO A CERTIFIED CANDIDATE AND
24 THAT REMAINS UNSPENT AFTER THE GENERAL ELECTION.

25 (C) MONEY THAT WAS DISTRIBUTED TO A CERTIFIED CANDIDATE AND
26 THAT IS UNSPENT BECAUSE THE CANDIDATE DOES NOT REMAIN A CANDIDATE
27 THROUGHOUT THE GENERAL ELECTION CYCLE.

1 (D) A VOLUNTARY DONATION MADE DIRECTLY TO THE FUND.

2 (E) A FINE COLLECTED UNDER SECTION 108.

3 (4) ON OR BEFORE THE SEPTEMBER 1 IMMEDIATELY BEFORE A YEAR IN
4 WHICH THERE WILL BE A SUPREME COURT ELECTION, THE SECRETARY OF
5 STATE SHALL PUBLISH AN ESTIMATE OF MONEY IN THE FUND AVAILABLE FOR
6 DISTRIBUTION TO CERTIFIED CANDIDATES DURING THE UPCOMING YEAR'S
7 ELECTIONS.

8 SEC. 93. (1) AN INDIVIDUAL WHOSE TAX LIABILITY UNDER THE
9 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.1 TO 206.532, FOR A
10 TAXABLE YEAR IS \$3.00 OR MORE MAY OPT NOT TO HAVE \$3.00 CREDITED TO
11 THE FUND. IN THE CASE OF A JOINT RETURN OF HUSBAND AND WIFE HAVING
12 AN INCOME TAX LIABILITY OF \$6.00 OR MORE, EACH SPOUSE MAY OPT NOT
13 TO HAVE \$3.00 CREDITED TO THE FUND. THE STATE TREASURER SHALL
14 CREDIT TO THE FUND \$3.00 FOR EACH INDIVIDUAL WHO DOES NOT EXERCISE
15 HIS OR HER OPTION.

16 (2) THE TAX DESIGNATION AUTHORIZED IN THIS SECTION SHALL BE
17 CLEARLY AND UNAMBIGUOUSLY PRINTED ON THE FIRST PAGE OF THE STATE
18 INDIVIDUAL INCOME TAX RETURN.

19 (3) AN AMOUNT EQUAL TO THE CUMULATIVE AMOUNTS CREDITED UNDER
20 SUBSECTION (1) EACH YEAR SHALL BE APPROPRIATED ANNUALLY FROM THE
21 GENERAL FUND OF THIS STATE TO THE FUND TO BE AVAILABLE BEGINNING
22 JANUARY 1 AND CONTINUING THROUGH DECEMBER 31 OF EACH ELECTION YEAR.

23 SEC. 94. (1) TO BE ELIGIBLE FOR CERTIFICATION, A PARTICIPATING
24 JUDICIAL CANDIDATE SHALL MEET BOTH OF THE FOLLOWING REQUIREMENTS:

25 (A) HE OR SHE SHALL ACCEPT CONTRIBUTIONS AND MAKE EXPENDITURES
26 ONLY DURING THE PARTICIPATING CONTRIBUTION PERIOD.

27 (B) HE OR SHE SHALL NOT MAKE OR CAUSE AN EXPENDITURE TO BE

1 MADE FROM PRIVATE MONEY DEPOSITED TO HIS OR HER CANDIDATE COMMITTEE
2 DURING THE CURRENT ELECTION CYCLE AND BEFORE FILING A DECLARATION
3 OF INTENT UNDER SUBSECTION (3).

4 (2) A CERTIFIED CANDIDATE SHALL NOT ACCEPT OR SPEND A
5 PARTICIPATING CONTRIBUTION AFTER CERTIFICATION.

6 (3) A PARTICIPATING JUDICIAL CANDIDATE SHALL FILE A
7 DECLARATION OF INTENT TO SEEK CERTIFICATION UNDER SECTION 97 AND TO
8 COMPLY WITH THE REQUIREMENTS OF THE PUBLIC CAMPAIGN FUNDING LAW.
9 USING FORMS AND PROCEDURES DEVELOPED BY THE SECRETARY OF STATE, THE
10 CANDIDATE SHALL FILE THE DECLARATION OF INTENT WITH THE SECRETARY
11 OF STATE BEFORE OR DURING THE PARTICIPATING CONTRIBUTION PERIOD,
12 EXCEPT AS OTHERWISE PROVIDED BY RULE FOR A SPECIAL ELECTION,
13 VACANCY, RECOUNT, WITHDRAWAL, OR REPLACEMENT. A PARTICIPATING
14 JUDICIAL CANDIDATE SHALL FILE A DECLARATION OF INTENT BEFORE
15 ACCEPTING A PARTICIPATING CONTRIBUTION.

16 SEC. 95. (1) AFTER BECOMING A CANDIDATE AND BEFORE BECOMING A
17 CERTIFIED CANDIDATE, A PARTICIPATING JUDICIAL CANDIDATE SHALL NOT
18 ACCEPT A CONTRIBUTION EXCEPT FOR A PARTICIPATING CONTRIBUTION.

19 (2) AS 1 REQUIREMENT FOR BECOMING A CERTIFIED CANDIDATE, A
20 PARTICIPATING JUDICIAL CANDIDATE SHALL OBTAIN PARTICIPATING
21 CONTRIBUTIONS DURING THE PARTICIPATING CONTRIBUTION PERIOD IN THE
22 AMOUNT OF \$50,000.00 OR MORE.

23 (3) A PAYMENT, GIFT, OR ANYTHING OF VALUE SHALL NOT BE GIVEN
24 IN EXCHANGE FOR A PARTICIPATING CONTRIBUTION.

25 SEC. 96. A PARTICIPATING JUDICIAL CANDIDATE SHALL SUBMIT A
26 PARTICIPATING CONTRIBUTION AND EXPENDITURE REPORT TO THE SECRETARY
27 OF STATE AFTER THE PARTICIPATING CONTRIBUTION PERIOD IN COMPLIANCE

1 WITH RULES PROMULGATED BY THE SECRETARY OF STATE.

2 SEC. 97. (1) UPON RECEIPT OF A PARTICIPATING CONTRIBUTION AND
3 EXPENDITURE REPORT BY A PARTICIPATING JUDICIAL CANDIDATE, THE
4 SECRETARY OF STATE SHALL DETERMINE IF THE CANDIDATE HAS MET ALL OF
5 THE FOLLOWING REQUIREMENTS FOR CERTIFICATION:

6 (A) SIGNED AND FILED A DECLARATION OF INTENT TO PARTICIPATE
7 UNDER THE PUBLIC CAMPAIGN FUNDING LAW.

8 (B) COLLECTED PARTICIPATING CONTRIBUTIONS IN THE AMOUNT OF
9 \$50,000.00 OR MORE.

10 (C) DID NOT ACCEPT CONTRIBUTIONS, EXCEPT FOR PARTICIPATING
11 CONTRIBUTIONS.

12 (D) DID NOT MAKE OR CAUSE AN EXPENDITURE TO BE MADE FROM
13 PRIVATE MONEY DEPOSITED IN HIS OR HER CANDIDATE COMMITTEE DURING
14 THE CURRENT ELECTION CYCLE AND BEFORE FILING A DECLARATION OF
15 INTENT TO PARTICIPATE UNDER THE FUNDING LAW.

16 (E) WAS NOMINATED AT A POLITICAL PARTY'S FALL CONVENTION AS
17 PROVIDED BY SECTION 392 OF THE MICHIGAN ELECTION LAW, 1954 PA 116,
18 MCL 168.392, FILED A QUALIFYING PETITION FOR THE OFFICE OF SUPREME
19 COURT JUSTICE IN COMPLIANCE WITH CHAPTER XXIVA OF THE MICHIGAN
20 ELECTION LAW, 1954 PA 116, MCL 168.590 TO 168.590H, OR IS AN
21 INCUMBENT SUPREME COURT JUSTICE WHO HAS FILED AN AFFIDAVIT OF
22 CANDIDACY UNDER SECTION 392A OF THE MICHIGAN ELECTION LAW, 1954 PA
23 116, MCL 168.392A.

24 (2) THE SECRETARY OF STATE SHALL CERTIFY A PARTICIPATING
25 JUDICIAL CANDIDATE WHO COMPLIES WITH THE REQUIREMENTS OF THIS
26 SECTION AS SOON AS POSSIBLE AND NO LATER THAN 3 DAYS AFTER THE
27 REQUIREMENTS OF SUBSECTION (1) ARE MET. THE SECRETARY OF STATE

1 SHALL NOTIFY A CANDIDATE WHO HAS NOT COMPLIED WITH THE REQUIREMENTS
2 OF THIS SECTION THAT HE OR SHE IS BEING DENIED CERTIFICATION AND
3 EACH REASON FOR THAT DENIAL AS SOON AS POSSIBLE AND NO LATER THAN 3
4 DAYS AFTER THE SUBMISSION OF A PARTICIPATING CONTRIBUTION AND
5 EXPENDITURE REPORT.

6 SEC. 98. (1) A CERTIFIED CANDIDATE SHALL LIMIT THE CERTIFIED
7 CANDIDATE'S CAMPAIGN EXPENDITURES AND OBLIGATIONS, INCLUDING
8 OUTSTANDING OBLIGATIONS, TO THE PARTICIPATING CONTRIBUTIONS
9 RECEIVED DURING THE PARTICIPATING CONTRIBUTION PERIOD AND THE MONEY
10 DISTRIBUTED TO THE CERTIFIED CANDIDATE FROM THE FUND. A CERTIFIED
11 CANDIDATE SHALL NOT ACCEPT A CONTRIBUTION AFTER THE CONCLUSION OF
12 THE PARTICIPATING CONTRIBUTION PERIOD UNLESS SPECIFICALLY
13 AUTHORIZED BY THE SECRETARY OF STATE.

14 (2) A CERTIFIED CANDIDATE SHALL USE THE MONEY UNDER SUBSECTION
15 (1) ONLY FOR CAMPAIGN-RELATED PURPOSES PERMITTED BY THE SECRETARY
16 OF STATE PROCEDURES. THE SECRETARY OF STATE SHALL PUBLISH
17 PROCEDURES OUTLINING PERMISSIBLE CAMPAIGN-RELATED EXPENDITURES.

18 SEC. 99. (1) THE SECRETARY OF STATE SHALL DIRECT THE STATE
19 TREASURER TO DISTRIBUTE TO CERTIFIED CANDIDATES MONEY IN AMOUNTS
20 DETERMINED UNDER SECTION 100 WITHIN 3 DAYS AFTER CERTIFICATION.

21 (2) THE STATE TREASURER SHALL DISTRIBUTE MONEY FROM THE FUND
22 TO CERTIFIED CANDIDATES UNDER THIS SECTION BY A MECHANISM THAT IS
23 EXPEDITIOUS, ENSURES ACCOUNTABILITY, AND SAFEGUARDS THE INTEGRITY
24 OF THE FUND.

25 SEC. 100. (1) ON OR BEFORE JULY 1, 2008, AND ON OR BEFORE JULY
26 1 OF EACH SECOND YEAR AFTER 2008 IN WHICH THERE IS A CONTESTED
27 ELECTION FOR SUPREME COURT JUSTICE, THE SECRETARY OF STATE SHALL

1 DETERMINE THE AMOUNT OF MONEY TO BE DISTRIBUTED TO EACH CERTIFIED
2 CANDIDATE. THE AMOUNT IS THE AVERAGE AMOUNT OF CAMPAIGN
3 EXPENDITURES MADE BY THE CANDIDATES FOR ELECTION TO THE OFFICE OF
4 SUPREME COURT JUSTICE DURING CONTESTED GENERAL ELECTION RACES FOR
5 THE 2 GENERAL ELECTIONS IMMEDIATELY BEFORE THE CURRENT GENERAL
6 ELECTION, AS REPORTED IN THE POSTELECTION CAMPAIGN STATEMENTS FILED
7 FOR THE GENERAL ELECTION. CAMPAIGN EXPENDITURES OF CANDIDATES NOT
8 REQUIRED TO FILE CAMPAIGN STATEMENTS UNDER SECTION 33(6) SHALL NOT
9 BE USED IN CALCULATING THE AVERAGE.

10 (2) IF THE 2 ELECTION CYCLES IMMEDIATELY BEFORE THE CURRENT
11 ELECTION CYCLE DO NOT CONTAIN SUFFICIENT ELECTORAL DATA, THE
12 SECRETARY OF STATE SHALL USE INFORMATION FROM THE MOST RECENT
13 RELEVANT ELECTIONS.

14 SEC. 101. (1) THE SECRETARY OF STATE SHALL REVIEW ALL OF THE
15 FOLLOWING TO MAKE THE DETERMINATION REQUIRED BY SUBSECTION (2):

16 (A) EACH CAMPAIGN STATEMENT FILED BY THE CANDIDATE COMMITTEE
17 OF A CERTIFIED CANDIDATE.

18 (B) ALL INDEPENDENT EXPENDITURE REPORTS FILED UNDER SECTION 51
19 THAT REPORT AN INDEPENDENT EXPENDITURE ADVOCATING THE ELECTION OF
20 THE CERTIFIED CANDIDATE OR THE DEFEAT OF THE CERTIFIED CANDIDATE'S
21 OPPONENTS.

22 (C) ALL DOCUMENTS THAT SHOW VERIFIABLE EXPENDITURES FOR
23 ELECTIONEERING COMMUNICATIONS ADVOCATING THE ELECTION OF THE
24 CERTIFIED CANDIDATE OR THE DEFEAT OF THE CERTIFIED CANDIDATE'S
25 OPPONENTS.

26 (2) FROM THE DOCUMENTS REVIEWED UNDER SUBSECTION (1), THE
27 SECRETARY OF STATE SHALL DETERMINE WHETHER THE AMOUNT DISTRIBUTED

1 TO EACH CERTIFIED CANDIDATE UNDER SECTION 100 IS LESS THAN THE SUM
2 OF THE FOLLOWING:

3 (A) THE GREATER OF THE FOLLOWING:

4 (i) TOTAL EXPENDITURES OF THE CANDIDATE COMMITTEE OF THE
5 CERTIFIED CANDIDATE, INCLUDING, BUT NOT LIMITED TO, IN-KIND
6 EXPENDITURES.

7 (ii) TOTAL CONTRIBUTIONS TO THE CANDIDATE COMMITTEE OF THE
8 CERTIFIED CANDIDATE, INCLUDING, BUT NOT LIMITED TO, IN-KIND
9 CONTRIBUTIONS.

10 (B) TOTAL DEBTS AND OBLIGATIONS OWED BY THE COMMITTEE OF THE
11 CERTIFIED CANDIDATE.

12 (C) THE TOTAL OF ALL INDEPENDENT EXPENDITURES ADVOCATING THE
13 ELECTION OF THE CERTIFIED CANDIDATE OR THE DEFEAT OF THE CERTIFIED
14 CANDIDATE'S OPPONENTS.

15 (D) THE TOTAL OF ALL EXPENDITURES FOR ELECTIONEERING
16 COMMUNICATIONS ADVOCATING THE ELECTION OF THE CERTIFIED CANDIDATE
17 OR THE DEFEAT OF THE CERTIFIED CANDIDATE'S OPPONENTS.

18 (3) IF THE SECRETARY OF STATE DETERMINES THAT THE AMOUNT
19 DISTRIBUTED UNDER SECTION 100 HAS BEEN EXCEEDED AS DESCRIBED IN
20 SUBSECTION (2), THE SECRETARY OF STATE SHALL IMMEDIATELY ISSUE TO
21 EACH OPPOSING CERTIFIED CANDIDATE AN ADDITIONAL AMOUNT FROM THE
22 FUND, SUBJECT TO SUBSECTION (6), EQUAL TO THE EXCESS.

23 (4) THE SECRETARY OF STATE SHALL REVIEW ALL DOCUMENTS THAT
24 SHOW ANY OF THE FOLLOWING MADE AFTER THE CLOSING DATE OF THE MOST
25 RECENT PREELECTION CAMPAIGN STATEMENT OF THE CANDIDATE COMMITTEE OF
26 A CERTIFIED CANDIDATE TO MAKE THE DETERMINATION UNDER SUBSECTION
27 (5):

1 (A) A VERIFIABLE CONTRIBUTION TO THE CERTIFIED CANDIDATE.

2 (B) A VERIFIABLE INDEPENDENT EXPENDITURE ADVOCATING THE
3 ELECTION OF THE CERTIFIED CANDIDATE OR THE DEFEAT OF THE CERTIFIED
4 CANDIDATE'S OPPONENTS.

5 (C) A VERIFIABLE EXPENDITURE FOR AN ELECTIONEERING
6 COMMUNICATION ADVOCATING THE ELECTION OF THE CERTIFIED CANDIDATE OR
7 THE DEFEAT OF THE CERTIFIED CANDIDATE'S OPPONENTS.

8 (5) FROM THE DOCUMENTS REVIEWED UNDER SUBSECTION (4), THE
9 SECRETARY OF STATE SHALL DETERMINE WHETHER THE TOTAL OF ALL
10 VERIFIABLE CONTRIBUTIONS AND EXPENDITURES EXCEEDS THE TOTAL OF ALL
11 OF THE FOLLOWING, AND IF SO SHALL IMMEDIATELY ISSUE TO EACH
12 OPPOSING CERTIFIED CANDIDATE AN ADDITIONAL AMOUNT FROM THE FUND,
13 SUBJECT TO SUBSECTION (6), EQUAL TO THE EXCESS:

14 (A) PARTICIPATING CONTRIBUTIONS TO THE CERTIFIED CANDIDATE.

15 (B) DISTRIBUTIONS TO THE CERTIFIED CANDIDATE UNDER SECTION 100
16 AND THIS SECTION.

17 (6) AN ADDITIONAL AMOUNT PROVIDED TO AN OPPOSING CERTIFIED
18 CANDIDATE UNDER THIS SECTION SHALL NOT EXCEED 3 TIMES THE AMOUNT
19 ORIGINALLY DISTRIBUTED UNDER SECTION 100.

20 SEC. 103. (1) A CERTIFIED CANDIDATE OR PARTICIPATING JUDICIAL
21 CANDIDATE SHALL REPORT EACH CONTRIBUTION AND EXPENDITURE,
22 OBLIGATION, AND RELATED ACTIVITY TO THE SECRETARY OF STATE
23 ACCORDING TO PROCEDURES DEVELOPED BY THE SECRETARY OF STATE. UPON
24 THE FILING OF A FINAL REPORT AFTER THE GENERAL ELECTION, THE
25 CANDIDATE SHALL RETURN UNSPENT MONEY TO THE SECRETARY OF STATE FOR
26 DEPOSIT IN THE FUND.

27 (2) IN DEVELOPING THE PROCEDURES UNDER SUBSECTION (1), THE

1 SECRETARY OF STATE SHALL UTILIZE EXISTING CAMPAIGN REPORTING
2 PROCEDURES, WHENEVER PRACTICABLE. THE SECRETARY OF STATE SHALL
3 ENSURE TIMELY PUBLIC ACCESS TO CAMPAIGN FINANCE DATA AND SHALL
4 UTILIZE ELECTRONIC MEANS OF REPORTING AND STORING INFORMATION. THE
5 SECRETARY OF STATE SHALL DEVELOP AND MAKE AVAILABLE TO A CERTIFIED
6 OR PARTICIPATING JUDICIAL CANDIDATE THE NECESSARY SOFTWARE FOR
7 FILING THE REPORTS REQUIRED UNDER THE PUBLIC CAMPAIGN FUNDING LAW
8 BY ELECTRONIC MEANS.

9 SEC. 105. (1) A CANDIDATE WHO IS DENIED CERTIFICATION AS A
10 CERTIFIED CANDIDATE OR THE OPPONENT OF A CANDIDATE WHO IS GRANTED
11 CERTIFICATION AS A CERTIFIED CANDIDATE MAY CHALLENGE A
12 CERTIFICATION DECISION BY THE SECRETARY OF STATE. A CHALLENGE SHALL
13 BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:

14 (A) THE CHALLENGER SHALL APPEAL TO THE SECRETARY OF STATE
15 WITHIN 3 DAYS AFTER THE CERTIFICATION DECISION. THE CHALLENGER
16 SHALL APPEAL IN WRITING AND SHALL STATE THE REASONS FOR THE APPEAL.

17 (B) WITHIN 5 DAYS AFTER AN APPEAL IS PROPERLY MADE AND AFTER
18 NOTICE IS GIVEN TO THE CHALLENGER AND EACH OPPONENT, THE SECRETARY
19 OF STATE SHALL HOLD A HEARING. THE CHALLENGER HAS THE BURDEN OF
20 PROVIDING EVIDENCE TO DEMONSTRATE THAT THE SECRETARY OF STATE'S
21 DECISION WAS IMPROPER. THE SECRETARY OF STATE SHALL RULE ON THE
22 APPEAL WITHIN 3 DAYS AFTER THE COMPLETION OF THE HEARING.

23 (C) A CHALLENGER OR CANDIDATE MAY APPEAL THE DECISION OF THE
24 SECRETARY OF STATE UNDER SUBDIVISION (B) BY COMMENCING AN ACTION IN
25 THE COURT OF CLAIMS.

26 (D) A CANDIDATE WHOSE DETERMINATION BY THE SECRETARY OF STATE
27 AS A CERTIFIED CANDIDATE IS REVOKED ON APPEAL SHALL RETURN TO THE

1 SECRETARY OF STATE THE UNSPENT MONEY DISTRIBUTED FROM THE FUND.

2 (E) IF THE SECRETARY OF STATE OR COURT OF CLAIMS FINDS THAT AN
3 APPEAL WAS MADE FRIVOLOUSLY OR TO CAUSE DELAY OR HARDSHIP, THE
4 SECRETARY OF STATE OR COURT MAY REQUIRE THE MOVING PARTY TO PAY
5 COSTS OF THE SECRETARY OF STATE, COURT, AND EACH OPPOSING PARTY, IF
6 ANY.

7 (2) THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
8 MCL 24.201 TO 24.328, APPLIES TO PROCEEDINGS UNDER THIS SECTION.

9 SEC. 107. THE SECRETARY OF STATE SHALL PROMULGATE RULES UNDER
10 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201
11 TO 24.328, TO ENSURE EFFECTIVE ADMINISTRATION OF THE FUNDING LAW.
12 THE RULES SHALL INCLUDE, BUT NOT BE LIMITED TO, PROCEDURES FOR ALL
13 OF THE FOLLOWING:

14 (A) OBTAINING PARTICIPATING CONTRIBUTIONS.

15 (B) CERTIFICATION UNDER SECTION 97.

16 (C) CIRCUMSTANCES INVOLVING A SPECIAL ELECTION, VACANCY,
17 RECOUNT, WITHDRAWAL, OR REPLACEMENT.

18 (D) COLLECTION OF MONEY FOR THE FUND.

19 (E) DISTRIBUTION OF MONEY TO A CERTIFIED CANDIDATE.

20 (F) RETURN OF AN UNSPENT FUND DISBURSEMENT.

21 (G) COMPLIANCE WITH THE PUBLIC CAMPAIGN FUNDING LAW.

22 SEC. 108. (1) A PERSON WHO VIOLATES A PROVISION OF THE FUNDING
23 LAW IS SUBJECT TO A CIVIL FINE NOT TO EXCEED \$10,000.00 PER
24 VIOLATION. THIS SANCTION IS RECOVERABLE IN A CIVIL ACTION. A FINE
25 PAID UNDER THIS SECTION SHALL BE DEPOSITED IN THE FUND.

26 (2) IN ADDITION TO A FINE, FOR GOOD CAUSE SHOWN, A CERTIFIED
27 CANDIDATE FOUND IN VIOLATION OF THE PUBLIC CAMPAIGN FUNDING LAW MAY

1 BE REQUIRED TO REIMBURSE THE FUND FOR MONEY DISTRIBUTED TO THE
2 CERTIFIED CANDIDATE FROM THE FUND.

3 (3) IF THE SECRETARY OF STATE MAKES A DETERMINATION THAT A
4 VIOLATION OF THE PUBLIC CAMPAIGN FUNDING LAW HAS OCCURRED, THE
5 SECRETARY OF STATE SHALL ASSESS A FINE AND TRANSMIT THE FINDING TO
6 THE ATTORNEY GENERAL FOR A DECISION REGARDING PROSECUTION.

7 (4) A PERSON WHO KNOWINGLY VIOLATES THE PUBLIC CAMPAIGN
8 FUNDING LAW OR RULES PROMULGATED BY THE SECRETARY OF STATE OR WHO
9 KNOWINGLY MAKES A FALSE STATEMENT IN A REPORT REQUIRED BY THE
10 PUBLIC CAMPAIGN FUNDING LAW IS GUILTY OF A MISDEMEANOR PUNISHABLE,
11 IF THE PERSON IS AN INDIVIDUAL, BY A FINE OF NOT MORE THAN
12 \$1,000.00 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH, OR,
13 IF THE PERSON IS NOT AN INDIVIDUAL, BY A FINE OF NOT MORE THAN
14 \$10,000.00. IF THE PERSON DESCRIBED IN THIS SUBSECTION IS A
15 CERTIFIED CANDIDATE, THAT PERSON SHALL REIMBURSE THE FUND THE MONEY
16 DISTRIBUTED TO THE CERTIFIED CANDIDATE.

17 (5) THE PENALTIES AND REMEDIES UNDER THE PUBLIC CAMPAIGN
18 FUNDING LAW ARE CUMULATIVE AND INDEPENDENT AND THE USE OF PENALTIES
19 OR REMEDIES, OR BOTH, UNDER THE PUBLIC CAMPAIGN FUNDING LAW DOES
20 NOT PROHIBIT THE PROSECUTION OF, OR AN ACTION TO RECOVER DAMAGES
21 FOR, CONDUCT PROSCRIBED UNDER THE PUBLIC CAMPAIGN FUNDING LAW OR
22 ANOTHER APPLICABLE LAW.

23 SEC. 109. ON OR BEFORE JANUARY 30, 2009, AND ON OR BEFORE
24 JANUARY 30 IN EVERY SECOND YEAR AFTER 2009, THE SECRETARY OF STATE
25 SHALL PREPARE FOR THE COMMITTEES OF BOTH HOUSES OF THE LEGISLATURE
26 WITH JURISDICTION OVER MATTERS RELATING TO CAMPAIGNS AND ELECTIONS
27 A REPORT DOCUMENTING, EVALUATING, AND MAKING RECOMMENDATIONS

1 RELATING TO THE ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT OF
2 THE PUBLIC CAMPAIGN FUNDING LAW AND THE FUND.