

House Bill 102

By: Representatives Lindsey of the 54<sup>th</sup>, Wilkinson of the 52<sup>nd</sup>, Oliver of the 83<sup>rd</sup>, Geisinger of the 48<sup>th</sup>, Jamieson of the 28<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to  
 2 create a taxpayer funded method of financing certain judicial elections for certain candidates  
 3 who demonstrate public support and accept strict fund-raising and spending limitations; to  
 4 change certain provisions relating to the duty of the State Election Board; to change certain  
 5 provisions relating to the enforcement of Chapter 2 of said title, relating to elections and  
 6 primaries generally; to provide that the State Election Board enforce provisions relating to the  
 7 "Georgia Public Financing for State-wide Judicial Office Campaign Fund Act"; to provide for  
 8 a short title; to make legislative findings; to provide for definitions; to provide for a fund to  
 9 finance the election campaigns of certain judicial candidates; to provide for establishing the  
 10 fund and the mechanics of operating fund distribution, including qualifications of candidates,  
 11 timing of fund distribution, amount of fund distribution, method of fund distribution, and  
 12 restrictions on contributions and expenditures in order to obtain and continue to receive public  
 13 funding for campaigning; to provide for an advisory council for the fund; to provide for  
 14 appointments and terms of office for members of the advisory council; to provide for appeals;  
 15 to provide for rule making; to provide for public reporting of information; to provide for  
 16 voluntary contributions to the fund through the state income tax return; to provide for the  
 17 Department of Revenue's assistance in collecting contributions and transmitting them to the  
 18 fund; to change provisions relating to maximum allowable contributions; to revise provisions  
 19 relating to accounting for and expenditure of campaign contributions; to provide for related  
 20 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by  
 24 revising Code Section 21-2-31, relating to duties of the State Election Board, as follows:

1 "21-2-31.

2 It shall be the duty of the State Election Board:

3 (1) To supervise and coordinate the work of the office of the Secretary of State,  
4 superintendents, registrars, deputy registrars, poll officers, and other officials so as to  
5 obtain uniformity in their practices and proceedings and legality and purity in all primaries  
6 and elections;

7 (2) To formulate, adopt, and promulgate such rules and regulations, consistent with law,  
8 as will be conducive to the fair, legal, and orderly conduct of primaries and elections; and,  
9 upon the adoption of each rule and regulation, the board shall promptly file certified copies  
10 thereof with the Secretary of State and each superintendent;

11 (3) To publish and furnish to primary and election officials, from time to time, a sufficient  
12 number of indexed copies of all primary and election laws and pertinent rules and  
13 regulations then in force;

14 (4) To publish and distribute such explanatory pamphlets regarding the interpretation and  
15 application of primary and election laws as in the opinion of the board should be distributed  
16 to the electorate;

17 (5) To investigate, or authorize the Secretary of State to investigate, when necessary or  
18 advisable the administration of primary and election laws and frauds and irregularities in  
19 primaries and elections and to report violations of the primary and election laws either to  
20 the Attorney General or the appropriate district attorney who shall be responsible for  
21 further investigation and prosecution; and to investigate when necessary or advisable the  
22 administration of and compliance with Chapter 2A of this title and to report violations of  
23 Chapter 2A of this title either to the Attorney General or the appropriate district attorney  
24 who shall be responsible for further investigation and prosecution. Nothing in this  
25 paragraph shall be so construed as to require any complaining party to request an  
26 investigation by the board before such party might proceed to seek any other remedy  
27 available to that party under this chapter, Chapter 2A of this title, or any other provision of  
28 law;

29 (6) To make such recommendations to the General Assembly as it may deem advisable  
30 relative to the conduct and administration of primaries and elections;

31 (7) To promulgate rules and regulations to define uniform and nondiscriminatory standards  
32 concerning what constitutes a vote and what will be counted as a vote for each category of  
33 voting system used in this state;

34 (8) To formulate, adopt, and promulgate such rules and regulations, consistent with law,  
35 as necessary for the administration of Chapter 2A of this title and file certified copies  
36 thereof with the Secretary of State;

