

REFERENCE TITLE: clean elections; nonparticipating candidates;
contributions

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2724

Introduced by
Representative Gowan

AN ACT

AMENDING SECTIONS 16-901, 16-901.01, 16-905, 16-941, 16-947, 16-950, 16-952
AND 16-954, ARIZONA REVISED STATUTES; RELATING TO CAMPAIGN CONTRIBUTIONS AND
EXPENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 16-901, Arizona Revised Statutes, is amended to
3 read:
4 16-901. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "Agent" means, with respect to any person other than a candidate,
7 any person who has oral or written authority, either express or implied, to
8 make or authorize the making of expenditures as defined in this section on
9 behalf of a candidate, any person who has been authorized by the treasurer of
10 a political committee to make or authorize the making of expenditures or a
11 political consultant for a candidate or political committee.
12 2. "Candidate" means an individual who receives or gives consent for
13 receipt of a contribution for his nomination for or election to any office in
14 this state other than a federal office.
15 3. "Candidate's campaign committee" means a political committee
16 designated and authorized by a candidate.
17 4. "Clearly identified candidate" means that the name, a photograph or
18 a drawing of the candidate appears or the identity of the candidate is
19 otherwise apparent by unambiguous reference.
20 5. "Contribution" means any gift, subscription, loan, advance or
21 deposit of money or anything of value made for the purpose of influencing an
22 election including supporting or opposing the recall of a public officer or
23 supporting or opposing the circulation of a petition for a ballot measure,
24 question or proposition or the recall of a public officer and:
25 (a) Includes all of the following:
26 (i) A contribution made to retire campaign debt.
27 (ii) Money or the fair market value of anything directly or indirectly
28 given or loaned to an elected official for the purpose of defraying the
29 expense of communications with constituents, regardless of whether the
30 elected official has declared his candidacy.
31 (iii) The entire amount paid to a political committee to attend a
32 fund-raising or other political event and the entire amount paid to a
33 political committee as the purchase price for a fund-raising meal or item,
34 except that no contribution results if the actual cost of the meal or
35 fund-raising item, based on the amount charged to the committee by the
36 vendor, constitutes the entire amount paid by the purchaser for the meal or
37 item, the meal or item is for the purchaser's personal use and not for resale
38 and the actual cost is the entire amount paid by the purchaser in connection
39 with the event. This exception does not apply to auction items.
40 (iv) Unless specifically exempted, the provision of goods or services
41 without charge or at a charge that is less than the usual and normal charge
42 for such goods and services.
43 (b) Does not include any of the following:

1 (i) The value of services provided without compensation by any
2 individual who volunteers on behalf of a candidate, a candidate's campaign
3 committee or any other political committee.

4 (ii) Money or the value of anything directly or indirectly provided to
5 defray the expense of an elected official meeting with constituents if the
6 elected official is engaged in the performance of the duties of his office or
7 provided by the state or a political subdivision to an elected official for
8 communication with constituents if the elected official is engaged in the
9 performance of the duties of his office.

10 (iii) The use of real or personal property, including a church or
11 community room used on a regular basis by members of a community for
12 noncommercial purposes, that is obtained by an individual in the course of
13 volunteering personal services to any candidate, candidate's committee or
14 political party, and the cost of invitations, food and beverages voluntarily
15 provided by an individual to any candidate, candidate's campaign committee or
16 political party in rendering voluntary personal services on the individual's
17 residential premises or in the church or community room for candidate-related
18 or political party-related activities, to the extent that the cumulative
19 value of the invitations, food and beverages provided by the individual on
20 behalf of any single candidate does not exceed one hundred dollars with
21 respect to any single election.

22 (iv) Any unreimbursed payment for personal travel expenses made by an
23 individual who on his own behalf volunteers his personal services to a
24 candidate.

25 (v) The payment by a political party for party operating expenses,
26 party staff and personnel, party newsletters and reports, voter registration
27 and efforts to increase voter turnout, party organization building and
28 maintenance and printing and postage expenses for slate cards, sample
29 ballots, other written materials that substantially promote three or more
30 nominees of the party for public office and other election activities not
31 related to a specific candidate, except that this item does not apply to
32 costs incurred with respect to a display of the listing of candidates made on
33 telecommunications systems or in newspapers, magazines or similar types of
34 general circulation advertising.

35 (vi) Independent expenditures.

36 (vii) Monies loaned by a state bank, a federally chartered depository
37 institution or a depository institution the deposits or accounts of which are
38 insured by the federal deposit insurance corporation or the national credit
39 union administration, other than an overdraft made with respect to a checking
40 or savings account, that is made in accordance with applicable law and in the
41 ordinary course of business. In order for this exemption to apply, this loan
42 shall be deemed a loan by each endorser or guarantor, in that proportion of
43 the unpaid balance that each endorser or guarantor bears to the total number
44 of endorsers or guarantors, the loan shall be made on a basis that assures
45 repayment, evidenced by a written instrument, shall be subject to a due date

1 or amortization schedule and shall bear the usual and customary interest rate
2 of the lending institution.

3 (viii) A gift, subscription, loan, advance or deposit of money or
4 anything of value to a national or a state committee of a political party
5 specifically designated to defray any cost for the construction or purchase
6 of an office facility not acquired for the purpose of influencing the
7 election of a candidate in any particular election.

8 (ix) Legal or accounting services rendered to or on behalf of a
9 political committee or a candidate, if the only person paying for the
10 services is the regular employer of the individual rendering the services and
11 if the services are solely for the purpose of compliance with this title.

