

P.L. 2004, CHAPTER 121, *approved August 11, 2004*
Assembly, No. 1

1 **AN ACT** establishing a pilot project for the public financing of the
2 campaigns of candidates seeking election to the office of member
3 of the General Assembly.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "New Jersey
9 Fair and Clean Elections Pilot Project."

10
11 2. The Legislature finds and declares that:

12 a. It is the opinion of many residents of this State that the current
13 system of privately-financed campaigns for office of member of the
14 Legislature allows individuals and committees who contribute large
15 amounts of money to have an undue influence on the political process.

16 b. There is also the belief among many residents that under the
17 current system, the free-speech rights of those candidates and voters
18 who are not wealthy are diminished because the political process is
19 influenced by individuals and committees who can afford to spend
20 large amounts of money on political communications.

21 c. The result of these beliefs is an erosion in public confidence in
22 the democratic process and democratic institutions, leaving much of
23 the electorate questioning whether their elected officials are
24 accountable mostly to the major contributors who finance their
25 campaigns.

26 d. It is possible that a voluntary clean money campaign finance
27 system for legislative candidates would strengthen democracy in New
28 Jersey by removing access to wealth as a major determinant of a
29 citizen's influence within the political process.

30 e. Establishment of a clean elections pilot project would provide
31 selected candidates for the offices of member of the General Assembly
32 with equal resources with which to communicate with voters, reverse
33 the escalating cost of elections and free those candidates from the
34 chore of raising money, thus allowing them more time to conduct their
35 official duties and communicate with their constituents.

36 f. This pilot project, based on the laws currently in effect in Maine
37 and Arizona, would be a significant step towards strengthening public
38 confidence in this State's democratic processes and institutions.

39
40 3. As used in this act:

41 "Certified candidate" means a candidate seeking election to the
42 office of member of the General Assembly who chooses to seek such
43 office pursuant to the provisions of the "New Jersey Fair and Clean

1 Elections Pilot Project" and is certified as a New Jersey Fair and Clean
2 Elections candidate pursuant to section 9 of this act

3 "Commission" means the Election Law Enforcement Commission,
4 established pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5).

5 "Department" means the Department of the Treasury.

6 "Fund" means the New Jersey Fair and Clean Elections Fund
7 established pursuant to section 5 of this act.

8 "New Jersey Fair and Clean Elections candidate" means a candidate
9 who is a certified candidate.

10 "NJCCCEC" means the New Jersey Citizens' Clean Elections
11 Commission established pursuant to section 17 of this act.

12 "Nonparticipating candidate" means a candidate seeking election to
13 the office of member of the General Assembly who does not seek
14 office pursuant to the provisions of this act and is not certified as a
15 New Jersey Fair and Clean Elections candidate pursuant to section 9
16 of this act.

17 "Participating candidate" means a candidate seeking election to the
18 office of member of the General Assembly who chooses to seek such
19 office pursuant to the provisions of this act and is seeking certification
20 as a New Jersey Fair and Clean Elections candidate pursuant to section
21 9 of this act.

22 "Qualifying contribution" means any contribution of money made
23 to a participating candidate by any individual:

24 a. who is a voter registered to vote in the legislative district the
25 candidate represents or seeks to represent;

26 b. contributed during the designated qualifying period and received
27 with the knowledge and approval of the candidate;

28 c. that is acknowledged by a written receipt that identifies the name
29 and mailing address of the contributor, and the occupation of that
30 person and the name and mailing address of the person's employer on
31 forms provided by the commission; and

32 d. that equals for a candidate seeking election to the office of
33 member of the General Assembly in 2005, at least 1,000 contributions
34 of \$5 and at least 500 contributions of \$30 in the form of a check or
35 money order payable to the fund in support of a participating
36 candidate.

37 "Qualifying period" means for a participating candidate seeking
38 election to the office of member of the General Assembly in 2005, the
39 period of time beginning the 25th day following the day of the primary
40 election that year and ending at 4 p.m. on 62nd day prior to the day of
41 the next immediate general election.

42 "Seed money contribution" means a contribution of money of no
43 more than \$200 per individual made to a participating candidate and
44 includes a contribution from the candidate or from a member of the
45 candidate's immediate family.

1 4. There is hereby established a pilot project for the public
2 financing of the campaign of candidates seeking election to the office
3 of member of the General Assembly from two legislative districts in
4 2005. The pilot project shall be open to certified candidates for those
5 offices nominated directly by petition. Candidates participating in this
6 pilot project shall comply with all applicable provisions of the "The
7 New Jersey Campaign Contributions and Expenditures Reporting
8 Act," P.L.1973, c.83 (C.19:44A-1 et seq.), unless otherwise provided
9 by this act.

10
11 5. a. There is established in the Department of Treasury a fund to
12 be known as the "New Jersey Fair and Clean Elections Fund,"
13 hereafter referred to as the fund, to be held separate and apart from all
14 other funds of the State. The department shall administer the fund and
15 monies in the fund shall be used to finance the election campaigns of
16 New Jersey Fair and Clean Elections candidates, certified as such by
17 the commission pursuant to section 9 of this act, seeking election to
18 the office of member of the General Assembly, as provided by this act.
19 All moneys on deposit pursuant to subsection b. of this section shall
20 be appropriated for the fiscal year in which there is an election to elect
21 members of the General Assembly, as required pursuant to this act.

22 b. Moneys from the following sources shall be deposited in the
23 fund:

24 (1) the qualifying contributions required to be submitted to the
25 commission pursuant to section 9 of this act;

26 (2) seed money contributions remaining unspent after a candidate
27 has become a certified candidate;

28 (3) voluntary donations made directly to the fund;

29 (4) all earnings received from the investment of money in the fund;

30 (5) fines and penalties collected by the commission pursuant to
31 section 18 of this act; and

32 (6) money appropriated to the fund.

33
34 6. The participants in the New Jersey Fair and Clean Elections
35 Pilot Project shall be selected as follows.

36 a. The chair of the State political party whose candidate for the
37 office of Governor received the largest number of votes in the most
38 recent gubernatorial election shall select one of the following three
39 legislative districts: the 6th, 7th or 15th district, which districts were
40 approved by the Apportionment Commission on April 11, 2001 and
41 described in the corrected plan for legislative districts filed with the
42 New Jersey Secretary of State on April 17, 2001, and the individuals
43 who are candidates for election to the office of member of the General
44 Assembly in 2005 from the selected district and members of the same
45 political party as the chair shall be deemed participating candidates;
46 and

1 b. The chair of the State political party whose candidate for the
2 office of Governor received the next largest number of votes in the
3 most recent gubernatorial election shall select one of the following
4 three legislative districts: the 9th, 11th or 13th district, which districts
5 were approved by the Apportionment Commission on April 11, 2001
6 and described in the corrected plan for legislative districts filed with
7 the New Jersey Secretary of State on April 17, 2001, and the
8 individuals who are candidates for election to the office of member of
9 the General Assembly in 2005 from the selected district and members
10 of the same political party as the chair shall be deemed participating
11 candidates.

12 c. The selections required by subsections a. and b. of this section
13 shall be made by the respective State chairs no later than the 20th day
14 following the day of the primary election in 2005.

15 d. In the event that one or both of the State chairs refuse to make
16 such a selection by the deadline provided for in subsection c. of this
17 section, there shall be established an alternative selection committee
18 to make such a selection from the districts stated in subsection a. or
19 subsection b. of this section, as may be appropriate. The committee
20 shall be comprised of three members: one former Governor of this
21 State and one other person, each to be appointed by the Speaker of the
22 General Assembly and one person to be appointed by the Minority
23 Leader of the General Assembly. The appointments to the committee
24 shall be made no later than the 21st day following the day of the
25 primary election. The committee shall select the district or districts to
26 participate in the pilot project no later than the 24th following the day
27 of the primary election.

28

29 7. a. Upon selection pursuant to section 6 of this act, each
30 participating candidate shall:

31 (1) sign and file a declaration of intent to seek certification as a
32 New Jersey Fair and Clean Elections candidate and to comply with the
33 requirements of this act and it shall be filed with the commission prior
34 to or during the qualifying period using the forms and procedures
35 developed by the commission pursuant to section 19 of this act;

36 (2) submit a declaration of intent prior to accepting qualifying
37 contributions under section 8 of this act; and

38 (3) (a) suspend, for the time the person is a participating or certified
39 candidate, all access the candidate or any member of the candidate
40 committee has to the funds of the candidate committee of that
41 candidate, including those that the candidate has as part of a joint
42 candidates committee, which have been raised prior to selection,
43 except as provided in subsection b.; and

44 (b) certify on a form to be developed by the commission that he or
45 she will not seek to use such funds in any way that would assist the
46 candidate once certified as a New Jersey Fair and Clean Elections

1 candidate.

2 b. A participating candidate may use funds raised and reported to
3 the commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.) prior
4 to becoming such a candidate as the seed money required of a
5 participating candidate, but only to the extent that such money can be
6 attributable to contributions of \$200 or less from individuals.

7

8 8. a. Subsequent to being selected as a participating candidate and
9 prior to certification as a certified candidate, a participating candidate
10 shall not accept contributions other than qualifying contributions, nor
11 shall a participating candidate accept seed money contributions greater
12 than \$3,000 in the aggregate for a candidate seeking election to the
13 office of member of the General Assembly in 2005.

14 b. For a participating candidate seeking election to the office of
15 member of the General Assembly in 2005 to show that he or she has
16 sufficient support, the candidate shall obtain qualifying contributions
17 during the qualifying period from no fewer than 1,500 voters
18 registered to vote in the legislative district the candidate represents or
19 seeks to represent.

20 No payment, gift or other thing of value shall be given in exchange
21 for a qualifying contribution.

22 c. A participating candidate shall submit qualifying contributions
23 to the commission in accordance with procedures developed by the
24 commission.

25

26 9. Upon receipt of the final submittal of qualifying contributions
27 within the qualifying period by a participating candidate, the
28 commission shall certify that candidate as a New Jersey Fair and Clean
29 Elections candidate if the candidate has:

30 a. signed and filed a declaration of intent to participate in the
31 election as a New Jersey Fair and Clean Elections candidate, pursuant
32 to section 7 of this act;

33 b. received the appropriate amount of valid qualifying
34 contributions, pursuant to section 8 of this act;

35 c. not accepted other contributions, except for seed money
36 contributions, and otherwise complied with the contribution
37 restrictions of this act;

38 d. in the case of candidates seeking election to the offices of
39 member of the General Assembly by direct nomination, submitted to
40 the Attorney General a petition of nomination with the required
41 number of valid signatures, as required by chapter 13 of Title 19 of the
42 Revised Statutes; and

43 e. otherwise met the requirements to be considered a New Jersey
44 Fair and Clean Elections candidate pursuant to this act.

45 No participating candidate, other than such a candidate seeking
46 office by means of direct nomination by petition, shall be certified as

1 a New Jersey Fair and Clean Elections candidate unless both
2 candidates for election to the office of member of the General
3 Assembly in 2005 who are members of the same political party in the
4 legislative district the candidates represent or seek to represent, meet
5 the criteria established by this section and are otherwise eligible to be
6 certified as New Jersey Fair and Clean Elections candidates.

7 The commission shall certify a participating candidate as soon as
8 possible, and in any case no later than three days, after the candidate
9 makes his or her final submission of qualifying contributions. Upon
10 certification, a candidate shall transfer to the fund any unspent seed
11 money contributions. A certified candidate shall comply with the
12 provisions of this act after the candidate has been certified through the
13 period of the general election, for candidates for election to the office
14 of member of the General Assembly in 2005.

15 To be eligible for certification, a candidate shall accept and spend
16 only seed money contributions after becoming a participating
17 candidate and throughout the qualifying period. A participating
18 candidate shall not accept or spend seed money contributions after
19 certification as a New Jersey Fair and Clean Elections candidate. All
20 seed money contributions shall be reported to the commission in
21 accordance with procedures developed thereby pursuant to section 19
22 of this act.

23 After certification, a candidate shall limit his or her campaign
24 expenditures and obligations, including outstanding obligations, to the
25 moneys distributed to the candidate from the fund and shall not accept
26 any other contributions unless specifically authorized by the
27 commission. All such funds distributed to certified candidates from
28 the fund shall be used only for the purposes provided in section 17 of
29 P.L.1993, c.65 (C.19:44A-11.2).

30 A certified candidate shall not appear, or authorize his or her name,
31 image or photograph to be used, in any advertisements promoting the
32 election of a nonparticipating candidate seeking public office in the
33 same district as the certified candidate.

34 Once certified, a candidate shall be permitted to withdraw from
35 being a certified candidate and become a nonparticipating candidate at
36 any time prior to the day of the election with the approval of the
37 NJCCEC, which shall consider such requests on a case by case basis.
38 Any candidate who withdraws from being a certified candidate shall
39 remit to the fund any money received therefrom pursuant to this act
40 unless directed otherwise by the NJCCEC and the commission may
41 assess a penalty for such a withdrawal.

42

43 10. Each participating candidate certified as a New Jersey Fair and
44 Clean Elections candidate in 2005 and seeking election to the office of
45 member of the General Assembly shall be provided with an amount of
46 money from the fund equal to 75 percent of the average amount of

1 money expended by candidates who are members of the political
2 parties seeking the office of member of the General Assembly in the
3 legislative districts of those certified candidates in the two immediately
4 preceding general elections for that office, as determined by the
5 commission, but in no event shall the amount of money thus provided
6 exceed \$100,000.

7 All such money shall be provided by the department from the fund
8 established in section 5 of this act no later than the third day following
9 certification in accordance with such procedures as the department and
10 the commission shall establish.

11

12 11. a. If the certified candidates seeking election to the office of
13 member of the General Assembly in 2005 are opposed for election
14 from the legislative district in which they seek office by
15 nonparticipating candidates, each such certified candidate shall receive
16 from the fund an amount of the money equal to the amount of money
17 that would have been issued to each nonparticipating candidate from
18 the fund pursuant to section 10 of this act if that nonparticipating
19 candidate had been a certified candidate.

20 b. If a campaign report of a nonparticipating candidate for election
21 to the office of member of the General Assembly in 2005 shows that
22 the aggregate amount of the contributions, alone or in conjunction
23 with money spent on behalf of such a candidate by a person or a
24 political committee, continuing political committee, political party
25 committee, candidate committee, joint candidates committee or
26 legislative leadership committee not acting in concert with that
27 nonparticipating candidate, exceeds the amount of money provided to
28 each certified candidate pursuant to section 10 of this act for such
29 candidates in the district, the department shall issue to each certified
30 candidate, as soon as practicable, an additional amount of money from
31 the fund equivalent to the excess amount, up to a maximum of
32 \$50,000.

33 c. If certified candidates or nonparticipating candidates are
34 determined by the commission to be benefiting from money spent on
35 behalf of such candidates by a person or a political committee,
36 continuing political committee, political party committee, candidate
37 committee, joint candidates committee or legislative leadership
38 committee not acting in concert with those certified candidates or
39 nonparticipating candidates, each of the certified candidates seeking
40 election to the office of member of the General Assembly in 2005 in
41 the same legislative district who are not benefiting from such an
42 expenditure of money shall be provided with money from the fund,
43 following a procedure to be determined by the commission, in an
44 amount not exceed \$50,000.

45 d. These amounts of money shall be in addition to the money from
46 the fund provided to a certified candidate seeking election to the office

1 of member of the General Assembly in 2005, pursuant to section 10 of
2 this act.

3
4 12. A candidate seeking the office of member of the General
5 Assembly in 2005 by means of direct nomination by petition, pursuant
6 to chapter 13 of Title 19 of the Revised Statutes, and who is certified
7 by the commission shall be eligible for moneys from the fund at the
8 same time as the other certified candidates seeking election to that
9 office who have been nominated in a primary election, but in an
10 amount equal to not more than half of the amount provided to the
11 other certified candidates, as provided in section 10 of this act.

12
13 13. Notwithstanding the provisions of section 16 of P.L.1973, c.83
14 (C.19:44A-16) or any other law, rule or regulation relating to the
15 reporting of campaign contributions by a candidate to the contrary,
16 certified candidates shall report all contributions and expenditures,
17 obligations and related activities to the commission on a schedule and
18 according to procedures developed by the commission. In developing
19 such schedule and procedures, the commission shall use to the greatest
20 extent possible the existing campaign reporting schedule and
21 procedures established in section 16 of P.L.1973, c.83 (C.19:44A-16)
22 for candidate committees and joint candidates committees.

23 Each certified candidate who is defeated in a general election in
24 2005 shall, upon the filing of a final report relative to the election,
25 return to the commission for deposit into the fund all unspent fund
26 moneys.

27 The commission shall insure public access to the campaign finance
28 reports required pursuant to this section and, wherever possible, shall
29 use electronic means for the reporting, storing and display of such
30 information.

31 The commission shall also prepare a voter's guide for the general
32 public for each of the elections in which certified candidates are
33 seeking office in 2005. The guide shall list the names of each
34 candidate seeking office at that election and both certified candidates
35 and nonparticipating candidates shall be invited by the commission to
36 submit a statement, not to exceed 500 words in length for inclusion in
37 the guide. It shall identify the candidates that are certified candidates
38 and the candidates that are nonparticipating candidates. Copies of the
39 guide shall be posted on the web site of the commission as soon as
40 may be practicable.

41
42 14. Whenever any certified candidate makes, incurs, or authorizes
43 an expenditure to finance a communication aiding or promoting the
44 election of the candidate alone or in conjunction with the other
45 certified candidate who is a member of the same political party and
46 seeking the office of member of the General Assembly from the same

1 legislative district, or the defeat of such candidate's or candidates'
2 opponent or opponents, the communication shall include:

3 (a) in the case of radio, an audio statement in the candidate's own
4 voice, or if in conjunction with the other certified candidate each
5 candidate's own voice, that identifies the candidate, the office the
6 candidate is seeking, and that the candidate has approved the
7 communication; or

8 (b) in the case of television, the Internet or any other similar form
9 of communication containing audio and visual, a statement in the
10 candidate's own voice, or if in conjunction with the other certified
11 candidate in each candidate's own voice, that identifies the candidate,
12 the office the candidate is seeking, and that the candidate has approved
13 the communication, that is either spoken by the candidate during an
14 unobscured full-screen view of the candidate or through a voice-over
15 by the candidate accompanied by a clearly identifiable photograph or
16 similar image of the candidate that occupies at least eighty percent of
17 the vertical screen height, and includes the candidate's statement at the
18 end of the communication in clearly readable writing in letters equal
19 to at least four percent of the vertical picture height and visible for at
20 least four seconds, except that an Internet communication consisting
21 of printed material only, with or without photographs, shall include the
22 written statement described above; or

23 (c) in the case of any other form of communication, the
24 communication shall include the written statement described in
25 subparagraph (b) above.

26 A certified candidate alone or in conjunction with the other certified
27 candidate who is a member of the same party and seeking the office of
28 member of the General Assembly from the same legislative district may
29 include in any communication made pursuant to this section a
30 statement that he or she is a New Jersey Fair and Clean Elections
31 candidate.

32
33 15. a. A candidate who has been denied certification by the
34 commission as a New Jersey Fair and Clean Elections candidate or an
35 opponent for a public office of a candidate who has been certified as
36 a New Jersey Fair and Clean Elections candidate may challenge a
37 certification decision by the commission as follows.

38 A candidate or an opponent may appeal to the commission within
39 three days of the decision to grant or deny a certification. The appeal
40 shall be in writing and shall set forth the reasons for the appeal.

41 Within five days after an appeal is filed, the commission shall hold
42 a hearing thereon after notice is given of the hearing to the challenger.
43 The challenger has the burden of providing evidence to demonstrate
44 that the decision of the commission to certify, or to deny certification
45 of, the candidate was improper. The commission shall rule on the
46 appeal within three days after the completion of the hearing.

1 A challenger may appeal to Superior Court a decision on an appeal
2 rendered by the commission pursuant to this section and the court shall
3 hear the appeal and render a decision thereon in an expedited manner.

4 b. Any candidate whose certification by the commission is revoked
5 as a result of an appeal to Superior Court shall return to the
6 commission for deposit into the fund any unspent moneys received to
7 date from the fund.

8 c. If the commission or the court finds that an appeal was made
9 frivolously or to cause delay or hardship, the commission or court may
10 require the challenger to pay the expenses of the commission, the
11 court and the challenged candidate, if any such expenses have been
12 incurred.

13
14 16. The commission shall sponsor at least two debates among the
15 candidates participating in the pilot project established by this act. All
16 certified candidates shall be required to participate in the debates. The
17 manner in which such debates are conducted shall be determined by
18 the commission, which shall also specify by rule or regulation the
19 penalty a certified candidate shall incur for failure to participate in
20 such a debate. All certified candidates shall be announced as to their
21 certification and the meaning of that certification during the debate, in
22 a manner to be determined by the commission. The commission shall
23 invite and permit nonparticipating candidates to participate in the
24 debates.

25
26 17. a. There is established a commission, to be known as the New
27 Jersey Citizens' Clean Elections Commission, to consist of nine
28 members. The Governor shall appoint one person who is a member of
29 the public, and the Senate President and the Speaker of the General
30 Assembly shall each appoint two persons, each of whom are members
31 of the public. No more than three of the public members shall be
32 members of the same political party.

33 The Senate President shall appoint one member of the Senate, who
34 shall be a member of the same political party as the Senate President.
35 The Senate Minority Leader shall appoint one member of the Senate,
36 who shall be a member of the same political party as the Senate
37 Minority Leader. The Speaker of the General Assembly shall appoint
38 one member of the General Assembly, who shall be a member of the
39 same political party as the Speaker. The Minority Leader of the
40 General Assembly shall appoint one member of the General Assembly,
41 who shall be a member of the same political party as the General
42 Assembly Minority Leader. A vacancy in the membership of the
43 NJCCEC shall be filled in the same manner in which the original
44 appointment was made.

45 b. The members of the NJCCEC shall be appointed no later than
46 the 30th day following January 1, 2005 and shall hold their initial

1 organizational meeting no later than the 30th day following their
2 appointment. The members shall elect one of the members to serve as
3 chair and the chair may appoint a secretary, who need not be a member
4 of the NJCCEC. The members of the NJCCEC shall serve without
5 compensation, but shall be eligible for reimbursement for necessary
6 and reasonable expenses incurred in the performance of their official
7 duties within the limits of funds appropriated or otherwise made
8 available to the NJCCEC.

9 c. The NJCCEC shall meet at the call of the chair. The NJCCEC
10 shall elicit testimony from the public at such times and places as the
11 chair shall designate and shall hold at least three public hearings in
12 different parts of the State following the 2005 general election. A
13 meeting of the NJCCEC shall be called at the request of five of the
14 NJCCEC's members and five members of the NJCCEC shall constitute
15 a quorum at any meeting thereof.

16 d. It shall be the duty of the NJCCEC to:

17 (1) examine the experience, both positive and negative, of the New
18 Jersey Fair and Clean Elections Pilot Project with respect to the
19 election of members of the General Assembly in 2005;

20 (2) review and recommend criteria for selecting districts to
21 participate in the pilot project in 2007 and provide information to
22 candidates in those districts seeking nomination for election and
23 election to the office of member of the Senate and the office of
24 member of the General Assembly regarding:

25 (a) the seed money contribution amount, qualifying contribution
26 amount and the qualifying period for candidates seeking the office of
27 member of the Senate; and

28 (b) the amount of money from the fund provided to, and the
29 qualifying period for, candidates in a primary election for the general
30 election, and the criteria for selection of legislative districts to
31 participate in the New Jersey Fair and Clean Elections Pilot Project as
32 candidates seeking the office of member of the Senate and candidates
33 seeking the office of member of the General Assembly;

34 (3) determine the feasibility of establishing the New Jersey Fair and
35 Clean Elections Pilot Project as the public financing system for
36 candidates for the offices of member of the Senate and General
37 Assembly in this State;

38 (4) examine the means by which to finance the New Jersey Fair and
39 Clean Elections Pilot Project for candidates in this State; and

40 (5) consider such other matters relating to the issue of "clean
41 elections" and campaign finance as the members of the NJCCEC may
42 deem appropriate.

43 e. The NJCCEC shall be entitled to call to its assistance and avail
44 itself of the services of the employees of any State, county, or
45 municipal department, board, bureau, commission or agency, as it may
46 require and as may be available for its purposes, and to employ
47 stenographic and clerical assistance.

1 f. The NJCCEC shall:

2 (1) issue a preliminary report to the Legislature on the pilot project
3 established by this act with respect to the 2005 general election no
4 later than the 90th day following the day of that election; and

5 (2) issue a final report to the Legislature on its findings and
6 recommendations relative to the pilot project with respect to the 2005
7 general election, including, but not limited to, any suggestions for
8 changes in the project for the 2007 primary and general elections, no
9 later than the 180th day following the day of the 2005 general election
10 and the final report shall contain such legislation as prepared by the
11 NJCCEC and recommended thereby for enactment.

12

13 18. a. (1) Any person, including any candidate, treasurer or other
14 official associated with the campaign of a certified or participating
15 candidate, with the responsibility for the preparation, certification,
16 filing or retention of any reports, records, notices or other documents
17 in paper or electronic form, who fails, neglects or omits to prepare,
18 certify, file or retain any such report, record, notice or document at the
19 time or during the time period, as the case may be, and in the manner
20 prescribed by law, or who omits or incorrectly states or certifies any
21 of the information required by law to be included in such report,
22 record, notice or document, and any other person who in any way
23 violates any of the provisions of this act, shall, in addition to any other
24 penalty provided by law, be liable to a penalty of not more than \$6,000
25 for the first offense and not more than \$12,000 for the second and
26 each subsequent offense. Upon receiving evidence of a violation, the
27 commission shall use the procedure provided for in section 22 of
28 P.L.1973, c.83 (C.19:44A-22) for investigating the violation and
29 assessing a penalty, if deemed appropriate.

30 (2) The fine imposed for a violation of paragraph (1) of this
31 subsection shall, upon payment to the commission, be deposited in the
32 fund.

33 b. Any individual found to have knowingly and willfully given any
34 amount of money to another person for the purpose of having that
35 other person give such money, or a part thereof, to a participating
36 candidate as a qualifying contribution is guilty of a crime of the fourth
37 degree.

38 c. (1) Any person, including any candidate, treasurer or other
39 official associated with the campaign of a certified or participating
40 candidate, who knowingly and willfully makes a false statement or files
41 a false report, record, notice or document in paper or electronic form
42 or so violates any other provision of this act is guilty of a crime of the
43 third degree.

44 (2) Any individual found to be in violation of paragraph (1) of this
45 subsection shall remit in an expedited manner to the commission for
46 deposit into the fund all moneys distributed to the candidate since he
47 or she was certified as a New Jersey Fair and Clean Elections

1 candidate for the election cycle in which the offense occurred.

2 d. Any participating candidate who files a report found to be in
3 violation of section 8 of this act shall be disqualified as a candidate for
4 the public office sought or shall forfeit office if elected.

5
6 19. The commission shall promulgate such rules and regulations as
7 it deems necessary to implement the provisions of this act. These rules
8 and regulations shall include, but not be limited to, procedures for
9 obtaining qualifying contributions, obtaining certification as a New
10 Jersey Fair and Clean Elections candidate, the collection of moneys for
11 the fund, the distribution of fund moneys to certified candidates and
12 the return of unspent distributed fund monies from certified
13 candidates.

14
15 20. The Fair and Clean Elections Pilot Project established by this
16 act shall be reauthorized by the Legislature and the Governor in
17 sufficient time to permit candidates in each of four legislative districts
18 to be able to seek nomination for election and election to the office of
19 member of the Senate and the office of member of the General
20 Assembly in 2007 pursuant to this project. The act reauthorizing the
21 project shall consider the findings and recommendations contained in
22 the final report of the NJCCEC, pursuant to section 16 of this act
23 (P.L. , c.)(now pending before the Legislature as this act).

24
25 21. This act shall take effect immediately, except that:
26 a. sections 1 through 16 and sections 18 through 19 shall expire on
27 the day the NJCCEC issues its final report; and
28 b. section 17 shall expire on the 180th day following the day the
29 NJCCEC issues its final report.

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32 STATEMENT

33
34 The purpose of this bill, entitled "The New Jersey Fair and Clean
35 Elections Pilot Project," is to establish a temporary program for the
36 public financing of candidates seeking election to the office of member
37 of the General Assembly from two legislative districts in 2005.

38 Specifically, the bill:

39 1) provides that the chair of the State political party whose
40 candidate for Governor received the largest number of votes in the
41 most recent gubernatorial election and the chair of the State political
42 party whose candidate for the office of Governor received the next
43 largest number of votes would each select a district to participate in
44 the program from those stated in the bill, and if a chair refuses to make
45 such a selection, it would be made by a three-member alternative
46 selection committee made up of a former Governor of this State and
47 one other person, each appointed by the Speaker of the General

- 1 Assembly, and one person appointed by the Minority Leader of the
2 General Assembly;
- 3 2) requires participating candidates to initially raise money in
4 contributions of no greater than \$200, defined as seed money
5 contributions, from the candidate, the candidate's family or other
6 individuals but not from a candidate committee, joint candidates
7 committee, political committee, continuing political committee,
8 political party committee, or legislative leadership committee, up to a
9 limit of \$3,000 in the aggregate for a candidate seeking election to the
10 office of member of the General Assembly in 2005;
- 11 3) requires participating candidates to suspend, for the duration of
12 the campaign, all access the candidate has to campaign funds raised
13 prior to becoming a participating candidate;
- 14 4) requires participating candidates to raise qualifying contributions
15 that equal at least 1,000 contributions of \$5 and at least 500
16 contributions of \$30, for a candidate for election to the office of
17 member of the General Assembly in 2005;
- 18 5) requires all such qualifying contributions to be raised in 2005
19 during the period between the 20th day following the day of the
20 primary election that year and ending on the 62nd day prior to the day
21 of the general election;
- 22 6) establishes The New Jersey Fair and Clean Election Fund in the
23 Department of the Treasury as a fund into which will be deposited
24 qualifying contributions, voluntary donations, certain unspent
25 campaign funds, fines and penalties collected for violations of the act;
- 26 7) establishes administrative responsibilities for all of the provisions
27 of the bill with the Election Law Enforcement Commission (ELEC),
28 except in regard to the fund;
- 29 8) requires ELEC to prepare a voter guide listing the name of each
30 candidate seeking office in 2005, whether or not the candidate is a
31 certified candidate and providing the candidate the opportunity to
32 insert a statement that cannot exceed 500 words;
- 33 9) enables participating candidates to be certified as New Jersey
34 Fair and Clean Elections candidates if such candidates: sign and file
35 with ELEC a declaration of intent to participate in the election as such
36 a candidate; receive the appropriate number of valid qualifying
37 contributions; submit a valid petition of nomination, where
38 appropriate; and have not accepted contributions while a participating
39 candidate, except for seed money contributions and both candidates in
40 a legislative district from the same political party must be certified as
41 New Jersey Fair and Clean Elections candidates;
- 42 10) permits a certified candidate to withdraw from being a certified
43 candidate and become a nonparticipating candidate at any time prior
44 to the day of the election with the approval of the "New Jersey
45 Citizens' Clean Elections Commission" (described below), which shall
46 consider such requests on a case by case basis, and any candidate who
47 withdraws from being a certified candidate would remit to the fund

1 any money received therefrom unless directed otherwise by the
2 NJCCEC and in addition permits ELEC to access a penalty for such
3 a withdrawal;

4 11) provides each certified candidate with an amount of money
5 equal to 75 percent of the average amount of money expended by
6 candidates who are members of a political party seeking the office of
7 member of the General Assembly in the legislative districts of the
8 certified candidates in the two immediately preceding general elections
9 for that office, as determined by ELEC, but in no event exceeding
10 \$100,000;

11 12) provides that if a certified candidate is opposed by a
12 nonparticipating candidate, the certified candidate would receive an
13 amount of money equal to the amount that would have been issued to
14 a nonparticipating candidate opponent if that nonparticipating
15 candidate had been a certified candidate (this is in addition to the
16 amount of public funds provided to the certified candidate);

17 13) provides that if a campaign report of a nonparticipating
18 candidate shows that the aggregate amount of the contributions, alone
19 or with money spent on behalf of such a candidate by a person or a
20 political committee, continuing political committee, political party
21 committee, candidate committee, joint candidates committee or
22 legislative leadership committee not acting in concert with that
23 nonparticipating candidate, exceeds the amount provided to each
24 certified candidate pursuant to this act for such candidates in the
25 district, the department would issue to each certified candidate
26 additional money from the fund equivalent to the excess amount, up
27 to a maximum of \$50,000;

28 14) provides that if certified candidates or nonparticipating
29 candidates are determined by the commission to be benefiting from
30 money spent on behalf of such candidates by a person or a political
31 committee, continuing political committee, political party committee,
32 candidate committee, joint candidates committee or legislative
33 leadership committee not acting in concert with those certified or
34 nonparticipating candidates, each of the certified candidates seeking
35 election to the office of member of the General Assembly in the same
36 legislative district who are not benefiting from such an expenditure
37 would be provided with money from the fund, following a procedure
38 to be determined by the commission, in an amount not exceed
39 \$50,000;

40 15) requires that a certified candidate include a statement in any
41 campaign advertisement paid for by the candidate and transmitted
42 through radio or television, or through any broadcast, cable, or
43 satellite transmission, or via the Internet, or in any other
44 communication, a statement, in the candidate's own voice, that he or
45 she approved the advertisement;

46 16) establishes a procedure whereby a candidate who has been
47 denied certification by ELEC or the opponent of a candidate that has

1 been certified may challenge that decision;

2 17) requires ELEC to sponsor debates among the candidates in
3 such a manner as will be determined by the commission, which would
4 also specify the penalty a participating candidate would incur for
5 failure to participate in such a debate;

6 18) establishes a nine-member commission, to be known as the
7 "New Jersey Citizens' Clean Elections Commission," composed of
8 legislative members and members of the public to review the pilot
9 project, recommend the criteria the Legislature should adopt to select
10 districts from which candidates could seek nomination and election to
11 the offices of member of the Senate and General Assembly in 2007
12 using the "clean elections" system established by the bill and
13 recommend whether to make the New Jersey Fair and Clean Elections
14 pilot project a permanent option available to provide public financing
15 for legislative candidates;

16 19) provides that any person found to be in violation of the act will
17 be liable to a penalty of not more than \$6,000 for the first offense and
18 not more than \$12,000 for the next and each subsequent offense; that
19 any individual who is found to have knowingly and willfully given any
20 amount of money to another person for the purpose of having that
21 other person give such money to a participating candidate as a
22 qualifying contribution is guilty of a crime of the fourth degree; and
23 that any person, candidate or official associated with the campaign of
24 a participating or certified candidate who knowingly and willfully
25 makes false statements or files false reports is guilty of a crime of the
26 third degree; and that any participating candidate who files a report
27 found to be in violation of the seed money and qualifying contributions
28 provisions of the bill would be disqualified as a candidate for the
29 public office sought or would forfeit such office if elected; and

30 20) provides that the pilot project established by this bill would be
31 reauthorized by the Legislature and the Governor in sufficient time for
32 candidates in each of four legislative districts to be able to seek
33 nomination for election and election to the office of member of the
34 Senate and the office of member of the General Assembly in 2007.
35 The bill reauthorizing the project would consider the findings and
36 recommendations contained in the final report of the NJCCEC,
37 pursuant to this bill.

38 The sponsor of this bill is committed to enacting a "Fair and Clean
39 Elections" public financing pilot program in competitive and
40 moderately competitive districts that would lend themselves as
41 meaningful "test districts." Districts overwhelmingly Democratic or
42 Republican should not be test districts because a challenger would not
43 have the likely ability to win, even when factoring in the clean
44 elections program. Furthermore, the pilot program should not include
45 volatile districts in which it would be difficult to measure the success
46 of the "Fair and Clean Elections" program because control of the
47 district has fluctuated in recent history.

1 In identifying eligible competitive and moderately competitive
2 districts, the following methodology was used. Highly non-
3 competitive legislative districts were removed from consideration.
4 These are the legislative districts that had the highest and lowest
5 percentage of party registration according to the Center for
6 Government Service 2003 New Jersey Legislative District Data Book.
7 Specifically, of the 40 legislative districts in New Jersey, those that
8 ranked under 10 and over 30 in terms of the percentage of party
9 registration were eliminated. Legislative districts in which the margin
10 of victory for either party's legislative candidates was greater than 30
11 percent also were eliminated because these districts are highly non-
12 competitive. Volatile legislative districts also were removed. These
13 include split legislative districts and districts with seats that recently
14 switched parties because each of those type of district would be
15 difficult to use as a "test district" in a pilot program. Therefore, the
16 remaining districts—three current Democratic-held districts (6, 7, 15)
17 and three current Republican-held districts (9, 11, 13)—represent a
18 grouping of competitive and moderately competitive districts.

19

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22

23 Establishes "New Jersey Fair and Clean Elections Pilot Project."