37 (9) To publish and furnish forms for use in the administration of Chapter 2A of this title;

- 1 ~~(8)~~(10) To employ such assistants as may be necessary;
- 2 ~~(9)~~(11) Subject to funds being specifically appropriated by the General Assembly, to  
 3 formulate and conduct a voter education program concerning voting procedures for voting  
 4 by absentee ballot and at the polls with particular emphasis on the proper types of  
 5 identification required for voting; and
- 6 ~~(10)~~(12) To take such other action, consistent with law, as the board may determine to be  
 7 conducive to the administration of Chapter 2A of this title and to the fair, legal, and orderly  
 8 conduct of primaries and elections."

9 **SECTION 2.**

10 Said title is further amended by revising Code Section 21-2-33.1, relating to the enforcement  
 11 of Chapter 2 of Title 21, as follows:

12 "21-2-33.1.

13 (a) The State Election Board is vested with the power to issue orders, after the completion  
 14 of appropriate proceedings, directing compliance with this chapter or Chapter 2A of this title  
 15 or prohibiting the actual or threatened commission of any conduct constituting a violation  
 16 of either chapter, which order may include a provision requiring the violator:

- 17 (1) To cease and desist from committing further violations;
- 18 (2) To pay a civil penalty not to exceed \$5,000.00 for each violation of this chapter or  
 19 Chapter 2A of this title or for each failure to comply with any provision of this chapter or  
 20 Chapter 2A of this title or of any rule or regulation promulgated under this chapter or  
 21 Chapter 2A of this title. Such penalty may be assessed against any violator as the State  
 22 Election Board deems appropriate;
- 23 (3) To publicly reprimand any violator found to have committed a violation;
- 24 (4) To require that restitution be paid by any violator to a state, county, or city governing  
 25 authority when it has suffered a monetary loss or damage as the result of a violation;
- 26 (5) To require violators to attend training as specified by the board; and
- 27 (6) To assess investigative costs incurred by the board against any violator found to have  
 28 committed a violation.

29 (b) A civil penalty shall not be assessed against any violator except after notice and hearing  
 30 as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In  
 31 addition to the State Election Board, any contested case may be held before any  
 32 representative of such board who has been selected and appointed by such board for such  
 33 purpose. The amount of any civil penalty finally assessed shall be recoverable by a civil  
 34 action brought in the name of the State Election Board. All moneys recovered pursuant to  
 35 this Code section shall be deposited in the state treasury, except any moneys recovered

1 pursuant to the enforcement of Chapter 2A of this title shall be deposited in the Georgia  
 2 Public Financing for State-wide Judicial Office Campaign Fund.

3 (c) The Attorney General of this state shall, upon complaint by the State Election Board,  
 4 bring an action in the superior court in the name of the State Election Board for a temporary  
 5 restraining order or other injunctive relief or for civil penalties assessed against any violator  
 6 of any provision of this chapter or Chapter 2A of this title or any rule or regulation duly  
 7 issued by the State Election Board.

8 (d) Any action brought by the Attorney General to enforce civil penalties assessed against  
 9 any violator of this chapter or Chapter 2A of this title or any rule or regulation duly issued  
 10 by the State Election Board or any order issued by the State Election Board ordering  
 11 compliance or to cease and desist from further violations shall be brought in the superior  
 12 court of the county of the residence of the party against whom relief is sought. Service of  
 13 process shall lie in any jurisdiction within the state. In such actions, the superior court  
 14 inquiry will be limited to whether notice was given by the State Election Board to the violator  
 15 in compliance with the Constitution and the rules of procedure of Chapter 13 of Title 50, the  
 16 'Georgia Administrative Procedure Act.' Upon satisfaction that notice was given and a hearing  
 17 was held pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the  
 18 superior court shall enforce the orders of the State Election Board and the civil penalties  
 19 assessed under this chapter or Chapter 2A of this title and the superior court shall not make  
 20 independent inquiry as to whether the violations have occurred.

21 (e) In any action brought by the Attorney General to enforce any of the provisions of this  
 22 chapter or Chapter 2A of this title or of any rule or regulation issued by the State Election  
 23 Board, the judgment, if in favor of the State Election Board, shall provide that the defendant  
 24 pay to the State Election Board the costs, including reasonable attorneys' fees, incurred by  
 25 the State Election Board in the prosecution of such action."

### 26 SECTION 3.

27 Said title is further amended by adding a new Chapter 2A to read as follows:

#### 28 "CHAPTER 2A

#### 29 ARTICLE 1

30 21-2A-1.

31 This chapter shall be known and may be cited as the 'Georgia Public Financing for State-wide  
 32 Judicial Office Campaign Fund Act.'

33 21-2A-2.

1 The purpose of this chapter is to facilitate and broaden public discussion, encourage  
2 participation in the election process, ensure the fairness of democratic elections in Georgia,  
3 and protect the constitutional rights of voters and candidates from the detrimental effects  
4 of increasingly large amounts of money being raised and spent to influence the outcome of  
5 elections, those effects being especially problematic in elections of the judiciary since  
6 impartiality is uniquely important to the integrity and credibility of the courts. Accordingly,  
7 this chapter establishes the Georgia Public Financing for State-wide Judicial Office  
8 Campaign Fund as an alternative source of campaign financing for candidates who  
9 demonstrate public support and voluntarily accept strict fund-raising and spending limits.  
10 This chapter is applicable to candidates for Justice of the Supreme Court and Judge of the  
11 Court of Appeals in elections to be held in 2008 and thereafter.

12 21-2A-3.

13 As used in this chapter, the term:

14 (1) 'Advisory council' means the Advisory Council for the Georgia Public Financing for  
15 State-wide Judicial Office Campaign Fund established in Code Section 21-2A-7.

16 (2) 'Board' means the State Election Board.

17 (3) 'Campaign committee' has the same meaning as the term is defined in paragraph (2) of  
18 Code Section 21-5-3.

19 (4) 'Candidate' has the same meaning as the term is defined in paragraph (4) of Code  
20 Section 21-5-3 when the individual is seeking an office. The term includes a campaign  
21 committee authorized by the candidate for that candidate's election.

22 (5) 'Certified candidate' means a candidate running for office who chooses to receive  
23 campaign funds from the fund and who is certified pursuant to Code Section 21-2A-5.

24 (6) 'Contested election' means a general nonpartisan election or run-off election of a  
25 general nonpartisan election for an office in which there are more candidates than the  
26 number to be elected, other than write-in candidates.

27 (7) 'Contribution' has the same meaning as the term is defined in paragraph (7) of Code  
28 Section 21-5-3. Notwithstanding any other provision of law to the contrary, a distribution  
29 from the fund pursuant to this chapter shall not be considered to be a contribution for  
30 purposes of this chapter or Chapter 5 of this title and shall not be subject to the limitations  
31 of Code Section 21-5-41.

32 (8) 'Expenditure' has the same meaning as the term is defined in paragraph (11) of Code  
33 Section 21-5-3.

34 (9) 'Fund' means the Georgia Public Financing for State-wide Judicial Office Campaign  
35 Fund established in Code Section 21-2A-4.

1 (10) 'Office' means a judgeship on the Supreme Court of Georgia or the Georgia Court of  
2 Appeals.

3 (11) 'Participating candidate' means a candidate for office who has filed a declaration of  
4 intent to participate pursuant to Code Section 21-2A-5.

5 (12) 'Qualifying contribution' means a contribution in an amount no more than \$500.00  
6 and in the form of a check or money order payable to the candidate that is:

7 (A) Made by any registered voter in this state; provided, however, that at least 50 percent  
8 of the contributions are from voters who are not active members of the State Bar of  
9 Georgia; and

10 (B) Made before filing the declaration of intent to participate in the fund.

11 (13) 'Qualifying period' means the period referenced in subsection (c) or (i) of Code  
12 Section 21-2-132, as applicable to the particular year in which the election occurs.

13 21-2A-4.