12 (x) The payment by a political party of the costs of campaign
13 materials, including pins, bumper stickers, handbills, brochures, posters,
14 party tabloids and yard signs, used by the party in connection with volunteer
15 activities on behalf of any nominee of the party or the payment by a state or
16 local committee of a political party of the costs of voter registration and
17 get-out-the-vote activities conducted by the committee if the payments are
18 not for the costs of campaign materials or activities used in connection with
19 any telecommunication, newspaper, magazine, billboard, direct mail or similar
20 type of general public communication or political advertising.

21 (xi) Transfers between political committees to distribute monies
22 raised through a joint fund-raising effort in the same proportion to each
23 committee's share of the fund-raising expenses and payments from one
24 political committee to another in reimbursement of a committee's
25 proportionate share of its expenses in connection with a joint fund-raising
26 effort.

27 (xii) An extension of credit for goods and services made in the
28 ordinary course of the creditor's business if the terms are substantially
29 similar to extensions of credit to nonpolitical debtors that are of similar
30 risk and size of obligation and if the creditor makes a commercially
31 reasonable attempt to collect the debt, except that any extension of credit
32 under this item made for the purpose of influencing an election ~~which~~ THAT
33 remains unsatisfied by the candidate after six months, notwithstanding good
34 faith collection efforts by the creditor, shall be deemed receipt of a
35 contribution by the candidate but not a contribution by the creditor.

36 (xiii) Interest or dividends earned by a political committee on any
37 bank accounts, deposits or other investments of the political committee.

38 (xiv) **QUALIFYING CONTRIBUTIONS MADE PURSUANT TO SECTION 16-946.**

39 6. "Earmarked" means a designation, instruction or encumbrance that
40 results in all or any part of a contribution or expenditure being made to, or
41 expended on behalf of, a clearly identified candidate or a candidate's
42 campaign committee.

43 7. "Election" means any election for any initiative, referendum or
44 other measure or proposition or a primary, general, recall, special or runoff
45 election for any office in this state other than the office of precinct

1 committeeman and other than a federal office. For purposes of sections
2 16-903 and 16-905, the general election includes the primary election.

3 8. "Expenditures" includes any purchase, payment, distribution, loan,
4 advance, deposit or gift of money or anything of value made by a person for
5 the purpose of influencing an election in this state including supporting or
6 opposing the recall of a public officer or supporting or opposing the
7 circulation of a petition for a ballot measure, question or proposition or
8 the recall of a public officer and a contract, promise or agreement to make
9 an expenditure resulting in an extension of credit and the value of any
10 in-kind contribution received. Expenditure does not include any of the
11 following:

12 (a) A news story, commentary or editorial distributed through the
13 facilities of any telecommunications system, newspaper, magazine or other
14 periodical publication, unless the facilities are owned or controlled by a
15 political committee, political party or candidate.

16 (b) Nonpartisan activity designed to encourage individuals to vote or
17 to register to vote.

18 (c) The payment by a political party of the costs of preparation,
19 display, mailing or other distribution incurred by the party with respect to
20 any printed slate card, sample ballot or other printed listing of three or
21 more candidates for any public office for which an election is held, except
22 that this subdivision does not apply to costs incurred by the party with
23 respect to a display of any listing of candidates made on any
24 telecommunications system or in newspapers, magazines or similar types of
25 general public political advertising.

26 (d) The payment by a political party of the costs of campaign
27 materials, including pins, bumper stickers, handbills, brochures, posters,
28 party tabloids and yard signs, used by the party in connection with volunteer
29 activities on behalf of any nominee of the party or the payment by a state or
30 local committee of a political party of the costs of voter registration and
31 get-out-the-vote activities conducted by the committee if the payments are
32 not for the costs of campaign materials or activities used in connection with
33 any telecommunications system, newspaper, magazine, billboard, direct mail or
34 similar type of general public communication or political advertising.

35 (e) Any deposit or other payment filed with the secretary of state or
36 any other similar officer to pay any portion of the cost of printing an
37 argument in a publicity pamphlet advocating or opposing a ballot measure.

38 9. "Exploratory committee" means a political committee that is formed
39 for the purpose of determining whether an individual will become a candidate
40 and that receives contributions or makes expenditures of more than five
41 hundred dollars in connection with that purpose.

42 10. "Family contribution" means any contribution that is provided to a
43 candidate's campaign committee by a parent, grandparent, spouse, child or
44 sibling of the candidate or a parent or spouse of any of those persons.

1 11. "Filing officer" means the office that is designated by section
2 16-916 to conduct the duties prescribed by this chapter.

3 12. "Identification" means:

4 (a) For an individual, his name and mailing address, his occupation
5 and the name of his employer.

6 (b) For any other person, including a political committee, the full
7 name and mailing address of the person. For a political committee,
8 identification includes the identification number issued on the filing of a
9 statement of organization pursuant to section 16-902.01.

10 13. "Incomplete contribution" means any contribution received by a
11 political committee for which the contributor's mailing address, occupation,
12 employer or identification number has not been obtained and is not in the
13 possession of the political committee.

14 14. "Independent expenditure" means an expenditure by a person or
15 political committee, other than a candidate's campaign committee, that
16 expressly advocates the election or defeat of a clearly identified candidate,
17 that is made without cooperation or consultation with any candidate or
18 committee or agent of the candidate and that is not made in concert with or
19 at the request or suggestion of a candidate, or any committee or agent of the
20 candidate. Independent expenditure includes an expenditure that is subject
21 to the requirements of section 16-917, which requires a copy of campaign
22 literature or advertisement to be sent to a candidate named or otherwise
23 referred to in the literature or advertisement. An expenditure is not an
24 independent expenditure if any of the following applies:

25 (a) Any officer, member, employee or agent of the political committee
26 making the expenditure is also an officer, member, employee or agent of the
27 committee of the candidate whose election or whose opponent's defeat is being
28 advocated by the expenditure or an agent of the candidate whose election or
29 whose opponent's defeat is being advocated by the expenditure.

30 (b) There is any arrangement, coordination or direction with respect
31 to the expenditure between the candidate or the candidate's agent and the
32 person making the expenditure, including any officer, director, employee or
33 agent of that person.

34 (c) In the same election the person making the expenditure, including
35 any officer, director, employee or agent of that person, is or has been:

36 (i) Authorized to raise or expend monies on behalf of the candidate or
37 the candidate's authorized committees.

38 (ii) Receiving any form of compensation or reimbursement from the
39 candidate, the candidate's committees or the candidate's agent.

40 (d) The expenditure is based on information about the candidate's
41 plans, projects or needs, or those of his campaign committee, provided to the
42 expending person by the candidate or by the candidate's agents or any
43 officer, member or employee of the candidate's campaign committee with a view
44 toward having the expenditure made.

1 15. "In-kind contribution" means a contribution of goods or services or
2 anything of value and not a monetary contribution.

3 16. "Itemized" means that each contribution received or expenditure
4 made is set forth separately.

5 17. "Literature or advertisement" means information or materials that
6 are mailed, distributed or placed in some medium of communication for the
7 purpose of influencing the outcome of an election.

8 18. "Personal monies" means any of the following:

9 (a) Assets to which the candidate has a legal right of access or
10 control at the time he becomes a candidate and with respect to which the
11 candidate has either legal title or an equitable interest.

12 (b) Salary and other earned income from bona fide employment of the
13 candidate, dividends and proceeds from the sale of the stocks or investments
14 of the candidate, bequests to the candidate, income to the candidate from
15 trusts established before candidacy, income to the candidate from trusts
16 established by bequest after candidacy of which the candidate is a
17 beneficiary, gifts to the candidate of a personal nature that have been
18 customarily received before the candidacy and proceeds received by the
19 candidate from lotteries and other legal games of chance.

20 (c) The proceeds of loans obtained by the candidate that are not
21 contributions and for which the collateral or security is covered by
22 subdivision (a) or (b) of this paragraph.

23 (d) Family contributions.

24 19. "Political committee" means a candidate or any association or
25 combination of persons that is organized, conducted or combined for the
26 purpose of influencing the result of any election or to determine whether an
27 individual will become a candidate for election in this state or in any
28 county, city, town, district or precinct in this state, that engages in
29 political activity in behalf of or against a candidate for election or
30 retention or in support of or opposition to an initiative, referendum or
31 recall or any other measure or proposition and that applies for a serial
32 number and circulates petitions and, in the case of a candidate for public
33 office except those exempt pursuant to section 16-903, that receives
34 contributions or makes expenditures in connection therewith, notwithstanding
35 that the association or combination of persons may be part of a larger
36 association, combination of persons or sponsoring organization not primarily
37 organized, conducted or combined for the purpose of influencing the result of
38 any election in this state or in any county, city, town or precinct in this
39 state. Political committee includes the following types of committees:

40 (a) A candidate's campaign committee.

41 (b) A separate, segregated fund established by a corporation or labor
42 organization pursuant to section 16-920, subsection A, paragraph 3.

43 (c) A committee acting in support of or opposition to the
44 qualification, passage or defeat of a ballot measure, question or
45 proposition.

1 (d) A committee organized to circulate or oppose a recall petition or
2 to influence the result of a recall election.

3 (e) A political party.

4 (f) A committee organized for the purpose of making independent
5 expenditures.

6 (g) A committee organized in support of or opposition to one or more
7 candidates.

8 (h) A political organization.

9 (i) An exploratory committee.

10 20. "Political organization" means an organization that is formally
11 affiliated with and recognized by a political party including a district
12 committee organized pursuant to section 16-823.

13 21. "Political party" means the state committee as prescribed by
14 section 16-825 or the county committee as prescribed by section 16-821 of an
15 organization that meets the requirements for recognition as a political party
16 pursuant to section 16-801 or section 16-804, subsection A.

17 22. "Sponsoring organization" means any organization that establishes,
18 administers or contributes financial support to the administration of, or
19 that has common or overlapping membership or officers with, a political
20 committee other than a candidate's campaign committee.

21 23. "Standing political committee" means a political committee that ~~is~~
22 **SATISFIES** all of the following:

23 (a) **IS** active in more than one reporting jurisdiction in this state
24 for more than one year.

25 (b) Files a statement of organization as prescribed by section
26 16-902.01, subsection E.

27 (c) Is any of the following as defined by paragraph 19 of this
28 section:

29 (i) A separate, segregated fund.

30 (ii) A political party.

31 (iii) A committee organized for the purpose of making independent
32 expenditures.

33 (iv) A political organization.

34 24. "Statewide office" means the office of governor, secretary of
35 state, state treasurer, attorney general, superintendent of public
36 instruction, corporation commissioner or mine inspector.

37 25. "Surplus monies" means those monies of a political committee
38 remaining after all of the committee's expenditures have been made and its
39 debts have been extinguished.

40 Sec. 2. Subject to the requirements of article IV, part 1, section 1,
41 Constitution of Arizona, section 16-901.01, Arizona Revised Statutes, is
42 amended to read:

43 16-901.01. Definition of expressly advocates

44 A. For **THE** purposes of this chapter, "expressly advocates" means
45 **EITHER OF THE FOLLOWING:**

1 1. Conveying a communication containing a phrase such as "vote for,"
2 "elect," "~~re-elect~~ REELECT," "support," "endorse," "cast your ballot for,"
3 "(name of candidate) in (year)," "(name of candidate) for (office)," "vote
4 against," "defeat," "reject,"~~—~~ or a campaign slogan or words that in context
5 can have no reasonable meaning other than to advocate the election or defeat
6 of one or more clearly identified candidates. ~~, or~~

7 2. Making a general public communication, such as in a broadcast
8 medium, newspaper, magazine, billboard,~~—~~ or direct mailer referring to one or
9 more clearly identified candidates and targeted to the electorate of ~~that~~
10 ~~candidate(s)~~; THE CANDIDATE OR CANDIDATES,

11 ~~(A)~~ that in context can have no reasonable meaning other than to
12 advocate the election or defeat of the ~~candidate(s)~~ CANDIDATE OR CANDIDATES,
13 as evidenced by factors such as the presentation of the ~~candidate(s)~~
14 CANDIDATE OR CANDIDATES in a favorable or unfavorable light, the targeting,
15 placement,~~—~~ or timing of the communication,~~—~~ or the inclusion of statements
16 of the ~~candidate(s)~~ CANDIDATE OR CANDIDATES or opponents. ~~, or~~

17 ~~(B) In the sixteen-week period immediately preceding a general~~
18 ~~election.~~

19 B. A communication within the scope of subsection A, paragraph 2 shall
20 not be considered as one that ~~"expressly advocates"~~ merely because it
21 presents information about the voting record or position on a campaign issue
22 of three or more candidates, ~~so long as~~ IF it is not made in coordination
23 with a candidate, A political party, AN agent of the candidate or party,~~—~~ or
24 a person who is coordinating with a candidate or candidate's agent.

25 Sec. 3. Section 16-905, Arizona Revised Statutes, is amended to read:
26 16-905. Contribution limitations; civil penalty; complaint

27 A. For an election other than for a statewide office, a contributor
28 shall not give and an exploratory committee, a candidate or a candidate's
29 campaign committee shall not accept contributions of more than:

30 1. For an election for a legislative office, ~~four hundred eighty-eight~~
31 TWO THOUSAND dollars from an individual.

32 2. For an election other than for a legislative office, ~~three hundred~~
33 ~~ninety~~ TWO THOUSAND dollars from an individual.

34 3. For an election for a legislative office, four hundred eighty-eight
35 dollars from a single political committee, excluding a political party, not
36 certified under subsection G of this section to make contributions at the
37 higher limits prescribed by paragraph 5 of this subsection and subsection B,
38 paragraph 3 of this section.

39 4. For an election other than for a legislative office, three hundred
40 ninety dollars from a single political committee, excluding a political
41 party, not certified under subsection G of this section to make contributions
42 at the higher limits prescribed by subsection B, paragraph 3 of this section.

43 5. Two thousand dollars from a single political committee, excluding a
44 political party, certified pursuant to subsection G of this section.

1 B. For an election for a statewide office, a contributor shall not
2 give and an exploratory committee, a candidate or a candidate's committee
3 shall not accept contributions of more than:

- 4 1. ~~One~~ TWO thousand ~~ten~~ dollars from an individual.
5 2. One thousand ten dollars from a single political committee,
6 excluding a political party, not certified under subsection G of this section
7 to make contributions at the higher limits prescribed by subsection A,
8 paragraph 5 of this section and paragraph 3 of this subsection.
9 3. Five thousand ten dollars from a single political committee
10 excluding political parties certified pursuant to subsection G of this
11 section.

12 C. A candidate shall not accept contributions from all political
13 committees, excluding political parties, combined totaling more than:

- 14 1. For an election for a legislative office, sixteen thousand one
15 hundred fifty dollars.
16 2. For an office other than a legislative office or a statewide
17 office, ten thousand twenty dollars.
18 3. For a statewide office, one hundred thousand one hundred ten
19 dollars.

20 D. A nominee of a political party shall not accept contributions from
21 all political parties or political organizations combined totaling more than
22 ten thousand twenty dollars for an election for an office other than a
23 statewide office, and one hundred thousand one hundred ten dollars for an
24 election for a statewide office.

25 E. An individual shall not make contributions totaling more than ~~five~~
26 ~~thousand six hundred ten~~ _____ dollars in a calendar year to state
27 and local candidates and political committees contributing to state or local
28 candidates. Contributions to political parties and contributions to
29 independent expenditure committees are exempt from the limitations of this
30 subsection.

31 F. A candidate's campaign committee or an individual's exploratory
32 committee shall not make a loan and shall not transfer or contribute money to
33 any other campaign or exploratory committee that is designated pursuant to
34 this chapter or 2 United States Code section 431 except as follows:

- 35 1. An exploratory committee may transfer monies to a subsequent
36 candidate's campaign committee of the individual designating the exploratory
37 committee, subject to the limits of subsection B of this section.
38 2. A candidate's campaign committee may transfer or contribute monies
39 to another campaign committee designated by the same candidate as follows:
40 (a) Subject to the contribution limits of this section, transfer or
41 contribute monies from one committee to another if both committees have been
42 designated for an election in the same year.
43 (b) Without application of the contribution limits of this section,
44 transfer or contribute monies from one committee to another designated for an
45 election in a subsequent year.

1 G. Only political committees that received monies from five hundred or
2 more individuals in amounts of ten dollars or more in the one year period
3 immediately before application to the secretary of state for qualification as
4 a political committee pursuant to this section may make contributions to
5 candidates under subsection A, paragraph 5 of this section and subsection B,
6 paragraph 3 of this section. The secretary of state shall obtain information
7 necessary to make the determination that a committee meets the requirements
8 of this subsection and shall provide written certification of the fact to the
9 committee. A political committee certification is valid for two years. A
10 candidate's campaign committee shall not accept a contribution pursuant to
11 this subsection unless it is accompanied by a copy of the certification. All
12 political committees that do not meet the requirements of this subsection are
13 subject to the individual campaign contribution limits of subsection A,
14 paragraphs 1 and 2 of this section and subsection B, paragraph 1 of this
15 section.

16 H. The secretary of state biennially shall adjust to the nearest ten
17 dollars the amounts in subsections A through E of this section by the
18 percentage change in the consumer price index and publish the new amounts for
19 distribution to election officials, candidates and campaign committees. For
20 the purposes of this subsection, "consumer price index" means the consumer
21 price index for all urban consumers, United States city average, that is
22 published by the United States department of labor, bureau of labor
23 statistics.

24 I. The following specific limitations and procedures apply:

25 1. The limits of subsections A through E of this section apply to each
26 election for any office or offices ~~which~~ THAT the candidate seeks.

27 2. The limits of subsections A, B and C of this section apply to the
28 total contributions from all separate segregated funds established, as
29 provided in section 16-920, by a corporation, labor organization, trade
30 association, cooperative or corporation without capital stock.

31 3. A contribution by an unemancipated minor child shall be treated as
32 a contribution by the child's custodial parent or parents for determining
33 compliance with subsection A, paragraphs 1 and 2, subsection B, paragraph 1
34 and subsection E of this section.

35 4. A contribution by an individual or a single political committee to
36 two or more candidates in connection with a joint fund-raising effort shall
37 be divided among the candidates in direct proportion to each candidate
38 campaign committee's share of the expenses for the fund-raising effort.

39 5. A candidate shall sign and file with the candidate's nomination
40 paper a statement that the candidate has read all applicable laws relating to
41 campaign financing and reporting.

42 6. An individual or political committee shall not use economic
43 influence to induce members of an organization to make contributions to a
44 candidate, collect contributions from members of an organization for
45 transmittal to a candidate, make payments to candidates for public

1 appearances or services ~~which~~ THAT are ordinarily uncompensated or use any
2 similar device to circumvent any of the limitations of this section.

3 J. A person who violates this section is subject to a civil penalty
4 imposed as prescribed in section 16-924 of three times the amount of money
5 that has been received, expended or promised in violation of this section or
6 three times the value in money for an equivalent of money or other things of
7 value that have been received, expended or promised in violation of this
8 section.

9 K. Any qualified elector may file a sworn complaint with the attorney
10 general or the county attorney of the county in which a violation of this
11 section is believed to have occurred, and the attorney general or the county
12 attorney shall investigate the complaint for possible action.

13 L. If the filing officer, attorney general or county attorney fails to
14 institute an action within forty-five working days after receiving a
15 complaint under subsection K of this section, the individual filing the
16 complaint may bring a civil action in the individual's own name and at the
17 individual's own expense, with the same effect as if brought by the filing
18 officer, attorney general or county attorney. The individual shall execute a
19 bond payable to the defendant if the individual fails to prosecute the action
20 successfully. The court shall award to the prevailing party costs and
21 reasonable attorney fees.

22 M. If a provision of this section or its application to any person or
23 circumstance is held invalid, the invalidity does not affect other provisions
24 or applications of the section ~~which~~ THAT can be given effect without the
25 invalid provision or application, and to this end the provisions of this
26 section are severable.

27 N. The use of a candidate's personal monies, or the use of personal
28 monies by an individual who designates an exploratory committee, is not
29 subject to the limitations of this section.

30 Sec. 4. Subject to the requirements of article IV, part 1, section 1,
31 Constitution of Arizona, section 16-941, Arizona Revised Statutes, is amended
32 to read:

33 16-941. Limits on spending and contributions for political
34 campaigns

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

36 1. ~~Shall not~~ MAY accept ~~any~~ UNLIMITED contributions, ~~other than a~~
37 ~~limited number of five-dollar qualifying contributions as specified in~~
38 ~~section 16-946 and early contributions as specified in section 16-945, except~~
39 ~~in the emergency situation specified in section 16-954, subsection F~~ FROM ANY
40 ONE OR MORE INDIVIDUALS.

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

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

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

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

8 6. SHALL NOT MAKE COORDINATED EXPENDITURES WITH ANY CANDIDATE WHO HAS
9 PREVIOUSLY TRIGGERED MATCHING FUNDS PURSUANT TO SECTION 16-952 FOR THAT
10 PARTICIPATING CANDIDATE. ANY EXPENDITURE MADE IN VIOLATION OF THIS PARAGRAPH
11 IS SUBJECT TO ALL APPLICABLE PENALTIES PROVIDED BY LAW, INCLUDING CIVIL
12 PENALTIES AND FORFEITURE OF OFFICE AS PRESCRIBED IN SECTION 16-942.

13 B. Notwithstanding any law to the contrary, a nonparticipating
14 candidate:

15 1. Shall not accept contributions in excess of an amount that is
16 twenty per cent less than the limits specified in section 16-905, subsections
17 A through E, as adjusted by the secretary of state pursuant to section
18 16-905, subsection H. Any violation of this paragraph shall be subject to
19 the civil penalties and procedures set forth in section 16-905, subsections J
20 through M and section 16-924.

21 2. Shall comply with section 16-958 regarding reporting, including
22 filing reports with the secretary of state indicating whenever
23 (a) expenditures other than independent expenditures on behalf of the
24 candidate, from the beginning of the election cycle to any date up to primary
25 election day, exceed seventy per cent of the original primary election
26 spending limit applicable to a participating candidate seeking the same
27 office, or (b) contributions to a candidate, from the beginning of the
28 election cycle to any date during the general election period, less
29 expenditures made from the beginning of the election cycle through primary
30 election day, exceed seventy per cent of the original general election
31 spending limit applicable to a participating candidate seeking the same
32 office. A nonparticipating candidate is exempt from this paragraph if there
33 is no participating candidate running against that nonparticipating
34 candidate.

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

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

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

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

11 Sec. 5. Subject to the requirements of article IV, part 1, section 1,
12 Constitution of Arizona, section 16-947, Arizona Revised Statutes, is amended
13 to read:

14 16-947. Certification as a participating candidate

15 A. A candidate who wishes to be certified as a participating candidate
16 shall FILE, before the end of the qualifying period, ~~file~~ an application with
17 the secretary of state, in a form specified by the citizens clean elections
18 commission.

19 B. The application shall identify the candidate, the office that the
20 candidate plans to seek, ~~and~~ and the candidate's party, if any, and shall
21 contain the candidate's signature, under oath, certifying that:

22 1. The candidate has complied with the restrictions of section 16-941,
23 subsection A during the election cycle to date.

24 2. The candidate's campaign committee and exploratory committee have
25 filed all campaign finance reports required under article 1 of this chapter
26 during the election cycle to date and that they are complete and accurate.

27 3. The candidate will comply with the requirements of section 16-941,
28 subsection A during the remainder of the election cycle and, specifically,
29 will not accept private contributions.

30 C. The commission shall act on the application within one week.
31 Unless, within that time, the commission denies an application and provides
32 written reasons that all or part of a certification in subsection B of this
33 section is incomplete or untrue, the candidate shall be certified as a
34 participating candidate. If the commission denies an application for failure
35 to file all complete and accurate campaign finance reports or failure to make
36 the certification in subsection B, paragraph 3 of this section, the candidate
37 may reapply within two weeks of the commission's decision by filing complete
38 and accurate campaign finance reports and another sworn certification.

39 D. THE COMMISSION SHALL DENY AN APPLICATION FOR CERTIFICATION AS A
40 PARTICIPATING CANDIDATE IF THE CANDIDATE WAS REMOVED FROM AN ELECTED OFFICE
41 BY THE COMMISSION.

42 E. THE COMMISSION MAY DENY AN APPLICATION FOR CERTIFICATION AS A
43 PARTICIPATING CANDIDATE IF THE CANDIDATE OWES A MONEY JUDGMENT TO THIS STATE
44 OR ANY POLITICAL SUBDIVISION OF THIS STATE. ON PAYMENT IN FULL AND DISCHARGE
45 OF THE JUDGMENT, OR IF THE CANDIDATE IS CURRENT ON AND MAINTAINS COMPLIANCE

1 WITH ANY PAYMENT PLAN AGREED TO IN WRITING BY THIS STATE OR THE POLITICAL
2 SUBDIVISION, THE COMMISSION MAY ACCEPT THAT CANDIDATE'S APPLICATION FOR
3 CERTIFICATION.

4 Sec. 6. Subject to the requirements of article IV, part 1, section 1,
5 Constitution of Arizona, section 16-950, Arizona Revised Statutes, is amended
6 to read:

7 16-950. Qualification for clean campaign funding

8 A. A candidate who has made an application for certification may also
9 apply, in accordance with subsection B of this section, to receive funds from
10 the citizens clean elections fund, instead of receiving private
11 contributions.

12 B. To receive any clean campaign funding, the candidate must present
13 to the secretary of state no later than one week after the end of the
14 qualifying period a list of names of persons who have made qualifying
15 contributions pursuant to section 16-946 on behalf of the candidate. The
16 list shall be divided by county. At the same time, the candidate must tender
17 to the secretary of state the original reporting slips identified in section
18 16-946, subsection C for persons on the list and an amount equal to the sum
19 of the qualifying contributions collected. The secretary of state shall
20 deposit the amount into the fund.

21 C. The secretary of state shall select at random a sample of five per
22 cent of the number of ~~non-duplicative~~ NONDUPLICATIVE names on the list and
23 forward facsimiles of the selected reporting slips to the county recorders
24 for the counties of the addresses specified in the selected slips. Within
25 ten days, the county recorders shall provide a report to the secretary of
26 state identifying as disqualified any slips that are unsigned or undated or
27 that the recorder is unable to verify as matching a person who is registered
28 to vote in the electoral district of the office the candidate is seeking on
29 the date specified on the slip. The secretary of state shall multiply the
30 number of slips not disqualified by twenty, and if the result is greater than
31 one hundred ten per cent of the quantity required, shall approve the
32 candidate for funds, and if the result is less than one hundred ten per cent
33 of the quantity required, the secretary of state shall forward facsimiles of
34 all of the slips to the county recorders for verification, and the county
35 recorders shall check all slips in accordance with the process above. A
36 county recorder shall not check slips already verified. A county recorder
37 shall report verified totals daily to the secretary of state until a
38 determination is made that a sufficient number of verified slips has been
39 submitted. If a sufficient number of verified slips has been submitted to
40 one or more county recorders, the county recorders may stop the verification
41 process.

42 D. To qualify for clean campaign funding, a candidate must have been
43 approved as a participating candidate pursuant to section 16-947 and have
44 obtained the following number of qualifying contributions:

- 1 1. For a candidate for legislature, two hundred.
2 2. For candidate for mine inspector, five hundred.
3 3. For a candidate for treasurer, superintendent of public instruction
4 or corporation commission, one thousand five hundred.
5 4. For a candidate for secretary of state or attorney general, two
6 thousand five hundred.
7 5. For a candidate for governor, four thousand.
8 E. To qualify for clean campaign funding, a candidate must have met
9 the requirements of this section and either be an independent candidate or
10 meet the following standards:
11 1. To qualify for funding for a party primary election, a candidate
12 must have properly filed nominating papers and nominating petitions with
13 signatures pursuant to chapter 3, articles 2 and 3 of this title in the
14 primary of a political organization entitled to continued representation on
15 the official ballot in accordance with section 16-804.
16 2. To qualify for clean campaign funding for a general election, a
17 candidate must be a party nominee of such a political organization.
18 3. A WRITE-IN CANDIDATE IS NOT ELIGIBLE TO RECEIVE CLEAN CAMPAIGN
19 FUNDING IN THE PRIMARY ELECTION. A WRITE-IN CANDIDATE WHO WINS THE PRIMARY
20 ELECTION AND WHO WILL APPEAR ON THE GENERAL ELECTION BALLOT IS ELIGIBLE TO
21 RECEIVE CLEAN CAMPAIGN FUNDING FOR THE GENERAL ELECTION ONLY, IF THE
22 CANDIDATE COMPLIES WITH THIS ARTICLE, INCLUDING SECTION 16-947.
23 Sec. 7. Subject to the requirements of article IV, part 1, section 1,
24 Constitution of Arizona, section 16-952, Arizona Revised Statutes, is amended
25 to read:
26 16-952. Equal funding of candidates
27 A. Whenever during a primary election period a report is filed, or
28 other information comes to the attention of the commission, indicating that a
29 nonparticipating candidate who is not unopposed in that primary has made
30 expenditures during the election cycle to date exceeding the original primary
31 election spending limit, including any previous adjustments, the commission
32 shall immediately pay from the fund to the campaign account of any
33 participating candidate in the same party primary as the nonparticipating
34 candidate an amount equal to **FOUR TIMES** any excess of the reported amount
35 over the primary election spending limit as previously adjusted, less six per
36 cent for a nonparticipating candidate's fund-raising expenses and less the
37 amount of early contributions raised for that participating candidate for
38 that office as prescribed by section 16-945. The primary election spending
39 limit for all such participating candidates shall be adjusted by increasing
40 it by the amount that the commission is obligated to pay to a participating
41 candidate.
42 B. Whenever during a general election period a report has been filed,
43 or other information comes to the attention of the commission, indicating
44 that the amount a nonparticipating candidate who is not unopposed has
45 received in contributions during the election cycle to date less the amount

1 of expenditures the nonparticipating candidate made through the end of the
2 primary election period exceeds the original general election spending limit,
3 including any previous adjustments, the commission shall immediately pay from
4 the fund to the campaign account of any participating candidate qualified for
5 the ballot and seeking the same office as the nonparticipating candidate an
6 amount equal to **FOUR TIMES** any excess of the reported difference over the
7 general election spending limit, as previously adjusted, less six per cent
8 for a nonparticipating candidate's fund-raising expenses. The general
9 election spending limit for all such participating candidates shall be
10 adjusted by increasing it by the amount that the commission is obligated to
11 pay to a participating candidate.

12 C. For the purposes of subsections A and B of this section, the
13 following expenditures reported pursuant to this article shall be treated as
14 follows:

15 1. Independent expenditures against a participating candidate shall be
16 treated as expenditures of each opposing candidate, for the purpose of
17 subsection A of this section, or contributions to each opposing candidate,
18 for the purpose of subsection B of this section.

19 2. Independent expenditures in favor of one or more nonparticipating
20 opponents of a participating candidate shall be treated as expenditures of
21 those nonparticipating candidates, for the purpose of subsection A of this
22 section, or contributions to those nonparticipating candidates, for the
23 purpose of subsection B of this section.

24 3. Independent expenditures in favor of a participating candidate
25 shall be treated, for every opposing participating candidate, as though the
26 independent expenditures were an expenditure of a nonparticipating opponent,
27 for the purpose of subsection A of this section, or a contribution to a
28 nonparticipating opponent, for the purpose of subsection B of this section.

29 4. Expenditures made during the primary election period by or on
30 behalf of an independent candidate or a nonparticipating candidate who is
31 unopposed in a party primary shall be deducted from the total amount of
32 monies raised for purposes of determining the amount of equalizing funds, up
33 to the amount of primary funds received by the participating candidate.
34 Equalizing funds pursuant to subsection B of this section shall then be
35 calculated and paid at the start of the general election period.

36 5. Expenditures made before the general election period that consist
37 of a contract, promise or agreement to make an expenditure during the general
38 election period resulting in an extension of credit shall be treated as
39 though made during the general election period, and equalizing funds pursuant
40 to subsection B of this section shall be paid at the start of the general
41 election period.

42 6. Expenditures for or against a participating candidate promoting or
43 opposing more than one candidate who is not running for the same office shall
44 be allocated by the commission among candidates for different offices based

1 on the relative size or length and relative prominence of the reference to
2 candidates for different offices.

3 D. Upon applying for citizen funding pursuant to section 16-950, a
4 participating candidate for the legislature in a one-party-dominant
5 legislative district who is qualified for clean campaign funding for the
6 party primary election of the dominant party may choose to reallocate a
7 portion of funds from the general election period to the primary election
8 period. At the beginning of the primary election period, the commission
9 shall pay from the fund to the campaign account of a participating candidate
10 who makes this choice an extra amount equal to fifty per cent of the original
11 primary election spending limit, and the original primary election spending
12 limit for the candidate who makes this choice shall be increased by the extra
13 amount. For a primary election in which one or more participating candidates
14 have made this choice, funds shall be paid under subsections A and B of this
15 section only to the extent of any excess over the original primary election
16 spending limit as so increased. If a participating candidate who makes this
17 choice becomes qualified for clean campaign funding for the general election,
18 the amount the candidate receives at the beginning of the general election
19 period shall be reduced by the extra amount received at the beginning of the
20 primary election period, and the original general election spending limit for
21 that candidate shall be reduced by the extra amount. For a general election
22 in which a participating candidate has made this choice, funds shall be paid
23 under subsections A and B of this section only to the extent of any excess
24 over the original general election spending limit, without such reduction,
25 unless the candidate who has made this choice is the only participating
26 candidate in the general election, in which case such funds shall be paid to
27 the extent of excess over the original general election spending limit with
28 such reduction. For the purpose of this subsection, a one-party-dominant
29 legislative district is a district in which the number of registered voters
30 registered in the party with the highest number of registered voters exceeds
31 the number of registered voters registered to each of the other parties by an
32 amount at least as high as ten per cent of the total number of voters
33 registered in the district. The status of a district as a one-party-dominant
34 legislative district shall be determined as of the beginning of the
35 qualifying period.

36 E. If an adjusted spending limit reaches three times the original
37 spending limit for a particular election, the commission shall not pay any
38 further amounts from the fund to the campaign account of any participating
39 candidate, and the spending limit shall not be adjusted further.

40 Sec. 8. Subject to the requirements of article IV, part 1, section 1,
41 Constitution of Arizona, section 16-954, Arizona Revised Statutes, is amended
42 to read:

43 16-954. Clean elections tax reduction; return of excess monies

44 A. For tax years beginning on or after January 1, 1998, a taxpayer who
45 files on a state income tax return form may designate a five-dollar voluntary

1 contribution per taxpayer to the fund by marking an optional check-off box on
2 the first page of the form. A taxpayer who checks this box shall receive a
3 five-dollar reduction in the amount of tax, and five dollars from the amount
4 of taxes paid shall be transferred by the department of revenue to the fund.
5 The department of revenue shall provide check-off boxes, identified as the
6 clean elections fund tax reduction, on the first page of income tax return
7 forms, for designations pursuant to this subsection.

8 B. Any taxpayer may make a voluntary donation to the fund by
9 designating the fund on an income tax return form filed by the individual or
10 business entity or by making a payment directly to the fund. Any taxpayer
11 making a donation pursuant to this subsection shall receive a
12 dollar-for-dollar tax credit not to exceed twenty ~~percent~~ PER CENT of the tax
13 amount on the return or five hundred dollars per taxpayer, whichever is
14 higher. Donations made pursuant to this section are otherwise not tax
15 deductible and cannot be designated ~~as~~ for the benefit of a particular
16 candidate, political party, ~~or~~ election contest. The department of revenue
17 shall transfer to the fund all donations made pursuant to this subsection.
18 The department of revenue shall provide a space, identified as the clean
19 elections fund tax credit, on the first page of income tax return forms, ~~for~~
20 donations pursuant to this subsection.

21 C. Beginning January 1, 1999, an additional surcharge of ten ~~percent~~
22 PER CENT shall be imposed on all civil and criminal fines and penalties
23 collected pursuant to section 12-116.01 and shall be deposited into the fund.

24 D. At least once per year, the commission shall project the amount of
25 monies that the fund will collect over the next four years and the time such
26 monies shall become available. Whenever the commission determines that the
27 fund contains more monies than the commission determines that it requires to
28 meet current debts plus expected expenses, under the assumption that expected
29 expenses will be at the expenditure limit in section 16-949, subsection A,
30 and taking into account the projections of collections, the commission shall
31 designate such monies as excess monies and so notify the state treasurer, who
32 shall thereupon return the excess monies to the general fund.

33 E. At least once per year, the commission shall project the amount of
34 citizen funding for which all candidates will have qualified pursuant to this
35 article for the following calendar year. By the end of each year, the
36 commission shall announce whether the amount that the commission plans to
37 spend the following year pursuant to section 16-949, subsection A exceeds the
38 projected amount of citizen funding. If the commission determines that the
39 fund contains insufficient monies or the spending cap would be exceeded were
40 all ~~candidate's~~ CANDIDATES' accounts to be fully funded, ~~then~~ the commission
41 may include in the announcement specifications for decreases in the following
42 parameters, based on the commission's projections of collections and expenses
43 for the fund, made in the following order:

1 1. First, the commission may announce a decrease in the matching cap
2 under section 16-952, subsection E from three times to an amount between
3 three and one times.

4 2. Next, the commission may announce that the fund will provide
5 equalization monies under section 16-952, subsections A and B as a fraction
6 of the amounts there specified.

7 3. Finally, the commission may announce that the fund will provide
8 monies under section 16-951 as a fraction of the amounts there specified.

9 F. If the commission cannot provide participating candidates with all
10 monies specified under sections 16-951 and 16-952, as decreased by any
11 announcement pursuant to subsection E of this section, ~~then~~ the commission
12 shall allocate any reductions in payments proportionately among candidates
13 entitled to monies ~~and shall declare an emergency. Upon declaration of an~~
14 ~~emergency, a participating candidate may accept private contributions to~~
15 ~~bring the total monies received by the candidate from the fund and from such~~
16 ~~private contributions up to the adjusted spending limits, as decreased by any~~
17 ~~announcement made pursuant to subsection E of this section.~~

18 Sec. 9. Requirements for enactment; three-fourths vote

19 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
20 sections 16-901.01, 16-941, 16-947, 16-950, 16-952 and 16-954, Arizona
21 Revised Statutes, as amended by this act, are effective only on the
22 affirmative vote of at least three-fourths of the members of each house of
23 the legislature.