

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Bill 118**

BY SENATORS FERNS AND BOSO

[Introduced January 10, 2018; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-8-1, §3-8-1a, §3-8-2, §3-8-2b, §3-8-2c, §3-8-5, §3-8-5a, §3-8-  
2 5b, §3-8-5d, §3-8-5f, §3-8-7, §3-8-8, §3-8-9, §3-8-10, §3-8-11 and §3-8-12 of the Code of  
3 West Virginia, 1931, as amended; and that said code be amended by adding thereto a  
4 new section, designated §3-8-9a, all relating generally to the regulation and control of  
5 financing elections; modifying legislative findings; defining terms; modifying definitions;  
6 exempting candidates for delegate to national presidential nominating convention for a  
7 political party from certain recordkeeping and filing requirements; updating references to  
8 federal code; requiring additional information to be provided by entities making  
9 independent expenditures; increasing threshold dollar amounts to be met for certain  
10 expanded disclosures of contributors to independent expenditures; increasing threshold  
11 dollar amounts for reporting on certain independent expenditures; requiring additional  
12 information to be provided by entities engaging in electioneering communication; requiring  
13 disclosure of certain contributor information when contributions were made for explicit  
14 purpose of financing any electioneering communication; increasing threshold dollar  
15 amounts for disclosure of contributions or expenditures by party headquarters committees;  
16 requiring candidates and treasurers of political committees to keep certain detailed  
17 accounts; requiring entities making reportable independent expenditures or electioneering  
18 communications to keep certain detailed accounts; requiring reports be kept of  
19 contributions received for explicit purpose of furthering independent expenditures or  
20 electioneering communications and all disbursements for independent expenditures or  
21 electioneering communications; increasing threshold dollar amounts for certain  
22 transactions to be disclosed in sworn statement by candidate or political committee;  
23 clarifying definition of "financial transactions"; requiring additional information be provided  
24 in financial statements; prohibiting receipt of currency as contribution; eliminating separate  
25 disclosure schedule and rules for membership organizations that raise funds for political  
26 purposes by payroll deduction; requiring political action committees, ballot issue

27 committees, electioneering communications and independent expenditures file financial  
28 statements electronically with Secretary of State; making misdemeanor offense for receipt  
29 of contribution of currency; setting penalties; providing exception where currency received  
30 in exchange for goods or services provided by recipient; clarifying discretion of court in  
31 penalties for failure to file sworn itemized financial statement; prohibiting contributions by  
32 membership organizations to political committees; prohibiting contributions by  
33 membership organizations to candidates; permitting membership organizations to solicit  
34 contributions to separate segregated fund; making it unlawful for membership organization  
35 or separate segregated fund to make contribution or expenditure by using money or thing  
36 of value secured by physical force, job discrimination, financial reprisal, or by the threat  
37 thereof; making it unlawful for membership organization member soliciting contributions  
38 to fail to inform person that funds were being solicited for separate segregated fund at the  
39 time of solicitation; making it unlawful for person soliciting contribution for membership  
40 organization to fail to inform person of right to refuse to contribute without reprisal; making  
41 it unlawful for separate segregated fund established by membership organization to solicit  
42 contributions from persons other than members and their families; making it unlawful for  
43 separate segregated fund established by membership organization to contribute  
44 membership organization funds; prohibiting separate segregated fund from receiving  
45 contributions from members of organization, immediate families and executive or  
46 administrative personnel and their immediate families; prohibiting membership  
47 organization from engaging in job discrimination or job promotion or transfer discrimination  
48 because of member's failure to make contribution to membership organization or separate  
49 segregated fund; prohibiting corporation or membership organization fund making  
50 contribution to separate segregated fund for purpose of making contribution to candidate  
51 or candidate's committee; exempting separate segregated funds from scope of prohibition;  
52 requiring membership organizations to permit groups of employees represented by bona

53 fide political action committee to use real property of membership organization for certain  
54 purposes; setting penalties; prohibiting reimbursement by membership organization of the  
55 amount of any fine imposed; directing prosecuting attorney to present alleged violations  
56 of article relating to regulation and control of elections referred by State Election  
57 Commission to grand jury upon determining that there is a reason to believe a violation  
58 occurred; authorizing fact of investigation to be disclosed to persons or entities being  
59 investigated by State Election Commission; eliminating misdemeanor for disclosure of fact  
60 of complaint, investigation, report or proceedings; eliminating outdated language; making  
61 lawful election expense for payment of necessary employees; making lawful election  
62 expense payment of food and drink for campaign-related purposes and for entertaining of  
63 campaign volunteers; making lawful election expense payment for certain legal and  
64 accounting service rendered to candidate or candidate committee; making lawful election  
65 expense payment of fees associated with campaign; providing that candidate may not pay  
66 fines assessed against candidate or candidate's committee with campaign funds; making  
67 lawful election expense transfers to political party committees when committee is acting  
68 in role of vendor; clarifying that no such transfer shall involve coordination; making lawful  
69 election expense any political expenditure; prohibiting contributions by political action  
70 committee to another political action committee if contribution is earmarked for contribution  
71 to any candidate committee or political party; permitting certain coordination between state  
72 committee of political party or caucus campaign committee and certain candidates;  
73 requiring coordinated communications to include statement clearly identifying that  
74 communications were made in coordination with candidate or candidate's committee;  
75 authorizing contribution of excess campaign funds prior to the general election; removing  
76 cap on amount of contributions to state party executive committee or caucus campaign  
77 committee; prohibiting employer or agent from giving any notice or information to  
78 employees containing any threat intended or calculated to influence decisions of

79 employees regarding political activity; clarifying that employer can express opinion of  
80 employer without constituting a violation; clarifying that person cannot pay owner,  
81 publisher, editor or employee of newspaper or periodical to advocate or oppose candidate,  
82 political party or measure without reporting as independent expenditure or electioneering  
83 communication where appropriate; eliminating prohibition on publication, issuance or  
84 circulation of anonymous communications supporting or aiding election or defeat of clearly  
85 identified candidate; prohibiting certain persons contracting with state from soliciting  
86 contributions to any candidate or political party other than for independent expenditures;  
87 setting contribution limits to candidates for nomination and general elections; setting  
88 contribution limits to state, district or county party committees; setting contribution limits to  
89 caucus campaign committees; setting contribution limits to political action committees;  
90 providing exception to limits on contribution when political action committee makes only  
91 independent expenditures; providing for indexing of contribution limitations to candidates;  
92 directing Secretary of State to calculate new contribution limits after each two-year election  
93 cycle; directing State Election Commission announce adjustments within thirty days of  
94 publication of relevant index; providing new contribution limits remain in effect for two-year  
95 election cycle; permitting unlimited transfers between state party executive committee,  
96 caucus campaign committee and national committee of same political party for voter  
97 registration and get-out-the-vote activities of state committees; prohibiting coercion or  
98 intimidation of nonelective salaried employee of state government to refrain from any form  
99 of political activity; eliminating requirement that person soliciting contributions disclose  
100 amount of commission, remuneration or other compensation to be received as a direct  
101 result of contribution being successfully collected; prohibiting employer from withholding  
102 or diverting portion of employee's wages or salary for use for certain political activities  
103 except upon express written request of employee; requiring employee request be upon  
104 form provided by Secretary of State; limiting validity of request for 12 months; defining

105 term "political activities"; setting internal effective date for prohibition and required written  
 106 request; updating language throughout; and making technical corrections.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.**

### **§3-8-1. Provisions to regulate and control elections.**

1 (a) The Legislature finds that:

2 ~~(1) West Virginia's population is 1,808,344, ranking 37th among the fifty states.~~

3 ~~(2) State Senate districts have a population of approximately one hundred six thousand~~  
 4 ~~three hundred seventy-three, and the average Delegate district has a population of approximately~~  
 5 ~~thirty-one thousand, one hundred seventy-eight. The size of these districts is substantially smaller~~  
 6 ~~than the United States Senatorial and Congressional Districts.~~

7 ~~(3) When the relatively small size of the state's legislative and other voting districts is~~  
 8 ~~combined with the economics and typical uses of various forms of electioneering communication,~~  
 9 ~~history shows that nonbroadcast media is and will continue to be a widely used means of making~~  
 10 ~~campaign related communications to target relevant audiences. Consequently, nonbroadcast~~  
 11 ~~communications are prevalent during elections.~~

12 ~~(4) Disclosure provisions are appropriate legislative weapons against the reality or~~  
 13 ~~appearance of improper influence stemming from the dependence of candidates on large~~  
 14 ~~campaign contributions, and the ceilings imposed accordingly serve the basic governmental~~  
 15 ~~interest in safeguarding the integrity of the electoral process without directly impinging upon the~~  
 16 ~~rights of individual citizens and candidates to engage in political debate and discussion~~

17 (1) When narrowly tailored to minimize any infringement on the right to free speech  
 18 guaranteed by the United States and West Virginia Constitutions, or upon the rights to engage in  
 19 political debate and discussion, disclosure of contributions and expenditures by entities that  
 20 engage in electoral advocacy is an appropriate means to safeguard the electoral process against  
 21 the appearance of improper influence from large campaign expenditures.

22           ~~(5)~~ (2) Disclosure of expenditures ~~serve~~ serves a substantial governmental interest in  
23 informing the electorate and preventing the corruption of or appearance of corruption in the  
24 political process.

25           ~~(6)~~ (3) Disclosure by persons and entities that make expenditures for communications that  
26 expressly advocate the election or defeat of clearly identified candidates ~~or perform its functional~~  
27 ~~equivalent~~, is a reasonable and minimally restrictive method of furthering First Amendment values  
28 by public exposure of the state election system.

29           ~~(7) Failing to regulate nonbroadcast media messages would permit those desiring to~~  
30 ~~influence elections to avoid the principles and policies that are embodied in existing state law.~~

31           ~~(8) The regulation of the various types of nonbroadcast media in addition to broadcast~~  
32 ~~media, is tailored to meet the circumstances found in the State of West Virginia.~~

33           ~~(9) Nonbroadcast media such as newspapers, magazines or other periodicals have~~  
34 ~~proven to be effective means of election communication in West Virginia. Broadcast, satellite and~~  
35 ~~nonbroadcast media have all been used to influence election outcomes.~~

36           ~~(10) Certain nonbroadcast communications, such as newspaper inserts, can be more~~  
37 ~~effective campaign methods than broadcast media because such communications can be~~  
38 ~~targeted to registered voters or historical voters in the particular district. In contrast, broadcasted~~  
39 ~~messages reach all of the general public, including person ineligible to vote in the district.~~

40           ~~(11) Nonbroadcast media communications in the final days of a campaign can be~~  
41 ~~particularly damaging to the public's confidence in the election process because they reduce or~~  
42 ~~make impossible an effective response.~~

43           ~~(12) Identifying those funding nonbroadcast media campaigns in the final days of a~~  
44 ~~campaign may at least permit voters to evaluate the credibility of the message~~

45           ~~(13)~~ (4) In West Virginia, contributions up to the amounts specified in this article allow  
46 contributors to express their opinions, level of support and their affiliations.

47           ~~(14) In West Virginia, campaign expenditures by entities and persons who are not~~

48 ~~candidates have been increasing. Public confidence is eroded when substantial amounts of such~~  
 49 ~~money, the source of which is hidden or disguised, is expended. This is particularly true during~~  
 50 ~~the final days of a campaign.~~

51 ~~(15) In West Virginia, contributions to political organizations, defined in Section 527(e)(1)~~  
 52 ~~of the Internal Revenue Code of 1986, substantially larger than the amounts permitted to be~~  
 53 ~~received by a candidate's political committee have been recorded and are considered by the~~  
 54 ~~Legislature to be large contributions.~~

55 ~~(16) Independent expenditures intended to influence candidates' campaigns in the state~~  
 56 ~~are increasingly utilizing nonbroadcast media to support or defeat candidates~~

57 ~~(17) (5) Identification of persons or entities funding political advertisements~~ electoral  
 58 advocacy assists in enforcement of the contribution and expenditure limitations established by  
 59 this article and ~~simply~~ informs voters of the actual identities of persons or entities advocating the  
 60 election or defeat of candidates.

61 ~~(18) (6) Identification of persons or entities funding political advertisements~~ electoral  
 62 advocacy allows voters to evaluate the credibility of the message contained in the advertisement.

63 ~~(19) (7) Disclosure of the identity of persons or entities funding political communications~~  
 64 ~~regarding candidates~~ electoral advocacy bolsters the right of listeners to be fully informed.

65 (b) Political campaign contributions, receipts and expenditures of money, advertising,  
 66 influence and control of employees, and other economic, political and social control factors  
 67 incident to primary, special and general elections shall be regulated and controlled by the  
 68 provisions of this article and other applicable provisions of this chapter.

### **§3-8-1a. Definitions.**

1 As used in this article, the following terms have the following definitions:

2 (1) "Ballot issue" means a constitutional amendment, special levy, bond issue, local option  
 3 referendum, municipal charter or revision, an increase or decrease of corporate limits or any other  
 4 question that is placed before the voters for a binding decision.



5           ~~(2)~~ (3) “Ballot issue committee” means a political action committee that advocates or opposes  
6 a ballot issue. The threshold amount for ballot issue committees is \$5,000 for contributions or  
7 political expenditures.

8           ~~(2)~~ (3) “Billboard advertisement” means a commercially available outdoor advertisement,  
9 sign or similar display regularly available for lease or rental to advertise a person, place or product.

10           ~~(3)~~ (4) “Broadcast, cable or satellite communication” means a communication that is  
11 publicly distributed by a television station, radio station, cable television system or satellite  
12 system.

13           ~~(4)~~ (5) “Candidate” means an individual who:

14           (A) Has filed a certificate of announcement under §3-5-7 of this code or a municipal  
15 charter;

16           (B) Has filed a declaration of candidacy under §3-5-23 of this code;

17           (C) Has been named to fill a vacancy on a ballot; or

18           (D) Has declared a write-in candidacy or otherwise publicly declared his or her intention  
19 to seek nomination or election for any state, district, county or municipal office or party office to  
20 be filled at any primary, general or special election.

21           ~~(5)~~ (6) “Candidate’s committee” or “candidate committee” means a political committee  
22 established with the approval of or in cooperation with a candidate or a prospective candidate to  
23 explore the possibilities of seeking a particular office or to support or aid his or her nomination or  
24 election to an office in an election cycle. If a candidate directs or influences the activities of more  
25 than one active committee in a current campaign, those committees shall be considered one  
26 committee for the purpose of contribution limits.

27           (7) “Caucus campaign committee” means either a Senate political party caucus campaign  
28 committee or a House of Delegates political party caucus campaign committee that receives  
29 contributions and makes political expenditures to support or oppose one or more specific  
30 candidates, slates of candidates for nomination or election, or a committee.

31           ~~(6)~~ (8) “Clearly identified” means that the name, nickname, photograph, drawing or other  
32 depiction of the candidate appears or the identity of the candidate is otherwise apparent through  
33 an unambiguous reference, such as “the Governor”, ~~“your Senator”~~ or “the incumbent” or through  
34 an unambiguous reference to his or her status as a candidate, such as “the Democratic candidate  
35 for Governor” or “the ~~Republican~~ incumbent candidate for Supreme Court of Appeals”.

36           ~~(7)~~ (9) *Contribution.* —

37           (A) “Contribution” means a gift, subscription, loan, assessment, payment for services,  
38 dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other  
39 tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other  
40 tangible thing of value to a person, ~~made for the purpose of influencing the nomination, election~~  
41 ~~or defeat of a candidate~~ given to any entity that is registered or is required to register as a political  
42 action committee or political committee at the time the contribution is made, or that is given to be  
43 used specifically for making contributions to other recipients for making political expenditures or  
44 any political expenditure that is made in coordination with a candidate, candidate committee,  
45 ballot issue committee or political party committee. An offer or tender of a contribution is not a  
46 contribution if expressly and unconditionally rejected or returned.

47           (B) A contribution does not include volunteer personal services provided without  
48 compensation or any unreimbursed payment for expenses related to such volunteer activity; any  
49 cost incurred for covering or carrying a news story, commentary or editorial by a broadcasting  
50 station or cable television operator, Internet website or newspaper or other periodical publication,  
51 including an Internet or other electronic publication: *Provided*, That the cost for the news story,  
52 commentary or editorial is not paid for by, and the medium is not owned or controlled by, a  
53 candidate, candidate committee, ballot issue committee, political party committee or other political  
54 committee; and the payment of or provision of legal and accounting services rendered to a  
55 candidate, candidate committee, ballot issue committee, political party committee or other political  
56 committee if the services are solely for the purpose of ensuring compliance with or challenging

57 the constitutional validity or interpretation of the provisions of this chapter: *Provided, however,*  
58 That a nonmonetary contribution is to be considered at fair market value for reporting  
59 requirements and contribution limitations.

60 ~~(8)~~ (10) "Corporate political action committee" means a political action committee that is a  
61 separate segregated fund of a corporation that may only accept contributions from its restricted  
62 group as outlined by the rules of the State Election Commission.

63 ~~(9)~~ (11) "Direct costs of purchasing, producing or disseminating electioneering  
64 communications" means:

65 (A) Costs charged by a vendor, including, but not limited to, studio rental time,  
66 compensation of staff and employees, costs of video or audio recording media and talent, material  
67 and printing costs and postage; or

68 (B) The cost of airtime on broadcast, cable or satellite radio and television stations, the  
69 costs of disseminating printed materials, studio time, use of facilities and the charges for a broker  
70 to purchase airtime.

71 ~~(40)~~ (12) "Disclosure date" means either of the following:

72 (A) The first date during any calendar year on which any electioneering communication is  
73 disseminated after the person paying for the communication has spent a total of \$5,000 or more  
74 for the direct costs of purchasing, producing or disseminating electioneering communications; or

75 (B) Any other date during that calendar year after any previous disclosure date on which  
76 the person has made additional expenditures totaling \$5,000 or more for the direct costs of  
77 purchasing, producing or disseminating electioneering communications.

78 ~~(44)~~ (13) "Election" means any primary, general, ~~or~~ special, local or ballot issue election  
79 conducted under the provisions of this code or under the charter of any municipality at which the  
80 voters nominate or elect candidates for public office, or vote on a constitutional amendment,  
81 special levy, bond issue, local option referendum, municipal charter or revision, an increase or  
82 decrease of corporate limits or any other question that is placed before the voters for a binding

83 decision. For purposes of this article, each primary, general, special, local or ballot issue ~~or local~~  
 84 election constitutes a separate election. This definition is not intended to modify or abrogate the  
 85 definition of the term “nomination” as used in this article.

86 ~~(12)~~ (14) *Electioneering communication.* —

87 (A) “Electioneering communication” means any paid communication made by broadcast,  
 88 cable or satellite signal, mass mailing, telephone bank or billboard advertisement ~~or published in~~  
 89 ~~any newspaper, magazine or other periodical~~ that:

90 (i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney  
 91 General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals, ~~or the~~  
 92 Legislature, circuit judge, family court judge, magistrate or any county office;

93 (ii) Is publicly disseminated within:

94 (I) Thirty days before a primary election day at which the nomination for office sought by  
 95 the candidate is to be determined; or

96 (II) Sixty days before a general or special election day at which the office sought by the  
 97 candidate is to be filled; and

98 (iii) Is targeted to the relevant electorate. ~~Provided, That for purposes of the general~~  
 99 ~~election of 2008 the amendments to this article are effective October 1, 2008~~

100 (B) “Electioneering communication” does not include:

101 (i) A news story, commentary or editorial disseminated through the facilities of any  
 102 broadcast, cable or satellite television or radio station, newspaper, magazine or other periodical  
 103 publication not owned or controlled by a political party, political committee or candidate: *Provided,*  
 104 That a news story disseminated through a medium owned or controlled by a political party, political  
 105 committee or candidate is nevertheless exempt if the news is:

106 (I) A bona fide news account communicated in a publication of general circulation or  
 107 through a licensed broadcasting facility; and

108 (II) ~~Is par~~ Part of a general pattern of campaign-related news that gives reasonably equal

109 coverage to all opposing candidates in the circulation, viewing or listening area;

110 ~~(ii) Activity by a candidate committee, party executive committee or caucus committee, or~~  
111 ~~a political action committee that is required to be reported to the State Election Commission or~~  
112 ~~the Secretary of State as an expenditure pursuant to section five of this article or the rules of the~~  
113 ~~State Election Commission or the Secretary of State promulgated pursuant to such provision:~~  
114 ~~Provided, That independent expenditures by a party executive committee or caucus committee~~  
115 ~~or a political action committee required to be reported pursuant to subsection (b), section two of~~  
116 ~~this article are not exempt from the reporting requirements of this section~~

117 (ii) A communication that constitutes an expenditure or an independent expenditure under  
118 this chapter;

119 (iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election  
120 Commission or the Secretary of State or a communication promoting that debate or forum made  
121 by or on behalf of its sponsor;

122 (iv) A communication paid for by any organization operating under Section 501(c)(3) of  
123 the Internal Revenue Code of 1986;

124 (v) A communication made while the Legislature is in session which, incidental to  
125 promoting or opposing a specific piece of legislation pending before the Legislature, urges the  
126 audience to communicate with a member or members of the Legislature concerning that piece of  
127 legislation;

128 ~~(vi) A statement or depiction by~~ A communication by persons made in the regular course  
129 and scope of their business or any communication made by a membership organization in  
130 existence prior to the date on which the individual named or depicted became a candidate, made  
131 ~~in a newsletter or other communication distributed only to bona fide~~ solely to its members of that  
132 ~~organization~~ and their families;

133 (vii) A communication made solely for the purpose of attracting public attention to a product  
134 or service offered for sale by a candidate or by a business owned or operated by a candidate

135 which does not mention an election, the office sought by the candidate or his or her status as a  
136 candidate; ~~or~~

137 (viii) A communication, such as a voter's guide, which refers to all of the candidates for  
138 one or more offices, which contains no appearance of endorsement for or opposition to the  
139 nomination or election of any candidate and which is intended as nonpartisan public education  
140 focused on issues and voting history;

141 (ix) A communication that refers to any candidate only as part of the popular name of a  
142 bill or statute.

143 ~~(13)~~ (15) "Expressly advocating" means any communication that:

144 (A) Uses phrases such as "vote for the Governor", "reelect your Senator", "support the  
145 Democratic nominee for ~~Supreme Court~~ House of Delegates", "cast your ballot for the Republican  
146 challenger for House of Delegates", "Smith for House", "Bob Smith in '04", "vote Prolife" or "vote  
147 Prochoice" accompanied by a listing of clearly identified candidates described as prolife or  
148 prochoice, "vote against Old Hickory", "defeat" accompanied by a picture of one or more  
149 candidates, "reject the incumbent"; or

150 (B) Communications of campaign slogans or individual words, that, in the context of only  
151 the communication itself, can have no ~~other~~ reasonable meaning other than to urge the election  
152 or defeat of one or more clearly identified candidates or the passage or defeat of one or more  
153 ballot issues, such as posters, bumper stickers, advertisements, etc., which say "Smith's the  
154 One", "Jones '06", "Baker", etc. ~~or~~

155 ~~(C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or~~  
156 ~~against a specific candidate~~

157 ~~(14)~~ (16) "Financial agent" means any individual acting for and by himself or herself, or  
158 any two or more individuals acting together or cooperating in a financial way to aid or take part in  
159 the nomination or election of any candidate for public office, or to aid or promote the success or  
160 defeat of any political party at any election.

161 ~~(15)~~ (17) “Fund-raising event” means an event such as a dinner, reception, testimonial,  
162 cocktail party, auction or similar affair through which contributions are solicited or received by  
163 such means as the purchase of a ticket, payment of an attendance fee or by the purchase of  
164 goods or services.

165 ~~(16)~~ (18) “Independent expenditure” means an expenditure by a person: (A) Expressly  
166 advocating the election or defeat of a clearly identified candidate; and (B) that is not made in  
167 concert or cooperation with or at the request or suggestion of such candidate, his or her agents,  
168 the candidate’s authorized political committee or a political party committee or its agents.  
169 ~~Supporting or opposing~~ Expressly advocating the election of a clearly identified candidate  
170 includes ~~supporting or opposing~~ expressly advocating the election or defeat of candidates of a  
171 political party. An expenditure ~~which~~ that does not meet the criteria for an independent  
172 expenditure is considered a contribution.

173 (19) “In concert or cooperation with or at the request or suggestion of” means that a  
174 candidate or his or her agent consulted with the sender regarding the content, timing, place,  
175 nature or volume of a particular communication or communication to be made.

176 ~~(17)~~ (20) “Mass mailing” means a mailing by United States mail, facsimile or electronic  
177 mail of more than five hundred pieces of mail matter of an identical or substantially similar nature  
178 within any thirty-day period. For purposes of this subdivision, “substantially similar” includes  
179 communications that contain substantially the same template or language, but vary in nonmaterial  
180 respects such as communications customized by the recipient’s name, occupation or geographic  
181 location.

182 ~~(18)~~ (21) “Membership organization” means a group that grants ~~bona fide rights and~~  
183 ~~privileges, such as the right to vote, to elect officers or directors and the ability to hold office, to~~  
184 ~~its members~~ membership rights or privileges in its duly adopted bylaws and which uses a majority  
185 of its membership dues and contributions for purposes other than ~~political purposes~~ contributions  
186 or political expenditures. ~~“Membership organization” does not include organizations that grant~~

187 ~~membership upon receiving a contribution.~~

188       ~~(19)~~ (22) "Name" means the full first name, middle name or initial, if any, and full legal last  
189 name of an individual and the full name of any association, corporation, committee or other  
190 organization of individuals, making the identity of any person who makes a contribution apparent  
191 by unambiguous reference.

192       ~~(20)~~ (23) "Person" means an individual, corporation, partnership, committee, association  
193 and any other organization or group of individuals.

194       ~~(21)~~ (24) "Political action committee" means ~~a committee organized by one or more~~  
195 ~~persons for the purpose of supporting or opposing the nomination or election of one or more~~  
196 ~~candidates~~ any group of two or more individuals unrelated by marriage, or any other organization  
197 or entity, that makes total contributions or political expenditures of more than the threshold amount  
198 during any calendar year and the major purpose of which is the making of political contributions  
199 or expenditures which are made for political purposes.

200       (A) A group or entity has the major purpose of making contributions or political  
201 expenditures if, during any calendar year, the total amount of contributions or political  
202 expenditures that it makes exceeds half of its total spending on all program activities, including  
203 contributions or political expenditures. Total spending shall not include fundraising or  
204 administrative expenses.

205       (B) The threshold amount shall be \$5,000 for contributions or political expenditures for a  
206 candidacy or candidacies for statewide office and \$1,000 for a candidacy or candidacies for the  
207 State Senate or House of Delegates.

208       (C) In any law-enforcement proceeding, investigation or litigation concerning a group or  
209 entity's alleged failure to register as a political committee, its principal purpose shall not be  
210 considered before it has first been established by the applicable standard of evidence that the  
211 group or entity has made total contributions or political expenditures of more than the threshold  
212 amount.



213 (D) The following are types of political action committees:

214 ~~(A)~~ (i) A corporate political action committee, ~~as that term is defined by subdivision (8) of~~  
 215 ~~this section;~~

216 ~~(B)~~ (ii) A political action committee that is a separate segregated fund of a membership  
 217 organization, as that term is defined by subdivision (18) of this section and that organization may  
 218 only accept contributions from its restricted group as outlined by the rules of the State Election  
 219 Commission;

220 ~~(C)~~ (iii) An unaffiliated political action committee; ~~as that term is defined by subdivision~~  
 221 ~~(29) of this section and~~

222 (iv) A caucus campaign committee.

223 ~~(22)~~ (25) "Political committee" means any candidate committee, political action committee,  
 224 ballot issue committee, caucus campaign committee or political party committee.

225 (26) Political expenditure. —

226 (A) "Political expenditure" means the payment for:

227 (i) Any communications expressly advocating for the election or defeat of a clearly  
 228 identified candidate or candidates affiliated with a political party, or the passage or defeat of a  
 229 ballot issue; or

230 (ii) The republication of any candidate's, candidate committee's, ballot issue committee's,  
 231 political party committee's or political committee's campaign materials.

232 (B) Notwithstanding paragraph (A) of this subdivision, the following are not "political  
 233 expenditures":

234 (i) The republication of materials in a voter guide;

235 (ii) The republication of campaign materials commenting or explaining a candidate's  
 236 position on any issue and that does not expressly advocate the election or defeat of a candidate;

237 (iii) The republication of publicly available photographs or video footage of a candidate,  
 238 and that is devoid of any text or audio content in or from the original material; and

239 (iv) Anything that is excluded from the definition of a “political contribution.”

240 ~~(23)~~ (27) “Political party” means a political party as that term is defined by section eight,  
241 article one of this chapter or any committee established, financed, maintained or controlled by the  
242 party, including any subsidiary, branch or local unit thereof and including national or regional  
243 affiliates of the party.

244 ~~(24)~~ (28) “Political party committee” means a committee established by a political party or  
245 political party caucus for the purposes of engaging in the influencing of the election, nomination  
246 or defeat of a candidate in any election.

247 ~~(25)~~ (29) “Political purposes” means supporting or opposing the nomination, election or  
248 defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the  
249 retirement of the debt of a candidate or political committee or the administration or activities of an  
250 established political party or an organization which has declared itself a political party and  
251 determining the advisability of becoming a candidate under the precandidacy financing provisions  
252 of this chapter.

253 ~~(26)~~ (30) “Targeted to the relevant electorate” means a communication which refers to a  
254 clearly identified candidate for statewide office or the Legislature and which can be received by  
255 one hundred forty thousand or more individuals in the state in the case of a candidacy for  
256 statewide office, eight thousand two hundred twenty or more individuals in the district in the case  
257 of a candidacy for the State Senate and two thousand four hundred ten or more individuals in the  
258 district in the case of a candidacy for the House of Delegates.

259 ~~(27)~~ (31) “Telephone bank” means telephone calls that are targeted to the relevant  
260 electorate, other than telephone calls made by volunteer workers, regardless of whether paid  
261 professionals designed the telephone bank system, developed calling instructions or trained  
262 volunteers.

263 ~~(28)~~ (32) “Two-year election cycle” means the 24-month period that begins the day after  
264 a general election and ends on the day of the subsequent general election.

265 ~~(29)~~ (33) "Unaffiliated political action committee" means a political action committee that  
 266 is not affiliated with a corporation or a membership organization.

**§3-8-2. Accounts for receipts and expenditures in elections; requirements for reporting independent expenditures.**

1 (a) Except for: (1) Candidates for party committeeman and committeewoman; ~~and~~ (2)  
 2 candidates for delegate to the national presidential nominating convention for a political party;  
 3 and (3) federal committees required to file under the provisions of 2 U.S.C. §434 52 U. S. C.  
 4 §30104, all candidates for nomination or election and all ~~persons supporting, aiding or opposing~~  
 5 ~~the nomination, election or defeat of any candidate~~ political committees shall keep for a period of  
 6 six months records of receipts and expenditures which are made for political purposes. All of the  
 7 receipts and expenditures are subject to regulation by the provisions of this article. Verified  
 8 financial statements of the records and expenditures shall be made and filed as public records by  
 9 all candidates and by their financial agents, representatives or any person acting for and on behalf  
 10 of any candidate and by the treasurers of all political party committees.

11 (b)(1) In addition to any other reporting required by the provisions of this chapter, any  
 12 person who, or entity that, makes independent expenditures in an aggregate amount or value in  
 13 excess of \$1,000 during a calendar year shall file a disclosure statement, on a form prescribed  
 14 by the Secretary of State, that contains all of the following information:

15 (A) The name of (i) the person or entity making the expenditure; (ii) ~~the name of any person~~  
 16 ~~sharing or exercising direction or control over the activities of the person making the expenditure~~  
 17 if the person is an entity, the names and a mailing address for each officer and director and the  
 18 highest compensated employee of the entity; and (iii) the name of the custodian of the books and  
 19 accounts of the person making the expenditure;

20 (B) If the person making the expenditure is not an individual, the principal place of business  
 21 of the partnership, corporation, committee, association, organization or group which made the  
 22 expenditure;

23 (C) The amount of each expenditure of more than \$1,000 made during the period covered  
24 by the statement and the name of the person to whom the expenditure was made;

25 (D) The elections to which the independent expenditure pertain, the names, if known, of  
26 the candidates referred to or to be referred to therein, whether the expenditure is intended to  
27 support or oppose the identified candidates and the amount of the total expenditure reported  
28 pursuant to paragraph (C) of this subdivision spent to support or oppose each of the identified  
29 candidates;

30 (E) The name and address of any person who contributed a total of more than ~~\$250~~ \$1,000  
31 between the first day of the preceding calendar year, and the disclosure date, and whose  
32 contributions were made for the explicit purpose of furthering ~~the~~ any independent expenditure.

33 (F) With regard to the contributors required to be listed pursuant to paragraph (E) of this  
34 subdivision, the statement shall also include:

35 (i) The month, day and year that the contributions of any single contributor exceeded ~~\$250~~  
36 \$1,000;

37 (ii) If the contributor is a political action committee, the name and address the political  
38 action committee registered with the Secretary of State, county clerk or municipal clerk;

39 (iii) If the contributor is an individual, the name and address of the individual, his or her  
40 occupation, the name and address of the individual's current employer, if any, or, if the individual  
41 is self-employed, the name and address of the individual's business, if any;

42 (iv) A description of the contribution, if other than money; and

43 (v) The value in dollars and cents of the contribution.

44 (G)(1) A certification that such independent expenditure was not made in cooperation,  
45 consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized  
46 committee or agent of such candidate.

47 (2) Any person who makes a contribution for the purpose of funding an independent  
48 expenditure under this subsection shall, at the time the contribution is made, provide his or her

49 name, address, occupation, his or her current employer, if any, or, if the individual is self-  
50 employed, the name of his or her business, if any, to the recipient of the contribution.

51 (3) The Secretary of State shall expeditiously prepare indices setting forth, on a candidate-  
52 by-candidate basis, all independent expenditures separately, made by, or on behalf of, or for, or  
53 against each candidate, as reported under this subsection, and for periodically publishing such  
54 indices on a timely preelection basis.

55 (c)(1) A person, including a political committee, who makes or contracts to make  
56 independent expenditures aggregating ~~\$1,000~~ \$5,000 or more for any statewide, legislative or  
57 multicounty judicial candidate or ~~\$500~~ \$1,000 or more for any county office, single-county judicial  
58 candidate, committee supporting or opposing a candidate on the ballot in more than one county,  
59 or any municipal candidate on a municipal election ballot, after the fifteenth day, but more than  
60 twelve hours, before the date of an election, shall file a report on a form prescribed by the  
61 Secretary of State, describing the expenditures within twenty-four hours: *Provided*, That a person  
62 making expenditures in the amount of ~~\$1,000~~ \$5,000 or more for any statewide candidate or  
63 \$1,000 for any legislative candidate on or after the fifteenth day but more than twelve hours before  
64 the day of any election shall report such expenditures in accordance with section two-b of this  
65 article and shall not file an additional report as provided herein.

66 (2) Any person who files a report under subdivision (1) of this subsection, shall file an  
67 additional report within twenty-four hours after each time the person makes or contracts to make  
68 independent expenditures aggregating an additional ~~\$500~~ \$1,000 with respect to the same  
69 election, for any county office, single-county judicial candidate, committee supporting or opposing  
70 a candidate on the ballot in more than one county, or any municipal candidate on a municipal  
71 election ballot, as that to which the initial report relates.

72 (d)(1) A person, including a political committee, who makes or contracts to make  
73 independent expenditures aggregating \$10,000 or more at any time up to and including the  
74 fifteenth day before the date of an election shall file a report on a form prescribed by the Secretary

75 of State, describing the expenditures within forty-eight hours.

76 (2) A person who files a report under subdivision (1) of this subsection, ~~the person~~ shall  
77 file an additional report within forty-eight hours after each time the person makes or contracts to  
78 make independent expenditures aggregating an additional \$10,000 with respect to the same  
79 election as that to which the initial report relates.

80 (e) Any communication paid for by an independent expenditure must include a clear and  
81 conspicuous public notice that:

82 (1) Clearly states that the communication is not authorized by the candidate or the  
83 candidate's committee; and

84 (2) Clearly identifies the person making the expenditure: *Provided*, That if the  
85 communication appears on or is disseminated by broadcast, cable or satellite transmission, the  
86 statement required by this subsection must be both spoken clearly and appear in clearly readable  
87 writing at the end of the communication.

88 (f) Any person who has spent a total of \$5,000 or more for the direct costs of purchasing,  
89 producing or disseminating electioneering communications during any calendar year shall  
90 maintain all financial records and receipts related to such expenditure for a period of six months  
91 following the filing of a disclosure pursuant to subsection (a) of this section and, upon request,  
92 shall make such records and receipts available to the Secretary of State or county clerk for the  
93 purpose of an audit as provided in section seven of this article.

94 (g) Any person who willfully fails to comply with this section is guilty of a misdemeanor  
95 and, upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more  
96 than one year, or both fined and confined.

97 (h)(1) Any person who is required to file a statement under this section may file the  
98 statement by facsimile device or electronic mail, in accordance with such rules as the Secretary  
99 of State may promulgate.

100 (2) The Secretary of State shall make any document filed electronically pursuant to this

101 subsection accessible to the public on the Internet not later than twenty-four hours after the  
102 document is received by the secretary.

103 (3) In promulgating a rule under this subsection, the secretary shall provide methods, other  
104 than requiring a signature on the document being filed, for verifying the documents covered by  
105 the rule. Any document verified under any of the methods shall be treated for all purposes,  
106 including penalties for perjury, in the same manner as a document verified by signature.

107 (i) This section does not apply to candidates for federal office.

108 (j) The Secretary of State may promulgate emergency and legislative rules, in accordance  
109 with the provisions of chapter twenty-nine-a of this code, to establish guidelines for the  
110 administration of this section.

**§3-8-2b. Disclosure of electioneering communication.**

1 (a) Every person who has spent:

2 (1) A total of \$5,000 or more for the direct costs of purchasing, producing or disseminating  
3 electioneering communications during any calendar year; or

4 (2) A total of \$1,000 or more on or after the fifteenth day but more than twelve hours before  
5 the day of any election for the direct costs of purchasing, producing or disseminating  
6 electioneering communications during any calendar year shall, within twenty-four hours of each  
7 disclosure date, file with the Secretary of State a statement which contains all of the information  
8 listed in subsection (b) of this section.

9 (b)(1) The name of the person making the expenditure, ~~the name of any person sharing~~  
10 ~~or exercising direction or control over the activities of the person making the expenditure~~ the  
11 names and a mailing address for each officer and director and the highest compensated  
12 employee of the entity if the person is an entity, and the name of the custodian of the books and  
13 accounts of the person making the expenditure;

14 (2) If the person making the expenditure is not an individual, the principal place of business  
15 of the partnership, committee, association, organization or group which made the expenditure;

16 (3) The amount of each expenditure of more than \$1,000 made for electioneering  
17 communications during the period covered by the statement and the name of the person to whom  
18 the expenditure was made;

19 (4) The elections to which the electioneering communications pertain, the names, if  
20 known, of the candidates referred to or to be referred to therein, whether the electioneering  
21 communication is intended to support or oppose the identified candidates and the amount of the  
22 total expenditure reported in subdivision (3) of this subsection spent to support or oppose each of  
23 the identified candidates; and

24 (5) The names and addresses of any contributors who contributed a total of more than  
25 \$1,000 between the first day of the preceding calendar year and the disclosure date and whose  
26 contributions were ~~used to pay for~~ made for the explicit purpose of financing any electioneering  
27 communications.

28 (c) With regard to the contributors required to be listed pursuant to subdivision (5),  
29 subsection (b) of this section, the statement shall also include:

30 (1) The month, day and year that the contributions of any single contributor exceeded  
31 ~~\$250~~ \$1,000;

32 (2) If the contributor is a political action committee, the name and address the political  
33 action committee registered with the State Election Commission;

34 (3) If the contributor is an individual, the name and address of the individual, his or her  
35 occupation, the name and address of the individual's current employer, if any, or, if the individual  
36 is self-employed, the name and address of the individual's business, if any;

37 (4) A description of the contribution, if other than money;

38 (5) The value in dollars and cents of the contribution.

39 (d) (1) Any person who makes a contribution for the purpose of funding the direct costs of  
40 purchasing, producing or disseminating an electioneering communication under this section shall,  
41 at the time the contribution is made, provide his or her name and address to the recipient of the



42 contribution;

43 (2) Any individual who makes contributions totaling \$250 or more between the first day of  
44 the preceding calendar year and the disclosure date for the purpose of funding the direct costs of  
45 purchasing, producing or disseminating electioneering communications shall, at the time the  
46 contribution is made, provide the name of his or her occupation and of his or her current employer,  
47 if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient  
48 of the contribution.

49 (e) In each electioneering communication, a statement shall appear or be presented in a  
50 clear and conspicuous manner that:

51 (1) Clearly indicates that the electioneering communication is not authorized by the  
52 candidate or the candidate's committee; and

53 (2) Clearly identifies the person making the expenditure for the electioneering  
54 communication: *Provided*, That if the electioneering communication appears on or is  
55 disseminated by broadcast, cable or satellite transmission, the statement required by this  
56 subsection must be both spoken clearly and appear in clearly readable writing at the end of the  
57 communication.

58 (f) Within five business days after receiving a disclosure of electioneering communications  
59 statement pursuant to this section, the Secretary of State shall make information in the statement  
60 available to the public through the Internet.

61 (g) For the purposes of this section, a person is considered to have made an expenditure  
62 when the person has entered into a contract to make the expenditure at a future time.

63 (h) The Secretary of State is hereby directed to propose legislative rules and emergency  
64 rules implementing this section for legislative approval in accordance with the provisions of article  
65 three, chapter twenty-nine-a of this code.

66 (i) If any person, including, but not limited to, a political organization (as defined in Section  
67 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any expenditure

68 for electioneering communications which is coordinated with and made with the cooperation,  
69 consent or prior knowledge of a candidate, candidate's committee or agent of a candidate, the  
70 expenditure shall be treated as a contribution and expenditure by the candidate. If the expenditure  
71 is coordinated with and made with the cooperation or consent of a state or local political party or  
72 committee, agent or official of that party, the expenditure shall be treated as a contribution to and  
73 expenditure by the candidate's party.

74 (j) This section does not apply to candidates for federal office. This section is not intended  
75 to restrict or to expand any limitations on, obligations of or prohibitions against any candidate,  
76 committee, agent, contributor or contribution contained in any other provision of this chapter.

**§3-8-2c. Party headquarters committee; detailed accounts and verified financial statements; funding for headquarters; limitations; reporting requirements.**

1 (a) Notwithstanding the definitions contained in section one-a of this article, for purposes  
2 of this section:

3 (1) "Contribution" means a gift, subscription, loan, assessment, payment for services,  
4 dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other  
5 tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other  
6 tangible thing of value to a person, made for the purpose of funding the rental, purchase,  
7 construction or financing of the lease, purchase or construction of a party headquarters, and for  
8 the utilities, maintenance, furniture, fixtures and equipment for the party headquarters. An offer or  
9 tender of a contribution is not a contribution if expressly and unconditionally rejected or returned.  
10 A contribution does not include volunteer personal services provided without compensation:  
11 *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting  
12 requirements and contribution limitations.

13 (2) "Party headquarters" means a physical structure or structures that is the physical  
14 location of the office of a state executive committee of a political party.

15 (3) "Party headquarters committee" includes any person, organization or group of persons

16 soliciting or receiving contributions for the purpose of funding the lease, purchase, construction  
17 or financing of the lease, purchase or construction of a party headquarters, including utilities,  
18 maintenance, furniture, fixtures and equipment for the party headquarters.

19 (b) A political party may establish a party headquarters committee to solicit and receive  
20 contributions for the exclusive purpose of the purchase, construction or lease of an office building  
21 or financing of the lease, purchase or construction of a party headquarters, including utilities,  
22 maintenance, furniture, fixtures and equipment, to be used as a state political party's  
23 headquarters.

24 (c) Contributions received pursuant to this section may not be expended for:

25 (1) The purchase, construction or lease of satellite offices or other facilities;

26 (2) Utilities, maintenance, furniture, fixtures, equipment or signage for satellite offices or  
27 other facilities; or

28 (3) Political purposes.

29 (d) A party headquarters committee may not accept contributions in excess \$10,000, in  
30 the aggregate, from any person for the purposes of this section.

31 (e) A party headquarters committee may not receive contributions or make expenditures  
32 for the purpose of funding the rental, purchase, construction or financing of a state executive  
33 committee headquarters in excess of \$1 million.

34 (f)(1) A party headquarters committee, financial agent or any person or officer acting on  
35 behalf of the committee that is subject to the provisions of this section, shall file a verified financial  
36 statement with the Secretary of State, on a form prescribed by the secretary, within ninety days  
37 of any contribution or expenditure in excess of ~~\$250~~ \$1,000.

38 (2) Each financial statement shall contain, but is not limited to, the following information:

39 (A) The name, residence and mailing address and telephone number of the party  
40 headquarters committee, financial agent or any person or officer acting on behalf of the  
41 committee, filing the financial statement.

42 (B) The balance of cash and any other sum of money on hand at the beginning and the  
43 end of the period covered by the financial statement.

44 (C) The name of any person making a contribution, the amount of the contribution, and  
45 the residence and mailing address of the contributor.

46 (D) The total amount of contributions received during the period covered by the financial  
47 statement.

48 (E) The name, residence and mailing address of any individual or the name and mailing  
49 address of each lending institution making a loan, the amount of any loan received, the date and  
50 terms of the loan, including the interest and repayment schedule, and a copy of the loan  
51 agreement.

52 (F) The name, residence and mailing address of any individual or the name and mailing  
53 address of each partnership, firm, association, committee, organization or group having  
54 previously made or cosigned a loan for which payment is made or a balance is outstanding at the  
55 end of the period, together with the amount of repayment on the loan made during the period and  
56 the balance at the end of the period.

57 (G) The total outstanding balance of all loans at the end of the period.

58 (H) The name, residence and mailing address of any person to whom each expenditure  
59 was made or liability incurred, together with the amount and purpose of each expenditure or  
60 liability incurred and the date of each transaction.

61 (I) The total amount of expenditures made during the period covered by the financial  
62 statement.

63 (3) The Secretary of State shall file and retain the statements as public records for not less  
64 than six years.

65 (g) Contributions received by a party headquarters committee may be contributed to any  
66 educational, cultural or charitable organization.

67 (h) The Secretary of State shall propose rules for legislative approval in accordance with

68 the provisions of article three, chapter twenty-nine-a of this code to effectuate the provisions of  
69 this section.

**§3-8-5. Detailed accounts and verified financial statements required.**

1 (a) Every candidate ~~treasurer, person and association of persons, organization of any~~  
2 ~~kind, including every corporation, directly, or by an independent expenditure, supporting a political~~  
3 ~~committee established pursuant to paragraph (C), subdivision (1), subsection (b), section eight of~~  
4 ~~this article or engaging in other activities permitted by this section and also including the treasurer~~  
5 ~~or equivalent officer of the association or organization, expressly advocating the election or defeat~~  
6 ~~of a clearly identified candidate for state, district, county or municipal office and the treasurer of~~  
7 every political committee shall keep detailed accounts of every sum of money or other thing of  
8 value received by him or her, including all loans of money or things of value and of all expenditures  
9 and disbursements made, liabilities incurred by the candidate ~~financial agent, person, association~~  
10 ~~or organization or committee, for political purposes, or by any of the officers or members of the~~  
11 ~~committee, or any person acting under its authority or on its behalf~~ or political committee. Any  
12 entity that is not a political committee and makes reportable independent expenditures or  
13 electioneering communications shall keep detailed accounts of every sum of money or other thing  
14 of value received by him or her received for the explicit purpose of furthering any independent  
15 expenditure or electioneering communication and of all disbursements made for independent  
16 expenditures or electioneering communications.

17 (b) Every ~~person or association of persons~~ candidate or political committee required to  
18 keep detailed accounts under this section shall file with the officers hereinafter prescribed a  
19 detailed itemized sworn statement:

20 (1) Of all financial transactions, whenever the total exceeds ~~\$500~~ \$1,000 which have taken  
21 place before the last Saturday in March, to be filed within six days thereafter and annually  
22 whenever the total of all financial transactions relating to an election exceeds ~~\$500~~ \$1,000;

23 (2) Of all financial transactions which have taken place before the fifteenth day preceding

24 each primary or other election and subsequent to the previous statement, if any, to be filed within  
 25 four business days after the fifteenth day;

26 (3) Of all financial transactions which have taken place before the thirteenth day after each  
 27 primary or other election and subsequent to the previous statement, if any, to be filed within twenty  
 28 business days after the thirteenth day; and

29 (4) Of all financial transactions, whenever the total exceeds ~~\$500~~ \$1,000 or whenever any  
 30 loans are outstanding, which have taken place before the forty-third day preceding the general or  
 31 other election, ~~day~~ to be filed within four business days after the forty-third day.

32 (c) Every person who announces as a write-in candidate for any elective office and his or  
 33 her financial agent or election organization of any kind shall comply with all of the requirements  
 34 of this section after public announcement of the person's candidacy has been made.

35 (d) For purposes of this section, the term "financial transactions" includes all contributions  
 36 or loans received and all repayments of loans or expenditures made ~~to promote the candidacy of~~  
 37 ~~any person by any candidate or any organization advocating or opposing the nomination, election~~  
 38 ~~or defeat of any candidate to be voted on~~ by any candidate or political committee.

39 (e) Candidates for the office of conservation district supervisor elected pursuant to the  
 40 provisions of §19-21A-1 et seq. of this code are required to file only the reports required by  
 41 subdivisions (2) and (3), subsection (b) of this section immediately prior to and after the primary  
 42 election. ~~Provided, That during the election in the year 2008, the statements required by this~~  
 43 ~~subsection shall be filed immediately prior to and after the general election~~

**§3-8-5a. Information required in financial statement.**

1 (a) Each financial statement required by the provisions of this article, other than a  
 2 disclosure of independent expenditures pursuant to section two-a of this article or electioneering  
 3 communications pursuant to section two-b of this article, shall contain only the following  
 4 information:

5 (1) The name, residence and mailing address and telephone number of each candidate,

6 financial agent, treasurer or person and the name, address and telephone number of each  
7 association, organization or committee filing a financial statement.

8 (2) The balance of cash and any other sum of money on hand at the beginning and the  
9 end of the period covered by the financial statement.

10 (3) The name of any person making a contribution and the amount of the contribution. If  
11 the total contributions of any one person in any one election cycle amount to more than \$250, the  
12 residence and mailing address of the contributor and, if the contributor is an individual, ~~his or her~~  
13 ~~major business affiliation and occupation~~ the name and address of the individual's current  
14 employer, if any, or, if the individual is self-employed, the name and address of the individual's  
15 business, if any, shall also be reported. A contribution ~~totaling more than \$50~~ of currency of the  
16 United States or currency of any foreign country by any one contributor is prohibited and a  
17 violation of section five-d of this article. The statement on which contributions are required to be  
18 reported by this subdivision may not distinguish between contributions made by individuals and  
19 contributions made by partnerships, firms, associations, committees, organizations or groups.

20 (4) The total amount of contributions received during the period covered by the financial  
21 statement.

22 (5) The name, residence and mailing address of any individual or the name and mailing  
23 address of each lending institution making a loan or of the spouse cosigning a loan, as  
24 appropriate, the amount of any loan received, the date and terms of the loan, including the interest  
25 and repayment schedule, and a copy of the loan agreement.

26 (6) The name, residence and mailing address of any individual or the name and mailing  
27 address of each partnership, firm, association, committee, organization or group having  
28 previously made or cosigned a loan for which payment is made or a balance is outstanding at the  
29 end of the period, together with the amount of repayment on the loan made during the period and  
30 the balance at the end of the period.

31 (7) The total outstanding balance of all loans at the end of the period.

32 (8) The name, residence and mailing address of any person to whom each expenditure  
33 was made or liability incurred, including expenditures made on behalf of a candidate or political  
34 committee that otherwise are not made directly by the candidate or political committee, together  
35 with the amount and purpose of each expenditure or liability incurred and the date of each  
36 transaction.

37 (9) The total expenditure for the nomination, election or defeat of a candidate or any  
38 person supporting, aiding or opposing the nomination, election or defeat of any candidate in  
39 whose behalf an expenditure was made or a contribution was given for the primary or other  
40 election.

41 (10) The total amount of expenditures made during the period covered by the financial  
42 statement.

43 (b) Any unexpended balance at the time of making the financial statements herein  
44 provided for shall be properly accounted for in that financial statement and shall appear as a  
45 beginning balance in the next financial statement.

46 (c) Each financial statement required by this section shall contain a separate section  
47 setting forth the following information for each fund-raising event held during the period covered  
48 by the financial statement:

49 (1) The type of event, date held and address and name, if any, of the place where the  
50 event was held.

51 (2) All of the information required by subdivision (3), subsection (a) of this section.

52 (3) The total of all moneys received at the fund-raising event.

53 (4) The expenditures incident to the fund-raising event.

54 (5) The net receipts of the fund-raising event.

55 (d) When any lump sum payment is made to any advertising agency or other disbursing  
56 person who does not file a report of detailed accounts and verified financial statements as required  
57 in this section, such lump sum expenditures shall be accounted for in the same manner as



58 provided for herein.

59 (e) Any contribution or expenditure made by or on behalf of a candidate for public office  
60 to any other candidate or committee for a candidate for any public office in the same election shall  
61 be accounted for in accordance with the provisions of this section.

62 (f) No person may make any contribution except from his, her or its own funds, unless  
63 such person discloses in writing to the person required to report under this section the name,  
64 residence, mailing address, major business affiliation and occupation of the person which  
65 furnished the funds to the contributor. All such disclosures shall be included in the statement  
66 required by this section.

67 (g) Any firm, association, committee or fund permitted by section eight of this article to be  
68 a political committee shall disclose on the financial statement its corporate or other affiliation.

69 (h) No contribution may be made, directly or indirectly, in a fictitious name, anonymously  
70 or by one person through an agent, relative or other person so as to conceal the identity of the  
71 source of the contribution or in any other manner so as to effect concealment of the contributor's  
72 identity.

73 (i) No person may accept any contribution for the purpose of influencing the nomination,  
74 election or defeat of a candidate or for the passage or defeat of any ballot issue unless the identity  
75 of the donor and the amount of the contribution is known and reported.

76 (j) When any person receives an anonymous contribution which cannot be returned  
77 because the donor cannot be identified, that contribution shall be donated to the General Revenue  
78 Fund of the state. Any anonymous contribution shall be recorded as such on the candidate's  
79 financial statement, but may not be expended for election expenses. At the time of filing, the  
80 financial statement shall include a statement of distribution of anonymous contributions, which  
81 total amount shall equal the total of all anonymous contributions received during the period.

82 ~~(k) Any membership organization which raises funds for political purposes by payroll~~  
83 ~~deduction, assessing them as part of its membership dues or as a separate assessment, may~~

84 ~~report the amount raised as follows:~~

85 ~~(1) If the portion of dues or assessments designated for political purposes equals \$25 or~~  
86 ~~less per member over the course of a calendar year, the total amount raised for political purposes~~  
87 ~~through membership dues or assessments during the period is reported by showing the amount~~  
88 ~~required to be paid by each member and the number of members.~~

89 ~~(2) If the total payroll deduction for political purposes of each participating member equals~~  
90 ~~\$25 or less over the course of a calendar or fiscal year, as specified by the organization, the~~  
91 ~~organization shall report the total amount received for political purposes through payroll~~  
92 ~~deductions during the reporting period and, to the maximum extent possible, the amount of each~~  
93 ~~yearly payroll deduction contribution level and the number of members contributing at each such~~  
94 ~~specified level. The membership organization shall maintain records of the name and yearly~~  
95 ~~payroll deduction amounts of each participating member.~~

96 ~~(3) If any member contributes to the membership organization through individual voluntary~~  
97 ~~contributions by means other than payroll deduction, membership dues, or assessments as~~  
98 ~~provided in this subsection, the reporting requirements of subdivision (3), subsection (a) of this~~  
99 ~~section shall apply. Funds raised for political purposes must be segregated from the funds for~~  
100 ~~other purposes and listed in its report~~

101 ~~(j) (k)~~ Notwithstanding the provisions of ~~section five of this article §3-8-5~~ of this code or of  
102 the provisions of this section to the contrary, an alternative reporting procedure may be followed  
103 by a political party committee in filing financial reports for fund-raising events if the total profit does  
104 not exceed \$5,000 per year. A political party committee may report gross receipts for the sale of  
105 food, beverages, services, novelty items, raffle tickets or memorabilia, except that any receipt of  
106 more than \$50 from an individual or organization shall be reported as a contribution. A political  
107 party committee using this alternative method of reporting shall report:

108 (i) The name of the committee;

109 (ii) The type of fund-raising activity undertaken;

- 110 (iii) The location where the activity occurred;
- 111 (iv) The date of the fundraiser;
- 112 (v) The name of any individual who contributed more than \$50 worth of items to be sold;
- 113 (vi) The name and amount received from any person or organization purchasing more
- 114 than \$50 worth of food, beverages, services, novelty items, raffle tickets or memorabilia;
- 115 (vii) The gross receipts of the fundraiser; and
- 116 (viii) The date, amount, purpose and name and address of each person or organization
- 117 from whom items with a fair market value of more than \$50 were purchased for resale.

**§3-8-5b. Where financial statements shall be filed; filing date prescribed.**

- 1 (a) The financial statements provided ~~for~~ in this article shall be filed, by or on behalf of
- 2 candidates, with:
- 3 (1) The Secretary of State for legislative offices, circuit judge and family court judge, and
- 4 for statewide and other offices to be nominated or elected by the voters of a political division
- 5 greater than a county;
- 6 (2) The clerk of the county commission by candidates for offices to be nominated or
- 7 elected by the voters of a single county or a political division within a single county except circuit
- 8 judge and family court judge; or
- 9 (3) The proper municipal officer by candidates for office to be nominated or elected to
- 10 municipal office.
- 11 (b) The statements may be filed by mail, in person, or by facsimile or other electronic
- 12 means of transmission: *Provided*, That the financial statements filed by or on behalf of candidates
- 13 for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of
- 14 Agriculture, ~~and~~ Supreme Court of Appeals, political action committees, ballot issue committees,
- 15 persons or entities engaging in electioneering communications and persons or entities making
- 16 independent expenditures shall be filed electronically by the means of an Internet program that
- 17 has been established by the Secretary of State on forms or in a format prescribed by the Secretary

18 of State: *Provided, however,* That after January 1, 2018, unless a committee has been granted  
19 an exemption in case of hardship pursuant to subsection (c) of this section, all such statements  
20 required to be filed with the Secretary of State, on or behalf of a candidate for any elective office,  
21 shall be filed electronically by means of the Internet program that has been established by the  
22 Secretary of State. If through or by no fault of the candidate the candidate is unable to file the  
23 campaign financial statement, the candidate shall then file said statement in person, via facsimile  
24 or other electronic means of transmission, or by certified mail postmarked at the first reasonable  
25 opportunity.

26 (c) Committees required to report electronically may apply to the State Election  
27 Commission for an exemption from mandatory electronic filing in the case of hardship. An  
28 exemption may be granted at the discretion of the State Election Commission.

29 (d) For purposes of this article, the filing date of a financial statement shall, in the case of  
30 mailing, be the date of the postmark of the United States Postal Service, and in the case of hand  
31 delivery or delivery by facsimile or other electronic means of transmission, the date delivered to  
32 the office of the Secretary of State or to the office of the clerk of the county commission, in  
33 accordance with the provisions of subsection (a) of this section, during regular business hours of  
34 that office.

35 (e) The sworn financial statements required to be filed by this section with the Secretary  
36 of State shall be posted on the Internet by the Secretary of State within ten business days from  
37 the date the financial statement is was filed.

### **§3-8-5d. Offenses and penalties.**

1 (a) Any person who makes or receives a contribution of currency of the United States or  
2 currency of any foreign country of more than \$50 in value is guilty of a misdemeanor and, upon  
3 conviction, shall be fined a sum equal to three times the amount of the contribution: Provided,  
4 That it shall not be a violation of this subsection to receive currency in exchange for goods or  
5 services provided by the recipient.

6 (b) Notwithstanding any provision of section twenty-four, article nine of this chapter to the  
7 contrary, a criminal prosecution or civil action for a violation of this article may be commenced  
8 within five years after the violation occurred.

9 (c) No person required to report under this article shall be found in violation of this article  
10 if any person, firm, association or committee making a contribution has provided false information  
11 to such person: *Provided*, That any person, firm, association or committee who provides false  
12 information to a person required to report under this article is guilty of a misdemeanor and, subject  
13 to the penalties provided in section twenty-three, article nine of this chapter.

**§3-8-5f. Loans to candidates, organizations or persons for election purposes.**

1 (a) No candidate, financial agent, person or association of persons or organization  
2 advocating or opposing the nomination or election of any candidate or the passage or defeat of  
3 any issue or item to be voted upon may receive any money or any other thing of value as a loan  
4 toward election expenses except from the candidate, his or her spouse or a lending institution. All  
5 loans shall be evidenced by a written agreement executed by the lender, whether the candidate,  
6 his or her spouse, or the lending institution. Such agreement shall state the date and amount of  
7 the loan, the terms, including interest and repayment schedule, and a description of the collateral,  
8 if any, and the full names and addresses of all parties to the agreement. A copy of the agreement  
9 shall be filed with the financial statement next required after the loan is executed.

10 (b) Loans may only be made in the regular course of business by a lending institution  
11 which is a state bank, a federally chartered depository institution (including a national bank) or a  
12 depository institution whose deposits are insured by the federal deposit insurance corporation or  
13 the national credit union administration. Such loans shall be subject to the following requirements:

14 (1) Endorsements or guarantees of such loans may be made by the candidate or his or  
15 her spouse;

16 (2) Endorsements or guarantees of such loans by parties other than the candidate or his  
17 or her spouse may be made only to the extent of the contribution limits; ~~established in this article~~

18 and

19 (3) No other form of security shall be furnished in connection with such loans by any party  
20 other than the candidate or his or her spouse.

21 (c) The provisions of this section shall not be construed to prohibit a candidate or his or  
22 her spouse from lending money to the candidate or to the candidate's political committee:  
23 *Provided*, That the spouse of a candidate may not borrow money from a third party other than a  
24 lending institution authorized to make loans under this section for the purposes of lending money  
25 to the candidate or the candidate's political committee.

**§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.**

1 (a) Any ~~person~~ candidate ~~financial agent~~ or treasurer of a political ~~party~~ committee who  
2 fails to file a sworn, itemized statement required by this article within the time limitations specified  
3 in this article or who willfully files a grossly incomplete or grossly inaccurate statement is guilty of  
4 a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 or confined in jail  
5 for not more than one year, or both, ~~fined and confined~~ in the discretion of the court. Sixty days  
6 after any primary or other election, the Secretary of State, county clerk or municipal recorder, as  
7 the case may be, shall give notice of any failure to file a sworn statement or the filing of any  
8 grossly incomplete or grossly inaccurate statement by any person, candidate, financial agent or  
9 treasurer of a political party committee and forward copies of any grossly incomplete or grossly  
10 inaccurate statement to the prosecuting attorney of the county where the person, candidate,  
11 financial agent or treasurer resides, is located or has its principal place of business.

12 (b) (1) Any ~~person~~ candidate ~~financial agent~~ or treasurer of a political ~~party~~ committee who  
13 fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete  
14 or grossly inaccurate statement may be assessed a civil penalty by the Secretary of State of  
15 \$25.00 a day for each day after the due date the statement is delinquent, grossly incomplete or  
16 grossly inaccurate. Sixty days after any primary or other election, the county clerk shall give notice

17 to the Secretary of State of any failure to file a sworn statement or the filing of any grossly  
18 incomplete or grossly inaccurate statement by any person, candidate, financial agent or treasurer  
19 of a political party committee and forward copies of such delinquent, incomplete or inaccurate  
20 statements to the Secretary of State.

21 (2) A civil penalty assessed pursuant to this section shall be payable to the State of West  
22 Virginia and is collectable as authorized by law for the collection of debts.

23 (3) The Secretary of State may negotiate and enter into settlement agreements for the  
24 payment of civil penalties assessed as a result of the filing of a delinquent, grossly incomplete or  
25 inaccurate statement.

26 (4) The Secretary of State and county clerk may review and audit any sworn statement  
27 required to be filed pursuant to this article. The State Election Commission shall propose  
28 legislative rules for promulgation, in accordance with chapter twenty-nine-a of this code, to  
29 establish procedures for the assessment of civil penalties as provided in this section.

30 (c) (1) ~~No~~ Any candidate, whether nominated by a primary election or appointed by  
31 executive committee or executive committee chair, who has failed to file ~~any~~ a sworn statement  
32 as required by this article, relating to the immediately preceding primary election for any office by  
33 the eighty-fourth day before the general election, is disqualified and may not have his or her name  
34 ~~appear~~ placed on the general election ballot. The provisions of §3-8-5b(d) of this code  
35 notwithstanding, any sworn statement filed after the deadline required by §3-8-5 of this code must  
36 be received in the office indicated by §3-8-5b(a) of this code by the close of business on the  
37 eighty-fourth day before the general election.

38 (2) It is unlawful to issue a commission or certificate of election, or to administer the oath  
39 of office, to any person elected to any public office who has failed to file ~~any~~ a sworn statement  
40 as required by this article and no person may enter upon the duties of his or her office until he or  
41 she has filed such statement, nor may he or she receive any salary or emolument for any period  
42 prior to the filing of the statement.

43 (3) The vacancy on the ballot created by the disqualification in this subsection is subject  
44 to §3-5-19 of this code.

45 (d) As used in this section, “grossly” means substantive and material, and specifically  
46 includes false or misleading representations and acts of omissions.

47 (e) The Secretary of State shall provide by rule protocols for written notice via certified  
48 mail, return receipt requested, to the person, candidate, financial agent or treasurer of a political  
49 party committee that is not in compliance with the requirements of this section. With respect to a  
50 violation of subsection (c) of this section, the notice shall be provided sixty days after any primary  
51 or other election.

**§3-8-8. Corporation and membership organization contributions forbidden; exceptions;  
penalties; promulgation of rules; additional powers of State Election Commission.**

1 (a) ~~An officer, agent or person acting on behalf of any corporation, whether incorporated~~  
2 ~~under the laws of this or any other state or of a foreign country, may not pay, give, lend or authorize~~  
3 ~~to be paid, any~~ No money or other thing of value belonging to the a corporation or membership  
4 organization may be made as a contribution to any political committee.

5 (b) A person may not solicit or receive any ~~payment contribution or other thing from any~~  
6 ~~corporation or from any officer, agent or other person acting on behalf of the corporation to any~~  
7 ~~candidate or candidate’s campaign for nomination or election to any statewide office or any other~~  
8 ~~elective office in the state or any of its subdivisions~~ corporation or membership organization to  
9 any candidate or candidate’s campaign for nomination or election to any statewide office or any  
10 other elective office in the state or any of its subdivisions.

11 (c)(1) The provisions of this section do not prohibit a corporation or membership  
12 organization from soliciting, through any officer, agent or person acting on behalf of the  
13 corporation or membership organization, contributions to a separate segregated fund to be used  
14 for political purposes. Any separate segregated fund is considered a political action committee for  
15 the purpose of this article and is subject to all reporting requirements applicable to political action



16 committees;

17 (2) It is unlawful for:

18 (A) A corporation, membership organization or separate segregated fund to make a  
19 primary or other election contribution or expenditure by using money or anything of value secured:

20 (i) By physical force, job discrimination or financial reprisal; (ii) by the threat of force, job  
21 discrimination or financial reprisal; or (iii) as a condition of employment;

22 (B) Any person soliciting a membership organization member, stockholder or executive or  
23 administrative personnel and members of their families for a contribution to a corporation,  
24 membership organization or separate segregated fund to fail to inform the person solicited of the  
25 political purposes of the separate segregated fund at the time of the solicitation;

26 (C) Any person soliciting any other person for a contribution to a corporation, membership  
27 organization or separate segregated fund to fail to inform the person solicited at the time of the  
28 solicitation of his or her right to refuse to contribute without any reprisal;

29 (D) A separate segregated fund established by a membership organization or corporation:

30 (i) To solicit contributions to the fund from any person other than the membership organization's  
31 members or the corporation's stockholders and their families and its executive or administrative  
32 personnel and their families; or (ii) to contribute any corporate or membership organization funds;

33 (E) A separate segregated fund established by a corporation or membership organization  
34 to receive contributions to the fund from any person other than the corporation's stockholders or  
35 membership organization members and their immediate families and ~~its~~ their executive or  
36 administrative personnel and their immediate families;

37 (F) A corporation or membership organization to engage in job discrimination or to  
38 discriminate in job promotion or transfer because of an employee's or member's failure to make  
39 a contribution to the corporation, membership organization or a separate segregated fund;

40 (G) A ~~separate segregated fund~~ corporation or membership organization to make any a  
41 contribution ~~directly or indirectly, in excess of \$1,000 in connection with or on behalf of any~~

42 ~~campaign for nomination or election to any elective office in the state or any of its subdivisions,~~  
43 ~~or in connection with or on behalf of any committee or other organization or person engaged in~~  
44 ~~furthering, advancing, supporting or aiding the nomination or election of any candidate for any~~  
45 ~~such office;~~

46 ~~(H) A corporation to pay, give or lend or to authorize payment, giving or lending of any~~  
47 ~~moneys or other things of value belonging to the corporation to a separate segregated fund for~~  
48 the purpose of making a contribution to a candidate or a candidate's committee. This provision  
49 does not prohibit a separate segregated fund from using the property, real or personal, facilities  
50 and equipment of a corporation or membership organization solely to establish, administer and  
51 solicit contributions to the fund, subject to the rules of the State Election Commission as provided  
52 in subsection (d) of this section: *Provided*, That any such corporation or membership organization  
53 shall also permit any group of its employees represented by a bona fide political action committee  
54 to use the real property of the corporation or membership organization solely to establish,  
55 administer and solicit contributions to the fund of the political action committee, subject to the  
56 rules of the State Election Commission promulgated in accordance with said subsection.

57 (3) For the purposes of this section, the term "executive or administrative personnel"  
58 means individuals employed by a corporation or membership organization who are paid on a  
59 salary rather than hourly basis and who have policy-making, managerial, professional or  
60 supervisory responsibilities.

61 (d) Any person, ~~or~~ corporation or membership organization violating any provision of this  
62 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than  
63 \$10,000. A corporation or membership organization may not reimburse any person the amount  
64 of any fine imposed pursuant to this section.

65 (e) To ensure uniform administration and application of the provisions of this section and  
66 of those of the Federal Election Campaign Act amendments of 1976 relating to corporate and  
67 membership organization contributions, the State Election Commission shall propose rules for

68 legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of  
69 this code to implement the provisions of this section consistent, insofar as practicable, with the  
70 rules and regulations promulgated by the Federal Election Commission to carry out similar or  
71 identical provisions of ~~2 U.S.C. §441b~~ 52 U. S. C. §30118.

72 (f) In addition to the powers and duties set forth in article one-a of this chapter, the State  
73 Election Commission has the following powers and duties:

74 (1) To investigate, upon complaint or on its own initiative, any alleged violations ~~or~~  
75 ~~irregularities~~ of this article.

76 (2) To administer oaths and affirmations, issue subpoenas for the attendance of  
77 witnesses, issue subpoenas duces tecum to compel the production of books, papers, records and  
78 all other evidence necessary to any investigation.

79 (3) To involve the aid of any circuit court in the execution of its subpoena power.

80 (4) To report any alleged violations of this article to the appropriate prosecuting attorney  
81 having jurisdiction, which prosecuting attorney shall, upon determining that there is a reason to  
82 believe that a violation has occurred, present to the grand jury such alleged violations, together  
83 with all evidence relating thereto, no later than the next term of court after receiving the report.

84 (g) The Attorney General shall, when requested, provide legal and investigative assistance  
85 to the State Election Commission.

86 (h) Any investigation, either upon complaint or initiative, shall be conducted in an executive  
87 session of the State Election Commission and shall remain undisclosed except to the persons or  
88 entities being investigated or upon an indictment by a grand jury.

89 ~~(i) Any person who discloses the fact of any complaint, investigation or report or any part~~  
90 ~~thereof, or any proceedings thereon, is guilty of a misdemeanor and, upon conviction thereof,~~  
91 ~~shall be fined not less than \$1,000, nor more than \$5,000, and shall be confined in jail not less~~  
92 ~~than six months nor more than one year.~~

93 ~~(j) The amendments to this section enacted during the second extraordinary session of~~

94 ~~2008 are intended to conform to the existing proscription to Constitutionally permissible limits and~~  
 95 ~~not to create a new offense or offenses.~~

96 ~~(k) The effective date of the amendments to this section enacted during the second~~  
 97 ~~extraordinary legislative session of 2008 is October 1, 2008~~

**§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their purposes; limitation upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.**

1 (a) No financial agent or treasurer of a political committee shall pay, give or lend, either  
 2 directly or indirectly, any money or other thing of value for any election expenses, except for the  
 3 following purposes:

4 (1) For rent, maintenance, office equipment and other furnishing of offices to be used as  
 5 political headquarters and for the payment of necessary ~~clerks, stenographers, typists, janitors~~  
 6 ~~and messengers~~ employees actually employed therein;

7 (2) In the case of a candidate who does not maintain a headquarters, for reasonable office  
 8 expenses, including, but not limited to, filing cabinets and other office equipment and furnishings,  
 9 computers, computer hardware and software, scanners, typewriters, calculators, audio visual  
 10 equipment, the rental of the use of the same, or for the payment for the shared use of same with  
 11 the candidate's business and for the payment of necessary ~~clerks, stenographers and typists~~  
 12 employees actually employed;

13 (3) For printing and distributing books, pamphlets, circulars and other printed matter and  
 14 radio and television broadcasting and painting, printing and posting signs, banners and other  
 15 advertisements, including contributions to charitable, educational or cultural events, for the  
 16 promotion of the candidate, the candidate's name or an issue on the ballot;

17 (4) For renting and decorating halls for public meetings and political conventions, for  
 18 advertising public meetings and for the payment of traveling expenses of speakers and musicians  
 19 at such meetings;

20 (5) For the necessary traveling and hotel expenses of candidates, political agents and  
21 committees and for stationery, postage, telegrams, telephone, express, freight and public  
22 messenger service;

23 (6) For preparing, circulating and filing petitions for nomination of candidates;

24 (7) For examining the lists of registered voters, securing copies thereof, investigating the  
25 right to vote of the persons listed therein and conducting proceedings to prevent unlawful  
26 registration or voting;

27 (8) For conveying voters to and from the polls;

28 (9) For securing publication in newspapers and by radio and television broadcasting of  
29 documents, articles, speeches, arguments and any information relating to any political issue,  
30 candidate or question or proposition submitted to a vote;

31 (10) For conducting public opinion poll or polls. For the purpose of this section, the phrase  
32 "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection,  
33 collation and evaluation of information reflecting public opinion, needs and preferences as to any  
34 candidate, group of candidates, party, issue or issues. No such poll shall be deceptively designed  
35 or intentionally conducted in a manner calculated to advocate the election or defeat of any  
36 candidate or group of candidates or calculated to influence any person or persons so polled to  
37 vote for or against any candidate, group of candidates, proposition or other matter to be voted on  
38 by the public at any election: *Provided*, That nothing herein shall prevent the use of the results of  
39 any such poll or polls to further, promote or enhance the election of any candidate or group of  
40 candidates or the approval or defeat of any proposition or other matter to be voted on by the public  
41 at any election;

42 (11) For payment for food and drink for campaign-related purposes and for entertaining of  
43 campaign volunteers;

44 (12) For payment for legal and accounting services rendered to a candidate or candidate  
45 committee if the services are solely related to the candidacy or campaign;

46 (13) For the payment of any fees associated with the campaign, except that a candidate  
47 may not pay any fines assessed against the candidate or the candidate's committee pursuant to  
48 this article;

49 ~~(14)~~ (14) For legitimate advertising agency services, including commissions, in connection  
50 with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7),  
51 (9) and (10) of this subsection;

52 ~~(15)~~ (15) For the purchase of memorials, flowers or citations by political party executive  
53 committees or political action committees representing a political party;

54 ~~(16)~~ (16) For the purchase of nominal noncash expressions of appreciation following the  
55 close of the polls of an election or within thirty days thereafter;

56 ~~(17)~~ (17) For the payment of dues or subscriptions to any national, state or local committee  
57 of any political party;

58 (18) For transfers to any national, state or local committee of any political party when that  
59 committee is acting in the role of a vendor: *Provided*, That no such transfer shall involve any  
60 coordination between the candidate and the political party committee;

61 (19) For any political expenditure;

62 ~~(20)~~ (20) For contributions to a county party executive committee, state party executive  
63 committee or a state party legislative caucus political campaign committee; and

64 ~~(21)~~ (21) For contributions to a candidate committee: *Provided*, That a candidate  
65 committee may not contribute to another candidate committee except as otherwise provided by  
66 §3-8-10 of this code.

67 (b) A political action committee may not contribute to another political action committee or  
68 receive contributions from another political action committee ~~*Provided*, That a political action~~  
69 ~~committee may receive contributions from its national affiliate, if any~~ if the contribution is  
70 earmarked for a contribution to any candidate committee or political party.

71 (c) Every liability incurred and payment made shall be for the fair market value of the

72 services rendered.

73 (d) Every advertising agency subject to the provisions of this article shall file, in the manner  
 74 and form required by section five-a of this article, the financial statements required by section five  
 75 of this article at the times required therein and include therein, in itemized detail, all receipts from  
 76 and expenditures made on behalf of a candidate, financial agent or treasurer of a political party  
 77 committee.

78 (e) Any candidate may designate a financial agent by a writing duly subscribed by ~~him~~ the  
 79 candidate which shall be in such form and filed in accordance with the provisions of ~~section four~~  
 80 of this article §3-8-4 of this code.

**§3-8-9a. Expenditures by political party committees, political party caucuses and state candidates.**

1 (a) Notwithstanding any other provision of law with respect to limitations on expenditures  
 2 or limitations on contributions, the state committee of a political party and caucus campaign  
 3 committee may make expenditures in an amount not to exceed \$20,000 in coordination with the  
 4 general election campaign of candidates for Governor, Attorney General, Auditor, Commissioner  
 5 of Agriculture, Secretary of State, Treasurer, State Senate and House of Delegates.

6 (b) For purposes of this section, all communications that are made in coordination with a  
 7 candidate or candidate's committee must include a statement clearly identifying that the  
 8 communications were made in coordination with the candidate or candidate's committee.

**§3-8-10. Use of certain contributions.**

1 (a) Notwithstanding any provision of this code to the contrary, amounts received by a  
 2 candidate as contributions that are in excess of any amount necessary to defray his or her  
 3 expenditures may be:

4 (1) Used by the candidate to defray any usual and customary expenses incurred in  
 5 connection with his or her duties as a holder of public office; and

6 (2) Contributed by the candidate ~~after the general election~~ to:

7 (A) Any charitable organization or subsequent campaign by the same candidate, without  
8 limitation;

9 (B) Any national committee in accordance with federal requirements;

10 (C) Any state party executive committee or ~~state party legislative caucus~~ campaign  
11 committee; in an amount not to exceed \$15,000 in a calendar year or

12 (D) Any local committee of any political party or any other candidate for public office, in  
13 accordance with the existing limitations on contributions.

14 (b) The State Election Commission shall promulgate emergency and legislative rules, in  
15 accordance with the provisions of chapter twenty-nine-a of this code, to establish guidelines for  
16 the administration of this section.

**§3-8-11. Specific acts forbidden; penalties.**

1 (a) Any person who shall, directly or indirectly, by himself, or by any other person on his  
2 or her behalf, make use of, or threaten to make use of, any force, violence or restraint, or inflict,  
3 or threaten to inflict, any damage, harm or loss, upon or against any person, or by any other  
4 means attempt to intimidate or exert any undue influence, in order to induce such person to vote  
5 or refrain from voting, or on account of such person having voted or refrained from voting, at any  
6 election, or who shall, by abduction, duress or any fraudulent device or contrivance, impede or  
7 prevent the free exercise of the suffrage by any elector, or shall thereby compel, induce or prevail  
8 upon any elector either to vote or refrain from voting for or against any particular candidate or  
9 measure; or

10 (b) Any person who, being an employer, or acting for or on behalf of any employer, shall  
11 give any notice or information to his or her employees, containing any threat, either express or  
12 implied, intended or calculated to influence the ~~political view or actions of the workmen or~~  
13 employees decisions of the workmen or employees to vote or refrain from voting in any election,  
14 vote for or against any candidate or any candidate of any political party, contribute to any  
15 candidate, party, or political committee, or make any contribution for any independent expenditure



16 or electioneering communication: *Provided*, That information provided that expresses the opinion  
 17 of the employer on any candidate, party, political committee or ballot issue or the effects of the  
 18 ballot issue or the policies advocated by any candidate on the employer or on the state is not a  
 19 forbidden act; or

20 (c) Any person who shall, knowingly, make or publish, or cause to be made or published,  
 21 any false statement in regard to any candidate, which statement is intended or tends to affect any  
 22 voting at any election whatever; or

23 (d) Any person who shall pay any owner, publisher, editor or employee or any newspaper  
 24 or other periodical, to advocate or oppose editorially, any candidate for nomination or election, or  
 25 any political party, or any measure to be submitted to the vote of the people without reporting this  
 26 as an independent expenditure or electioneering communication, where appropriate; or any  
 27 owner, publisher, editor or employee, who shall solicit or accept such payment without reporting  
 28 this as an independent expenditure or electioneering communication, where appropriate, is guilty  
 29 of a misdemeanor and, on conviction thereof, shall be fined not more than \$10,000, or confined  
 30 in jail for not more than one year or, in the discretion of the court, shall be subject to both such  
 31 fine and imprisonment.

**§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising;  
 solicitation of contributions; intimidation and coercion of employees; withholding  
of wages or salaries without express authorization; promise of employment or other  
 benefits; limitations on contributions; public contractors; penalty.**

1 ~~(a) A person may not publish, issue or circulate, or cause to be published, issued or~~  
 2 ~~circulated, any anonymous letter, circular, placard, radio or television advertisement or other~~  
 3 ~~publication supporting or aiding the election or defeat of a clearly identified candidate~~

4 ~~(b)~~ (a) An owner, publisher, editor or employee of a newspaper or other periodical may  
 5 not insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which  
 6 ~~tends to influence the voting at~~ expressly advocates for or against any candidate or ballot issue

7 in any election, unless directly designating it as a paid advertisement and stating the name of the  
8 person authorizing its publication and the candidate in whose behalf it is published.

9 ~~(e)~~ (b) A person may not, in any room or building occupied for the discharge of official  
10 duties by any officer or employee of the state or a political subdivision of the state, solicit orally or  
11 by written communication delivered within the room or building, or in any other manner, any  
12 contribution of money or other thing of value for any party or political purpose, from any  
13 postmaster or any other officer or employee of the federal government, or officer or employee of  
14 the state, or a political subdivision of the state. An officer, agent, clerk or employee of the federal  
15 government, or of this state, or any political subdivision of the state, who may have charge or  
16 control of any building, office or room, occupied for any official purpose, may not knowingly permit  
17 any person to enter any building, office or room, occupied for any official purpose for the purpose  
18 of soliciting or receiving any political assessments from, or delivering or giving written solicitations  
19 for, or any notice of, any political assessments to, any officer or employee of the state, or a political  
20 subdivision of the state.

21 ~~(d)~~ (c) Except as provided in section eight of this article, a person entering into any contract  
22 with the state or its subdivisions, or any department or agency of the state, either for rendition of  
23 personal services or furnishing any material, supplies or equipment or selling any land or building  
24 to the state, or its subdivisions, or any department or agency of the state, if payment for the  
25 performance of the contract or payment for the material, supplies, equipment, land or building is  
26 to be made, in whole or in part, from public funds may not, during the period of negotiation for or  
27 performance under the contract or furnishing of materials, supplies, equipment, land or buildings,  
28 directly or indirectly, make any contribution or solicit any contribution to any political party, political  
29 committee that makes contributions to any candidate or political party or candidate for public office  
30 or to any person for political purposes or use ~~nor may any person or firm solicit any contributions~~  
31 ~~for any purpose~~ other than independent expenditures during any that period.

32 ~~(e)~~ (d) A person may not, directly or indirectly, promise any employment, position, work,

33 compensation or other benefit provided for, or made possible, in whole or in part, by act of the  
34 Legislature, to any person as consideration, favor or reward for any political activity for the support  
35 of or opposition to any candidate, or any political party in any election.

36 ~~(f) Except as provided in section eight of this article, a person may not directly or indirectly,~~  
37 ~~make any contribution in excess of the value of \$1,000 in connection with any campaign for~~  
38 ~~nomination or election to or on behalf of any statewide office, in connection with any other~~  
39 ~~campaign for nomination or election to or on behalf of any other elective office in the state or any~~  
40 ~~of its subdivisions, or in connection with or on behalf of any person engaged in furthering,~~  
41 ~~advancing, supporting or aiding the nomination or election of any candidate for any of the offices.~~

42 ~~(g) A political organization (as defined in Section 527(e)(1) of the Internal Revenue Code~~  
43 ~~of 1986) may not solicit or accept contributions until it has notified the Secretary of State of its~~  
44 ~~existence and of the purposes for which it was formed. During the two-year election cycle, a~~  
45 ~~political organization (as defined in Section 527 (e) (1) of the Internal Revenue Code of 1986)~~  
46 ~~may not accept contributions totaling more than \$1,000 from any one person prior to the primary~~  
47 ~~election and contributions totaling more than \$1,000 from any one person after the primary and~~  
48 ~~before the general election.~~

49 ~~(h) It is unlawful for any person to create, establish or organize more than one political~~  
50 ~~organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) with the intent~~  
51 ~~to avoid or evade the contribution limitations contained in subsection (g) of this section.~~

52 ~~(i) Notwithstanding the provisions of subsection (f) of this section to the contrary, a person~~  
53 ~~may not, directly or indirectly, make contributions to a state party executive committee or state~~  
54 ~~party legislative caucus committee which, in the aggregate, exceed the value of \$1,000 in any~~  
55 ~~calendar year~~

56 (e) Except as provided in §3-8-8 of this code a person may not make contributions to any  
57 candidate or, his or her authorized campaign committees with respect to any campaign for  
58 nomination or election that in the aggregate exceed the value of \$2,700.

59 (f) A person may not make contributions to state, district or county party committees which,  
60 in the combined aggregate for all the committees, exceed the value of \$10,000 in any calendar  
61 year.

62 (g) A person may not make contributions to any caucus campaign committee which, in the  
63 aggregate, exceed the value of \$10,000 in any calendar year.

64 (h) A person may not make contributions to any political action committee which, in the  
65 aggregate, exceed the value of \$5,000 in any calendar year: *Provided*, That a person may make  
66 a contribution in any amount to any political action committee that only makes independent  
67 expenditures. The independent expenditure only committee may not make contributions to any  
68 candidate or his or her authorized campaign committee, any political party committee, any caucus  
69 campaign committee or any political action committee other than another independent  
70 expenditure only political action committee.

71 (i) The contribution limitations in subsection (e) of this section shall be increased as  
72 follows: On the last day of every calendar year following the start of a new two-year election cycle,  
73 the Secretary of State shall adjust the dollar values for the fixed dollar amounts for limitations on  
74 contributions under this chapter by comparing the percentage increase or decrease in the  
75 consumer price index by the corresponding consumer price index since the same date after the  
76 last such regular election year, as determined by the most comprehensive index of consumer  
77 prices available for West Virginia from the Bureau of Labor Statistics of the United States  
78 Department of Labor. The Secretary of State shall multiply these thresholds by that percentage  
79 change in the consumer price index and shall round up each dollar value adjustment made to the  
80 nearest \$100. The State Election Commission shall announce the adjustments made under this  
81 subsection within thirty days after the relevant index of consumer prices is published. The new  
82 contribution limitations will remain in effect for the two-year election cycle in which the calculation  
83 is made.

84 (j) The limitations on contributions contained in this section do not apply to transfers

85 between and among a state party executive committee, ~~or a state party's legislative~~ a caucus  
86 ~~political~~ campaign committee ~~and from~~ national committees of the same political party: *Provided,*  
87 That ~~transfers permitted by this subsection may not exceed \$50,000 in the aggregate in any~~  
88 ~~calendar year to any state party executive committee or state party legislative caucus political~~  
89 ~~committee: *Provided, however,* That~~ the moneys transferred may only be used for voter  
90 registration and get-out-the-vote activities of the state committees.

91 (k) A person may not solicit any contribution, other than contributions to a campaign for or  
92 against a county or local government ballot issue, from any nonelective salaried employee of the  
93 state government or of any of its subdivisions: *Provided,* That in no event may any person acting  
94 in a supervisory role solicit a person who is a subordinate employee for any contribution.

95 (l) A person may not coerce or intimidate any ~~nonelective salaried~~ employee into making  
96 a contribution. A person may not coerce or intimidate any ~~nonsalaried~~ employee of the state  
97 government or any of its subdivisions into engaging in or refraining from any form of political  
98 activity. The provisions of this subsection may not be construed to prevent any employee from  
99 making a contribution or from engaging in political activity voluntarily without coercion, intimidation  
100 or solicitation.

101 (l) ~~A person may not solicit a contribution from any other person without informing the~~  
102 ~~other person at the time of the solicitation of the amount of any commission, remuneration or other~~  
103 ~~compensation that the solicitor or any other person will receive or expect to receive as a direct~~  
104 ~~result of the contribution being successfully collected. Nothing in this subsection may be~~  
105 ~~construed to apply to solicitations of contributions made by any person serving as an unpaid~~  
106 ~~volunteer.~~

107 (m) A person may not place any letter, circular, flyer, advertisement, election  
108 paraphernalia, solicitation material or other printed or published item ~~tending to influence voting~~  
109 at expressly advocating the election or defeat of any candidate or a vote for or against any ballot  
110 issue in any election in a roadside receptacle unless it is: (1) Approved for placement into a

111 roadside receptacle by the business or entity owning the receptacle; and (2) contains a written  
112 acknowledgment of the approval. This subdivision does not apply to any printed material  
113 contained in a newspaper or periodical published or distributed by the owner of the receptacle.  
114 The term "roadside receptacle" means any container placed by a newspaper or periodical  
115 business or entity to facilitate home or personal delivery of a designated newspaper or periodical  
116 to its customers.

117 (n) An employer or any other person or entity responsible for the disbursement of funds in  
118 payment of wages or salaries may not withhold or divert any portion of an employee's wages or  
119 salaries for use as contributions to any candidate or political committee, or for any other political  
120 activities which tend to influence the voting at any election, except upon the express, written  
121 request of the employee. The request must be made on a form prescribed by the Secretary of  
122 State informing the employee of the prohibition against discrimination set forth in subsection (l) of  
123 this section. The request is valid for no more than twelve months from the date it is made by the  
124 employee. For purposes of this section, "political activities" shall mean any activity to urge any  
125 person to vote for or against any candidate or ballot issue or to support or oppose a political  
126 committee, political party or any other organization engaged in electioneering communications or  
127 independent expenditures as defined in section one-a of this article. This subsection applies to  
128 any written or oral contract or agreement entered into, modified, renewed or extended on or after  
129 July 1, 2017: *Provided*, That the provisions of this subsection shall not otherwise apply to or  
130 abrogate a written or oral contract or agreement or any provisions thereof in effect on or before  
131 June 30, 2017.

132 ~~(n)~~ (o) Any person violating any provision of this section is guilty of a misdemeanor and,  
133 upon conviction thereof, shall be fined not more than \$1,000, or confined in jail for not more than  
134 one year, or both fined and confined.

135 ~~(e)~~ The provisions of subsection (k) of this section, permitting contributions to a campaign  
136 for or against a county or local government ballot issue shall become operable on and after

137 ~~January 1, 2005~~

138 (p) The limitations on contributions established by subsection ~~(g)~~ (h) of this section do not  
139 apply to contributions made for the purpose of supporting or opposing a ballot issue, including a  
140 constitutional amendment.

NOTE: The purpose of this bill is to make significant revisions to the law regulating election financing.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.