14 (a) *Establishment of the fund.* The Georgia Public Financing for State-wide Judicial Office  
15 Campaign Fund is established to finance the election campaigns of certified candidates for  
16 office and to pay administrative and enforcement costs of the board related to this chapter.  
17 The fund is a special, dedicated, nonlapsing, nonreverting fund. All expenses of  
18 administering this chapter, and personnel and other costs incurred by the board, shall be paid  
19 from the fund and not from the general fund of the state treasury. Any interest generated by  
20 the fund shall be credited to the fund. The board shall administer the fund.

21 (b) *Sources of funding.* Money received from all the following sources shall be deposited  
22 in the fund:

23 (1) Designations made to the fund by individual taxpayers pursuant to Code Section  
24 21-2A-20;

25 (2) Fund revenues distributed for a contested election that remain unspent or uncommitted  
26 at the time the recipient is no longer a certified candidate in the election;

27 (3) Fund revenues distributed for a contested election that remain unspent or uncommitted  
28 at the time the recipient is elected, pursuant to paragraph (4) of subsection (d) of Code  
29 Section 21-2A-5;

30 (4) Money ordered returned to the fund by the board or State Ethics Commission; and

31 (5) Voluntary donations made directly to the fund.

32 (c) *Determination of fund amount.* By October 1, 2008, and every two years thereafter, the  
33 board, in conjunction with the advisory council, shall prepare and provide to the Governor,  
34 Lieutenant Governor, and Speaker of the House of Representatives a report documenting,  
35 evaluating, and making recommendations relating to the administration, implementation, and

1 enforcement of this chapter. In its report, the board shall set out the funds received to date  
2 and the expected needs of the fund for the next election.

3 21-2A-5.

4 (a) *Declaration of intent to participate.* Any candidate choosing to receive campaign funds  
5 from the fund shall file with the board a declaration of intent to participate in the fund as a  
6 candidate for a stated office. The declaration of intent shall be filed after collecting  
7 qualifying contributions and within 90 days from the last date of the qualifying period. In the  
8 declaration, the candidate shall swear or affirm that only one campaign committee, identified  
9 with its treasurer, shall handle all contributions, expenditures, and obligations for the  
10 participating candidate and that the candidate will comply with the contribution and  
11 expenditure limits set forth in subsection (d) of this Code section and all other requirements  
12 set forth in this chapter and Chapter 5 of this title. Failure to comply with this Code section  
13 shall be a violation of this chapter punishable as determined by the board.

14 (b) *Demonstration of support of candidacy.* Participating candidates who seek  
15 certification to receive campaign funds from the fund shall raise qualifying contributions in  
16 a total amount of not less than \$50,000.00 nor more than \$100,000.00 within 90 days of the  
17 last date of the qualifying period. No payment, gift, or anything of value shall be given in  
18 exchange for a qualifying contribution.

19 (c) *Certification of candidates.* Upon receipt of the declaration of intent to participate by  
20 a participating candidate, the board shall determine whether the candidate:

21 (1) Has properly signed and filed the declaration of intent to participate in the fund  
22 pursuant to this chapter;

23 (2) Has submitted a report itemizing the appropriate number of qualifying contributions  
24 received from registered voters which the board shall verify through a random sample or  
25 other means it adopts; the report shall include:

26 (A) The name of the contributor;

27 (B) The contributor's address including the county of residence; and

28 (C) The contributor's employment or profession including whether the contributor is an  
29 active member of the State Bar of Georgia;

30 (3) Is qualified to receive votes on the ballot as a candidate for the office; and

31 (4) Otherwise meets the requirements for participation in the fund pursuant to this chapter.

32 The board shall certify candidates within ten days of the qualifying period who have satisfied  
33 paragraphs (1) through (4) of this subsection. The board shall notify candidates not  
34 complying with the requirements of this subsection as soon as possible and no later than five  
35 business days after receipt of unsatisfactory compliance with this subsection.

1 (d) *Restrictions on contributions and expenditures for participating and certified*  
2 *candidates.* The following restrictions shall apply to contributions and expenditures with  
3 respect to participating and certified candidates:

4 (1) Beginning when a candidate who is not holding office declares his or her intent to  
5 accept campaign contributions for office pursuant to subsection (g) of Code Section  
6 21-5-30 or at the start of each election cycle as defined in paragraph (10) of Code Section  
7 21-5-3 for candidates holding office and continuing through the date of the election or  
8 run-off election, the candidate shall accept only qualifying contributions up to  
9 \$100,000.00. Once the candidate files a declaration of intent to participate in the fund, the  
10 candidate may expend up to the \$100,000.00 raised pursuant to this Code section and the  
11 funds the candidate receives from the fund pursuant to Code Section 21-2A-6 for any  
12 campaign purpose for an election or run-off election. Any candidate who seeks office who  
13 exceeds the \$100,000.00 contribution or expenditure limits shall be ineligible to file a  
14 declaration of intent or receive funds from the fund;

15 (2) A candidate shall limit the use of all revenues permitted by this subsection to  
16 expenditures for campaign related purposes only. The guidelines outlining permissible  
17 campaign related expenditures shall be the same as provided in Chapter 5 of this title;

18 (3) Any contribution received by a participating candidate or a certified candidate that falls  
19 outside that which is permitted by this subsection shall be returned to the donor as soon as  
20 practicable. Contributions intentionally made, solicited, or accepted in violation of this  
21 chapter are subject to penalties as determined by the board; and

22 (4) A candidate shall return to the fund any amount distributed for an election that is  
23 unspent and uncommitted at the date of the election or run-off election, if applicable, or  
24 at the time the candidate ceases to be a certified candidate, whichever occurs first. If a  
25 candidate ceases to be a certified candidate, such moneys shall be returned to the fund  
26 within ten days of the date of ceasing to be a certified candidate; otherwise, such moneys  
27 shall be returned to the fund within 90 days of the general election or run-off election, if  
28 applicable. For accounting purposes, all qualifying and personal contributions shall be  
29 considered spent before revenue from the fund is spent or committed.

30 (e) *Revocation.* A candidate may revoke, in writing to the board, a decision to participate  
31 in the fund at any time before the deadline set by the board. After a timely revocation, that  
32 candidate may accept and expend outside the limits of this chapter without violating this  
33 chapter. Within ten days after revocation, a candidate shall return to the board all money  
34 received from the fund.

1 21-2A-6.

2 (a) *Timing of fund distribution.* The board shall distribute to a certified candidate who will  
3 be in a contested election revenue from the fund in an amount determined under  
4 paragraph (2) of subsection (b) of this Code section within 30 days after the candidate is  
5 initially certified and within three business days of any supplemental certification for  
6 additional fund distribution.

7 (b) *Amount of fund distribution.* Five times the amount of qualifying contributions raised  
8 by the certified candidate, rounded to the nearest \$100.00 and determined by the board, shall  
9 be distributed to certified candidates running in a contested election; provided, however, that  
10 if a certified candidate is running against a candidate who has chosen not to receive money  
11 from the fund, and if such candidate's expenditures from his or her campaign funds together  
12 with expenditures made by independent committees in support of such candidate, or in  
13 opposition to the certified candidate, exceed \$500,000.00, the certified candidate may apply  
14 for a supplemental allocation from the fund. Such supplemental allocation shall be equal to  
15 the contributions made by the candidate who has chosen not to receive money from the fund  
16 and by independent committees in support of such candidate, or in opposition to the certified  
17 candidate, not to exceed ten times the amount of the certified candidate's qualifying  
18 contributions.

19 (c) *Method of fund distribution.* The board, in consultation with the director of the Office  
20 of Treasury and Fiscal Services, shall develop a rapid, reliable method of conveying funds to  
21 certified candidates. In all cases, the board shall distribute funds to certified candidates in  
22 a manner that is expeditious, ensures accountability, and safeguards the integrity of the fund.  
23 If the money in the fund is insufficient to fully fund all certified candidates, then the available  
24 money shall be distributed proportionally, according to each candidate's eligible funding.

25 21-2A-7.

26 (a) *Enforcement by the board.* The board, with the advice of the advisory council, shall  
27 administer the provisions of this chapter.

28 (b) *Advisory council.* There is established under the board the Advisory Council for the  
29 Georgia Public Financing for State-wide Judicial Office Campaign Fund to advise the board  
30 on the rules, procedures, and opinions the board adopts for the enforcement and  
31 administration of this chapter and on the funding needs and operation of the fund. The  
32 advisory council shall consist of five members to be appointed as follows:

33 (1) The Governor shall name two members from a list of individuals nominated by the  
34 state executive committee of the political party which received the greatest number of  
35 votes in the last presidential election. The state chairperson of that party shall submit to  
36 the Governor the names of five nominees;

1 (2) The Governor shall name two members from a list of individuals nominated by the  
 2 state executive committee of the political party which received the second greatest number  
 3 of votes in the last presidential election. The state chairperson of that party shall submit  
 4 to the Governor the names of five nominees; and

5 (3) The board shall name one member by unanimous vote of all members of the board. If  
 6 the board cannot reach unanimity on the appointment of that member, the advisory council  
 7 shall consist of the remaining members named by the Governor.

8 The initial members shall be appointed by August 1, 2007. Of the initial appointees, two  
 9 shall serve for one-year terms, two shall serve for two-year terms, and one shall serve for a  
 10 three-year term according to random lot. Thereafter, appointees shall be appointed to serve  
 11 four-year terms. An individual may not serve more than two full terms, exclusive of the  
 12 initial term of appointment. The appointed members shall not be compensated for their  
 13 services but they shall be reimbursed in an amount equal to the per diem received by the  
 14 General Assembly for each day or portion thereof spent in serving as members of the  
 15 advisory council. One member of the advisory council shall be elected by the members as  
 16 chairperson. A vacancy during an unexpired term shall be filled in the same manner as the  
 17 regular appointment for that term, but a vacancy appointment is only for the unexpired  
 18 portion of the term.

19 (c) *Appeals.* The initial decision on an issue concerning qualification, certification, or  
 20 distribution of funds under this chapter shall be made by the chairperson of the board. The  
 21 procedure for challenging such decision is as follows:

22 (1) An individual or entity aggrieved by a decision of the chairperson of the board may  
 23 appeal to the full board within three business days of the decision. The appeal shall be in  
 24 writing and shall set forth the reasons for the appeal; and

25 (2) Within five business days after an appeal is properly made, and after due notice is given  
 26 to the parties, the board shall hold a hearing. The appellant has the burden of providing  
 27 evidence to demonstrate that the decision of the chairperson of the board was improper.  
 28 The board shall rule on the appeal within three business days after the completion of the  
 29 hearing.

30 (d) *Board to adopt rules and issue opinions.* The board shall adopt rules and issue  
 31 opinions to ensure effective administration of this chapter. Such rules and opinions shall  
 32 include, but not be limited to, procedures for obtaining qualifying contributions; certification  
 33 of candidates; addressing circumstances involving special elections, vacancies, recounts,  
 34 withdrawals, or replacements; collection of revenues for the fund; distribution of fund  
 35 revenue to certified candidates; return of unspent fund disbursements; and compliance with  
 36 this chapter. For races involving special elections, recounts, vacancies, withdrawals, or  
 37 replacement candidates, the board shall establish procedures for qualification, certification,

1 disbursement of fund revenues, and return of unspent fund revenues. The board shall fulfill  
2 each of these duties in consultation with the advisory council.

3 (e) *Report to the public.* The advisory council shall issue a report by December 1, 2008,  
4 and every two years thereafter that evaluates and makes recommendations about the  
5 implementation of this chapter and the feasibility of expanding its provisions to include other  
6 candidates for state office based on the experience of the fund and the experience of similar  
7 programs in other states. The advisory council shall also evaluate and make  
8 recommendations regarding how to address activities that could undermine the purpose of  
9 this chapter, including spending that appears to target candidates receiving money from the  
10 fund.

## 11 ARTICLE 2

12 21-2A-20.

13 (a) To support public financing for appellate judicial campaigns, the board may, without  
14 limitation, promote and solicit voluntary contributions through the income tax return  
15 contribution mechanism established in subsection (e) of this Code section, and through any  
16 fund raising or other promotional techniques deemed appropriate by the board.

17 (b) The Georgia Public Financing for State-wide Judicial Office Campaign Fund shall  
18 exclusively consist of all moneys provided for under Code Section 21-2A-4. All balances  
19 in the fund shall be deposited in an interest-bearing account identifying the fund and shall be  
20 carried forward each year so that no part thereof may be deposited in the general fund of the  
21 state treasury. The fund shall be administered and the moneys held in the fund shall be  
22 expended by the board in furtherance of providing public financing for appellate judicial  
23 campaigns.

24 (c) Following the transmittal of contributions to the board for deposit in the fund pursuant  
25 to subsection (e) of this Code section, the expenditure of moneys in the fund shall be  
26 allocated as determined by the board to certified candidates and to pay for administrative and  
27 personnel costs associated with implementation of this chapter.

28 (d) The board shall prepare, by February 1 of each year, an accounting of the funds received  
29 and expended from the fund and a review and evaluation of all expended moneys of the fund.  
30 The report shall be made available to the Governor, the Lieutenant Governor, the Speaker of  
31 the House of Representatives and, upon request, to members of the public.

32 (e)(1) Unless an earlier date is deemed feasible and established by the Governor, each  
33 Georgia income tax return form for taxable years beginning on or after January 1, 2008,  
34 shall contain appropriate language, to be determined by the state revenue commissioner,  
35 offering the taxpayer the opportunity to contribute up to \$10.00 to the fund by either

1 donating all or any part of any tax refund due, by authorizing a reduction in the refund check  
 2 otherwise payable, or by contributing \$10.00 over and above any amount of tax owed by  
 3 adding that amount to the taxpayer's payment. In the case of a married couple filing a joint  
 4 return, each taxpayer shall have the option of agreeing to the contribution. The instructions  
 5 accompanying the income tax return form shall contain a description of the purposes for  
 6 which this fund was established and the intended use of moneys received from the  
 7 contributions. The instructions shall make it clear to the taxpayer that taxpayer  
 8 contributions will support a nonpartisan court system. The Department of Revenue shall  
 9 consult with the board to ensure that the information given to taxpayers complies with the  
 10 intent of this chapter. Each taxpayer required to file a state income tax return who desires  
 11 to contribute to such fund may designate such contribution as provided in this Code section  
 12 on the appropriate income tax return form.

13 (2) The Department of Revenue shall determine annually the total amount contributed,  
 14 shall withhold therefrom a reasonable amount for administering the provisions of paragraph  
 15 (1) of this subsection, and shall transmit the balance to the board for deposit in the fund;  
 16 provided, however, that the amount retained for administrative costs, including  
 17 implementation costs, shall not exceed \$50,000.00 per year. If, in any tax year, the  
 18 administrative costs of the Department of Revenue for collecting contributions pursuant  
 19 to this Code section exceed the sum of such contributions, the administrative costs which  
 20 the Department of Revenue is authorized to withhold from such contributions shall not  
 21 exceed the sum of such contributions.

22 (3) The amounts allocated to the board for the fund pursuant to this subsection shall be  
 23 credited to the board on a quarterly basis."

#### 24 SECTION 4.

25 Said title is further amended in Code Section 21-5-41, relating to maximum allowable  
 26 contributions, by adding a new subsection to read as follows:

27 "(a.1) Notwithstanding subsection (a) of this Code section, and in order to make meaningful  
 28 the provisions of Chapter 2A of this title, a certified candidate as defined in paragraph (4) of  
 29 Code Section 21-2A-2 may only accept contributions as provided in Code Section 21-2A-5.  
 30 The recipient of a contribution that violates this subsection shall have three days in which to  
 31 return the contribution to the contributor or file a detailed statement with the State Election  
 32 Board explaining why the contribution does not violate this subsection."

#### 33 SECTION 5.

34 Said title is further amended in Code Section 21-5-43, relating to accounting for and  
 35 expenditure of campaign contributions, by revising subsection (c) as follows:

