PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1237
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

"Section 1. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-941, Arizona Revised Statutes, is amended to read:

16-941. Limits on spending and contributions for political campaigns

A. Notwithstanding any law to the contrary, a participating candidate:

1. Shall not accept any contributions, other than a limited number of five-dollar qualifying contributions as specified in section 16-946 and early contributions as specified in section 16-945, except in the emergency situation specified in section 16-954, subsection F—D.

2. Shall not make expenditures of more than a total of five hundred dollars of the candidate's personal monies for a candidate for the legislature or more than one thousand dollars for a candidate for statewide office.

3. Shall not make expenditures in the primary election period in excess of the adjusted primary election spending limit.

4. Shall not make expenditures in the general election period in excess of the adjusted general election spending limit.

5. Shall comply with section 16-948 regarding campaign accounts and section 16-953 regarding returning unused monies to the citizens clean elections fund described in this article.

B. Notwithstanding any law to the contrary, a nonparticipating candidate shall not accept contributions in excess of an amount that is twenty per cent less than the limits specified in section 16-905, subsections A through E, as adjusted by the secretary of state pursuant to section
16-905, subsection H. Any violation of this subsection shall be subject to the civil penalties and procedures set forth in section 16-905, subsections J through M and section 16-924.

C. Notwithstanding any law to the contrary, a candidate, whether participating or nonparticipating:

1. If specified in a written agreement signed by the candidate and one or more opposing candidates and filed with the citizens clean elections commission, shall not make any expenditure in the primary or general election period exceeding an agreed-upon amount lower than spending limits otherwise applicable by statute.

2. Shall continue to be bound by all other applicable election and campaign finance statutes and rules, with the exception of those provisions in express or clear conflict with this article.

D. Notwithstanding any law to the contrary, any person who makes independent expenditures related to a particular office cumulatively exceeding five hundred dollars in an election cycle, with the exception of any expenditure listed in section 16-920 and any independent expenditure by an organization arising from a communication directly to the organization's members, shareholders, employees, affiliated persons and subscribers, shall file reports with the secretary of state in accordance with section 16-958 so indicating, identifying the office and the candidate or group of candidates whose election or defeat is being advocated and stating whether the person is advocating election or advocating defeat.

Sec. 2. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-942, Arizona Revised Statutes, is amended to read:

16-942. Civil penalties and forfeiture of office

A. The civil penalty for a violation of any contribution or expenditure limit in section 16-941 by or on behalf of a participating candidate shall be ten times the amount by which the expenditures or contributions exceed the applicable limit.

B. In addition to any other penalties imposed by law, the civil penalty for a violation by or on behalf of any PARTICIPATING candidate of any
reporting requirement imposed by this chapter shall be one hundred dollars per day for candidates for the legislature and three hundred dollars per day for candidates for statewide office. The penalty imposed by this subsection shall be doubled if the amount not reported for a particular election cycle exceeds ten percent of the adjusted primary or general election spending limit. No penalty imposed pursuant to this subsection shall exceed twice the amount of expenditures or contributions not reported. The PARTICIPATING candidate and the PARTICIPATING candidate's campaign account shall be jointly and severally responsible for any penalty imposed pursuant to this subsection.

C. Any campaign finance report filed indicating a violation of section 16-941, subsections A or B or section 16-941, subsection C, paragraph 1 involving an amount in excess of ten percent of the sum of the adjusted primary election spending limit and the adjusted general election spending limit for a particular PARTICIPATING candidate shall result in disqualification of a PARTICIPATING candidate or forfeiture of office.

D. Any participating candidate adjudged to have committed a knowing violation of section 16-941, subsection A or subsection C, paragraph 1 shall repay from the candidate's personal monies to the fund all monies expended from the candidate's campaign account and shall turn over the candidate's campaign account to the fund.

E. All civil penalties collected pursuant to this article shall be deposited into the fund.

Sec. 3. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-943, Arizona Revised Statutes, is amended to read:

16-943. Criminal violations

A. A PARTICIPATING candidate, or any other person acting on behalf of a PARTICIPATING candidate, who knowingly violates section 16-941 is guilty of a class 1 misdemeanor.

B. Any person who knowingly pays any thing of value or any compensation for a qualifying contribution as defined PRESCRIBED in section 16-946 is guilty of a class 1 misdemeanor.
C. Any person who knowingly provides false or incomplete information on a report filed under section 16-958 is guilty of a class 1 misdemeanor.

Sec. 4. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-956, Arizona Revised Statutes, is amended to read:

16-956. Voter education and enforcement duties

A. The commission shall:

1. Develop a procedure for publishing a document or section of a document having a space of predefined size for a message chosen by each candidate. For the document that is delivered before the primary election, the document shall contain the names of every candidate for every statewide and legislative district office in that primary election without regard to whether the candidate is a participating candidate or a nonparticipating candidate. For the document that is delivered before the general election, the document shall contain the names of every candidate for every statewide and legislative district office in that general election without regard to whether the candidate is a participating candidate or a nonparticipating candidate. The commission shall deliver one copy of each document to every household that contains a registered voter. For the document that is delivered before the primary election, the delivery may be made over a period of days but shall be sent in time to be delivered to households before the earliest date for receipt by registered voters of any requested early ballots for the primary election. The commission may deliver the second document over a period of days but shall send the second document in order to be delivered to households before the earliest date for receipt by registered voters of any requested early ballots for the general election. The primary election and general election documents published by the commission shall comply with all of the following:

(a) For any candidate who does not submit a message pursuant to this paragraph, the document shall include with the candidate's listing the words "no statement submitted".

(b) The document shall have printed on its cover the words "citizens clean elections commission voter education guide" and the words "primary
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(election" or "general election" and the applicable year. The document shall also contain at or near the bottom of the document cover in type that is no larger than one-half the size of the type used for "citizens clean elections commission voter education guide" the words "paid for by the citizens clean elections fund".

(c) In order to prevent voter confusion, the document shall be easily distinguishable from the publicity pamphlet that is required to be produced by the secretary of state pursuant to section 19-123.

2. Sponsor debates among candidates, in such manner as determined by the commission. The commission shall require participating candidates to attend and participate in debates and may specify by rule penalties for nonparticipation. The commission shall invite and permit nonparticipating candidates to participate in debates.

3. Prescribe forms for reports, statements, notices and other documents required by this article. The commission shall not require a PARTICIPATING candidate to use a reporting system other than the reporting system jointly approved by the commission and the office of the secretary of state.

4. Prepare and publish instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with this article and explaining the duties of persons and committees under this article.

5. Produce a yearly report describing the commission's activities and any recommendations for changes of law, administration or funding amounts and accounting for monies in the fund.

6. Adopt rules to implement the reporting requirements of section 16-958, subsections D and E.

7. Enforce this article AS TO PARTICIPATING CANDIDATES, ensure that money from the fund is placed in PARTICIPATING candidate campaign accounts or otherwise spent as specified in this article and not otherwise, monitor reports filed pursuant to this chapter and financial records of PARTICIPATING candidates as needed and ensure that money required by this article to be paid to the fund is deposited in the fund. The commission shall not take
action on any external complaint AGAINST A PARTICIPATING CANDIDATE that is filed more than ninety days after the postelection report is filed or ninety days after the completion of the canvass of the election to which the complaint relates, whichever is later.

B. The commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the commission's duties or the exercise of its powers WITH RESPECT TO PARTICIPATING CANDIDATES.

C. The commission may adopt rules to carry out the purposes of this article and to govern procedures of the commission. Commission rule making RULEMAKING is exempt from title 41, chapter 6, article 3. The commission shall propose and adopt rules in public meetings, with at least sixty days allowed for interested parties to comment after the rules are proposed. The commission shall also file a notice of exempt rule making RULEMAKING and the proposed rule in the format prescribed in section 41-1022 with the secretary of state's office for publication in the Arizona administrative register. After consideration of the comments received in the sixty day comment period, the commission may adopt the rule in an open meeting. Any rules given final approval in an open meeting shall be filed in the format prescribed in section 41-1022 with the secretary of state's office for publication in the Arizona administrative register. Any rules adopted by the commission shall only be applied prospectively from the date the rule was adopted.

D. Rules adopted by the commission are not effective until January 1 in the year following the adoption of the rule, except that rules adopted by unanimous vote of the commission may be made immediately effective and enforceable.

E. If, in the view of the commission, the action of a particular candidate or committee requires immediate change to a commission rule, a unanimous vote of the commission is required. Any rule change made pursuant to this subsection that is enacted with less than a unanimous vote takes effect for the next election cycle.
F. Based on the results of the elections in any quadrennial election after 2002, and within six months after such election, the commission may adopt rules changing the number of qualifying contributions required for any office from those listed in section 16-950, subsection D, by no more than twenty PERCENT of the number applicable for the preceding election.

Sec. 5. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-957, Arizona Revised Statutes, is amended to read:

16-957. Enforcement procedure

A. If the commission finds that there is reason to believe that a PARTICIPATING CANDIDATE OR A PERSON AFFILIATED WITH A PARTICIPATING CANDIDATE has violated any provision of this article, the commission shall serve on that person an order stating with reasonable particularity the nature of the violation and requiring compliance within fourteen days. During that period, the alleged violator may provide any explanation to the commission, comply with the order, or enter into a public administrative settlement with the commission.

B. Upon expiration of the fourteen days, if the commission finds that the alleged violator remains out of compliance, the commission shall make a public finding to that effect and issue an order assessing a civil penalty in accordance with section 16-942, unless the commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. The violator has fourteen days from the date of issuance of the order assessing the penalty to appeal to the superior court as provided in title 12, chapter 7, article 6.

C. Any candidate in a particular election contest who believes that any opposing PARTICIPATING candidate has violated this article for that election may file a complaint with the commission requesting that action be taken pursuant to this section. If the commission fails to make a finding under subsection A of this section within thirty days after the filing of such a complaint, the candidate may bring a civil action in the superior court to impose the civil penalties prescribed in this section.
Sec. 6. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-958, Arizona Revised Statutes, is amended to read:

16-958. Manner of filing reports

A. Any person who has previously reached the dollar amount specified in section 16-941, subsection D for filing an original report shall file a supplemental report each time previously unreported independent expenditures specified by that subsection exceeds one thousand dollars. Such reports shall be filed at the times specified in subsection B of this section and shall identify the dollar amount being reported, the candidate and the date, and no other detail is required in reports made pursuant to this section.

B. Any person who must file an original report pursuant to section 16-941, subsection D or who must file a supplemental report for previously unreported amounts pursuant to subsection A of this section shall file as follows:

1. Before the beginning of the primary election period, the person shall file a report on the first of each month, unless the person has not reached the dollar amount for filing an original or supplemental report on that date.

2. Thereafter, except as stated in paragraph 3 of this subsection, the person shall file a report on any Tuesday by which the person has reached the dollar amount for filing an original or supplemental report.

3. During the last two weeks before the primary election and the last two weeks before the general election, the person shall file a report within one business day of reaching the dollar amount for filing an original or supplemental report.

C. A. Any filing under this article on behalf of a PARTICIPATING candidate may be made by the candidate's campaign committee. All PARTICIPATING candidates shall deposit any check received by and intended for the campaign and made payable to the candidate or the candidate's campaign committee, and all cash received by and intended for the campaign, in the candidate's campaign account before the due date of the next report specified in subsection B of this section. No PARTICIPATING candidate or person acting
on behalf of a PARTICIPATING candidate shall conspire with a donor to postpone delivery of a donation to the campaign for the purpose of postponing the reporting of the donation in any subsequent report.

D. The secretary of state shall immediately notify the commission of the filing of each report under this section and deliver a copy of the report to the commission, and the commission shall promptly mail or otherwise deliver a copy of each report filed pursuant to this section to all participating candidates opposing the candidate identified in section 16-941, subsection D.

E. B. Any report filed pursuant to this section or section 16-916, subsection A, paragraph 1 or subsection B shall be filed in electronic format. The secretary of state shall distribute computer software to political committees to accommodate such electronic filing.

E. C. During the primary election period and the general election period, all PARTICIPATING candidates shall make available for public inspection all bank accounts, campaign finance reports and financial records relating to the candidate's campaign, either by immediate disclosure through electronic means or at the candidate's campaign headquarters, in accordance with rules adopted by the commission.

Sec. 7. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-959, Arizona Revised Statutes, is amended to read:

16-959. Inflationary and other adjustments of dollar values
A. Every two years, the secretary of state shall modify the dollar values specified in the following parts of this article, in the manner specified by section 16-905, subsection H, to account for inflation:

1. Section 16-941, subsection A, paragraph 2. or subsection D;
2. Section 16-942, subsection B.
3. Section 16-945, subsection A, paragraphs 1 and 2.
4. Section 16-948, subsection C.
5. Section 16-955, subsection G. and
6. Section 16-961, subsections G and H.
B. In addition, the secretary of state shall make a similar inflation adjustment by modifying the dollar values in section 16-949, subsection A to reflect cumulative inflation since the enactment of this article. In addition, every two years, the secretary of state shall change the dollar values in section 16-961, subsections G and H in proportion to the change in the number of Arizona resident personal income tax returns filed during the previous calendar year.

B. C. Based on the results of the elections in any quadrennial election after 2002, and within six months after such election, the commission may adopt rules in a public meeting reallocating funds available to all candidates between the primary and general elections by selecting a fraction for primary election spending limits that is between one-third and one-half of the spending limits for the election as a whole. For each office, the primary election spending limit shall be modified to be the sum of the primary and general spending limits times the selected fraction, and the general election spending limit shall be modified to be the same sum times one less the selected fraction.

Sec. 8. **Requirements for enactment; three-fourths vote**

Pursuant to article IV, part 1, section 1, Constitution of Arizona, this act is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature."