

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 541**

4 (By Senators Carmichael, Blair and D. Hall)

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;  
7 reported March 2, 2015.]

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11 A BILL to amend and reenact §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-5, §3-8-5a, §3-8-5b, §3-8-5e,  
12 §3-8-7, §3-8-8, §3-8-9, §3-8-10 and §3-8-12 of the Code of West Virginia, 1931, as  
13 amended; and to amend said code by adding thereto four new sections, designated §3-8-1b,  
14 §3-8-1c, §3-8-5c and §3-8-9a, all relating generally to the regulation and control of elections;  
15 modifying and adding definitions; modifying what reporting qualifies for a federal reporting  
16 exemption; modifying reporting requirements for independent expenditures; clarifying scope  
17 of reporting obligations by committee treasurers; requiring certain contributions be reported  
18 to State Election Commission within forty-eight hours of their receipt; requiring financial  
19 statements for candidates for State Senate, House of Delegates, circuit judge and family court  
20 judge to be filed electronically with Secretary of State; permitting certain financial statements  
21 to be filed by mail or in person; establishing a processing fee for financial statements not  
22 filed electronically; requiring Secretary of State to maintain an online searchable database;  
23 setting forth contribution limits for various offices; prohibiting contributions by foreign

1 nationals; setting contribution limits for precandidacy contributions when candidate has  
2 declined to name the office for which he or she seeks to become a candidate; directing  
3 Secretary of State to publish an online list of late filing violators; clarifying penalties related  
4 to disclosure of information related to a complaint alleging violations or irregularities of this  
5 article; permitting a political committee to transfer funds to a national, state or local  
6 committee of a political party without limitation; permitting a political action committee to  
7 contribute to another political action committee; establishing expenditure limits by political  
8 party committees, political party caucuses and candidates; permitting candidates, after a  
9 general election, to transfer any unused contributions to state party executive committees,  
10 state party legislative caucus committees, local committees of a political party or any other  
11 candidate for public office without limitation; and creating criminal penalties.

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

13 That §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-5, §3-8-5a, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8,  
14 §3-8-9, §3-8-10 and §3-8-12 of the Code of West Virginia, 1931, as amended, be amended and  
15 reenacted; and that said code be amended by adding thereto four new sections, designated §3-8-1b,  
16 §3-8-1c, §3-8-5c and §3-8-9a, all to read as follows:

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

18 **§3-8-1a. Definitions.**

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

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

23 (2) “Billboard Advertisement” means a commercially available outdoor advertisement, sign

1 or similar display regularly available for lease or rental to advertise a person, place or product.

2 (3) "Broadcast, cable or satellite communication" means a communication that is publicly  
3 distributed by a television station, radio station, cable television system or satellite system.

4 (4) "Candidate" means an individual who:

5 (A) Has filed a certificate of announcement under section seven, article five of this chapter  
6 or a municipal charter;

7 (B) Has filed a declaration of candidacy under section twenty-three, article five of this  
8 chapter;

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

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

13 (5) "Candidate's committee" or "candidate committee" means a political committee  
14 established with the approval of or in cooperation with a candidate or a prospective candidate to  
15 explore the possibilities of seeking a particular office or to support or aid his or her nomination or  
16 election to an office in an election cycle. If a candidate directs or influences the activities of more  
17 than one active committee in a current campaign, those committees shall be considered one  
18 committee for the purpose of contribution limits.

19 (6) "Clearly identified" means that the name, nickname, photograph, drawing or other  
20 depiction of the candidate appears or the identity of the candidate is otherwise apparent through an  
21 unambiguous reference, such as "the Governor", "your Senator" or "the incumbent" or through an  
22 unambiguous reference to his or her status as a candidate, such as "the Democratic candidate for  
23 Governor" or "the Republican candidate for ~~Supreme Court of Appeals~~ House of Delegates".

1           ~~(7)~~ “Contribution” means a gift, subscription, loan, assessment, payment for services, dues,  
2 advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible  
3 thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible  
4 thing of value to a person, made for the purpose of influencing the nomination, election or defeat of  
5 a candidate. ~~An offer or tender of a contribution is not a contribution if expressly and~~  
6 ~~unconditionally rejected or returned. A contribution does not include volunteer personal services~~  
7 ~~provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at~~  
8 ~~fair market value for reporting requirements and contribution limitations.~~

9           ~~(8)~~(7) “Corporate political action committee” means a political action committee that is a  
10 separate segregated fund of a corporation that may only accept contributions from its restricted group  
11 as outlined by the rules of the State Election Commission.

12           ~~(9)~~(8) “Direct costs of purchasing, producing or disseminating electioneering  
13 communications” means:

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

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

20           ~~(10)~~(9) “Disclosure date” means either of the following:

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

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

4 ~~(11)~~(10) “Election” means any primary, general or special election conducted under the  
5 provisions of this code or under the charter of any municipality at which the voters nominate or elect  
6 candidates for public office. For purposes of this article, each primary, general, special or local  
7 election constitutes a separate election. This definition is not intended to modify or abrogate the  
8 definition of the term “nomination” as used in this article.

9 ~~(12)~~(11) (A) “Electioneering communication” means any paid communication made by  
10 broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement or  
11 published in any newspaper, magazine or other periodical that:

12 (i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General,  
13 Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals or the Legislature;

14 (ii) Is publicly disseminated within:

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

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

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

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

22 (i) A news story, commentary or editorial disseminated through the facilities of any  
23 broadcast, cable or satellite television or radio station, newspaper, magazine or other periodical

1 publication not owned or controlled by a political party, political committee or candidate: *Provided*,  
2 That a news story disseminated through a medium owned or controlled by a political party, political  
3 committee or candidate is nevertheless exempt if the news is:

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

6 (II) Is part of a general pattern of campaign-related news that gives reasonably equal coverage  
7 to all opposing candidates in the circulation, viewing or listening area;

8 (ii) Activity by a candidate committee, party executive committee or political party caucus  
9 committee, or a political action committee that is required to be reported to the State Election  
10 Commission or the Secretary of State as an expenditure pursuant to section five of this article or the  
11 rules of the State Election Commission or the Secretary of State promulgated pursuant to such  
12 provision: *Provided*, That independent expenditures by a party executive committee or caucus  
13 committee or a political action committee required to be reported pursuant to subsection (b), section  
14 two of this article are not exempt from the reporting requirements of this section;

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

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

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

23 (vi) A statement or depiction by a membership organization, in existence prior to the date on

1 which the individual named or depicted became a candidate, made in a newsletter or other  
2 communication distributed only to bona fide members of that organization;

3 (vii) A communication made solely for the purpose of attracting public attention to a product  
4 or service offered for sale by a candidate or by a business owned or operated by a candidate which  
5 does not mention an election, the office sought by the candidate or his or her status as a candidate;  
6 or

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

11 ~~(13)~~(12) "Expressly advocating" means any communication that:

12 (A) Uses phrases such as "vote for the Governor", "reelect your Senator", "support the  
13 ~~Democratic nominee~~ incumbent candidate for Supreme Court", "cast your ballot for the Republican  
14 challenger for House of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life" or  
15 "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life  
16 or Pro-Choice, "vote against Old Hickory", "defeat" accompanied by a picture of one or more  
17 candidates, or "reject the incumbent";

18 (B) Communications of campaign slogans or individual words, that, in the context of only  
19 the communication itself, can have no other reasonable meaning than to urge the election or defeat  
20 of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc.,  
21 which say "Smith's the One", "Jones '06", "Baker", etc; or

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

1           ~~(14)~~(13) “Financial agent” means any individual acting for and by himself or herself, or any  
2 two or more individuals acting together or cooperating in a financial way to aid or take part in the  
3 nomination or election of any candidate for public office, or to aid or promote the success or defeat  
4 of any political party at any election.

5           ~~(15)~~(14) “Fund-raising event” means an event such as a dinner, reception, testimonial,  
6 cocktail party, auction or similar affair through which contributions are solicited or received by such  
7 means as the purchase of a ticket, payment of an attendance fee or by the purchase of goods or  
8 services.

9           ~~(16)~~(15) “Independent expenditure” means an expenditure by a person:

10           (A) Expressly advocating the election or defeat of a clearly identified candidate; and

11           (B) That is not made in concert or cooperation with or at the request or suggestion of such  
12 candidate, his or her agents, the candidate’s authorized political committee or a political party  
13 committee or its agents.

14           Supporting or opposing the election of a clearly identified candidate includes supporting or  
15 opposing the candidates of a political party. An expenditure which does not meet the criteria for an  
16 independent expenditure is considered a contribution.

17           ~~(17)~~(16) “Mass mailing” means a mailing by United States mail, facsimile or electronic mail  
18 of more than five hundred pieces of mail matter of an identical or substantially similar nature within  
19 any thirty-day period. For purposes of this subdivision "substantially similar" includes  
20 communications that contain substantially the same template or language, but vary in nonmaterial  
21 respects such as communications customized by the recipient's name, occupation or geographic  
22 location.

23           ~~(18)~~(17) “Membership organization” means a group that grants bona fide rights and



1 privileges, such as the right to vote, to elect officers or directors and the ability to hold office, to its  
2 members and which uses a majority of its membership dues for purposes other than political  
3 purposes. “Membership organization” does not include organizations that grant membership upon  
4 receiving a contribution.

5 ~~(19)~~(18) “Name” means the full first name, middle name or initial, if any, and full legal last  
6 name of an individual and the full name of any association, corporation, committee or other  
7 organization of individuals, making the identity of any person who makes a contribution apparent  
8 by unambiguous reference.

9 ~~(20)~~(19) “Person” means an individual, corporation, partnership, committee, association and  
10 any other organization or group of individuals.

11 ~~(21)~~(20) “Political action committee” means a committee organized by one or more persons  
12 for the purpose of supporting or opposing the nomination or election of one or more candidates. The  
13 following are types of political action committees:

14 (A) A corporate political action committee, as that term is defined by subdivision ~~(8)~~(7) of  
15 this section;

16 (B) A membership organization, as that term is defined by subdivision ~~(18)~~(17) of this  
17 section;

18 (C) An unaffiliated political action committee, as that term is defined by subdivision ~~(29)~~(28)  
19 of this section.

20 ~~(22)~~(21) “Political committee” means any candidate’s committee, political action committee  
21 or political party committee, as defined in subdivisions (5), (20) or (24) of this section.

22 ~~(23)~~(22) “Political party” means a political party as that term is defined by section eight,  
23 article one of this chapter or any committee established, financed, maintained or controlled by the

1 party, including any subsidiary, branch or local unit thereof and including national or regional  
2 affiliates of the party.

3 (23) “Political party caucus” means the committees that are established by the Republican  
4 and Democrat caucuses of both the West Virginia House of Delegates and the West Virginia State  
5 Senate, or by any other political party recognized by the State of West Virginia.

6 (24) “Political party committee” means a committee established by a political party or  
7 political party caucus for the purposes of engaging in the influencing of the election, nomination or  
8 defeat of a candidate in any election.

9 (25) “Political purposes” means supporting or opposing the nomination, election or defeat  
10 of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement of the  
11 debt of a candidate or political committee or the administration or activities of an established  
12 political party or an organization which has declared itself a political party and determining the  
13 advisability of becoming a candidate under the precandidacy financing provisions of this chapter.

14 (26) “Targeted to the relevant electorate” means that a communication ~~which~~ refers to a  
15 clearly identified candidate for statewide office or the Legislature and ~~which~~ can be received by one  
16 hundred forty thousand or more individuals in the state in the case of a candidacy for statewide  
17 office, eight thousand two hundred twenty or more individuals in the district in the case of a  
18 candidacy for the State Senate and two thousand four hundred ten or more individuals in the district  
19 in the case of a candidacy for the House of Delegates.

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

23 ~~(28) “Two-year election cycle” means the twenty-four month period that begins the day after~~

1 ~~a general election and ends on the day of the subsequent general election.~~

2       (29)(28) “Unaffiliated political action committee” means a political action committee that  
3 is not affiliated with a corporation or a membership organization.

4 **§3-8-1b. Political contribution defined.**

5       (a) “Political contribution” means:

6       (1) Any gift, subscription, loan, advance, deposit of money or payment or anything of value  
7 given to any entity that is registered or is required to be registered as a political committee at the time  
8 the political contribution is made, or that is given to be used specifically for making political  
9 contributions to other recipients or for making political expenditures; or

10       (2) Any political expenditure, as that term is defined in section one-c of this article, that is  
11 made in coordination with a candidate, candidate committee, or party committee.

12       (b) The term “political contribution” does not include:

13       (1) Any gift, subscription, loan, advance, deposit of money or payment or anything of value  
14 made, or given as part of a bona fide commercial transaction, including, but not limited to, any loans,  
15 refunds, rebates, or discounts offered to the general public or similar customers on substantially the  
16 same material terms;

17       (2) The payment by any corporation or labor organization for the costs of establishing,  
18 administering, and soliciting contributions from its restricted class to its separate segregated fund;

19       (3) The payment by any corporation or labor organization for the costs of communicating  
20 with its restricted class about any subject, regardless of whether the communications are made in  
21 coordination with any candidate, candidate committee, party committee or officeholder committee;

22       (4) The appearance of a candidate at any residence or the facilities of any corporation, labor  
23 organization, social or civic organization, or educational institution to speak about the candidate's

1 campaign, provided that the use of such venue is furnished by the venue's owner and is not paid for  
2 by a third party, and the venue is not a sports stadium, coliseum, convention center, hotel ballroom,  
3 concert hall or other similar public arena;

4 (5) The costs of hosting a debate or candidates' forum, provided that at least two opposing  
5 candidates with respect to any given office sought, are invited with the same or similar advance  
6 notice and method of invitation;

7 (6) The preparation and distribution of voter guides, subject to the following:

8 (A) The sponsor may include in the voter guide similar biographical information on each  
9 featured candidate, such as education, employment positions, offices held and community  
10 involvement;

11 (B) Comparable information shall be provided on each candidate featured in the voter guide  
12 for a particular office or each candidate featured shall be provided an equal opportunity to respond  
13 to questions;

14 (C) No featured candidate may receive greater prominence in the voter guide than any other  
15 candidate, or substantially more space for descriptions of his or her positions or responses; and

16 (D) The sponsor of the voter guide shall not include the sponsor's own message meeting the  
17 definition of a political expenditure under section one-c of this article;

18 (7) The value of services provided without compensation by any individual who volunteers  
19 on behalf of any candidate, candidate committee, party committee, or other political committee, or  
20 any unreimbursed payment for expenses related to the volunteer activity;

21 (8) The cost of invitations, food and beverages if such items are voluntarily provided by an  
22 individual volunteering personal services on the individual's residential premises, if the value of  
23 those items is less than \$1,000 per candidate or political committee in a calendar year;

1 (9) The payment for any communication by any organization eligible to receive  
2 tax-deductible donations under 26 U.S.C. §170 (or any successor provision) and regulations of the  
3 U.S. Department of Treasury;

4 (10) Any cost incurred for covering or carrying a news story, commentary, or editorial by a  
5 broadcasting station or cable television operator, Internet website, or newspaper or other periodical  
6 publication, including an Internet or other electronic publication, provided that the cost for the news  
7 story, commentary, or editorial is not paid for by, and the medium is not owned or controlled by, a  
8 candidate, candidate committee, party committee or other political committee;

9 (11) The payment for or provision of legal and accounting services rendered to a candidate,  
10 candidate committee, party committee or other political committee if the services are solely for the  
11 purpose of ensuring compliance with or challenging the constitutional validity or interpretation of  
12 the provisions of this chapter;

13 (12) The payment by a party committee of the costs of campaign materials, such as pins,  
14 bumper stickers, handbills, brochures, posters, party tabloids, and yard signs, used by the committee  
15 in connection with volunteer activities on behalf of and/or in behalf of nominees of such party,  
16 provided:

17 (A) The payments are not for the costs of campaign materials or activities used in connection  
18 with any broadcasting, newspaper, magazine, billboard, direct mail, or other similar type of paid  
19 general public advertising; and

20 (B) The payments are not made from contributions designated to be spent on behalf of any  
21 particular candidate(s).

22 (c) The term “political contribution” may not be construed to include any transactions not  
23 specifically listed in paragraph (b) of this subsection if those contributions do not otherwise meet the

1 definition of "political contribution" as set forth in subsection (a) of this section.

2 **§3-8-1c. Political expenditure defined.**

3 (a) "Political expenditure" means the payment for:

4 (1) Any communication that in express terms calls for the election, retention, recall, or defeat  
5 of a clearly identified candidate or candidates affiliated with a political party by using phrases such  
6 as "Vote for the Governor," "Re-elect your Senator," "Retain Judge Smith," "Defeat Sheriff Jones,"  
7 "Support the Democratic Nominee," "Cast your ballot for the Republican challenger for State  
8 Representative in District 1," "Doe for Mayor," "Vote for champions of the taxpayer" accompanied  
9 by a listing of clearly identified candidates associated with being "champions of the taxpayers,"  
10 "defeat" accompanied by a picture of one or more candidate(s), or "reject the incumbent;" or

11 (2) The republication of campaign materials for any candidate, candidate committee, party  
12 committee, or political committee, except for:

13 (A) The republication of materials in a voter guide described under paragraph (C) of the  
14 definition of "political contribution;"

15 (B) The republication of campaign materials commenting or explaining a candidate's position  
16 on any issue that does not otherwise in express terms call for the election, or defeat of any clearly  
17 identified candidate; or

18 (C) The republication of publicly available photographs or video footage of a candidate that  
19 is devoid of any text or audio content in or from the original material.

20 (b) The term "political expenditure" does not include anything that is excluded from the  
21 definition of a "political contribution," as set forth in subsection (b), section 3 of this article of the  
22 definition of "political contribution."

23 (c) A "political expenditure" is "made in coordination" or otherwise considered to be

1 coordinated if:

2 (1) The communication is paid for, in whole or in part, by a person other than a candidate,  
3 candidate committee or party committee; and

4 (2) It satisfies at least one of the following conduct standards:

5 (A) The political expenditure is created, produced, distributed, or undertaken at the request  
6 or suggestion of a candidate, candidate committee, party committee; or

7 (B) The political expenditure is created, produced, distributed, or undertaken at the  
8 suggestion of a person paying for the expenditure and the candidate, candidate committee, or party  
9 committee affirmatively assents to the suggestion.

10 (d) A “political expenditure” is not “made in coordination” or otherwise considered to be  
11 coordinated if any of the following occur:

12 (1) A candidate committee or a political party committee responds to an inquiry about the  
13 candidate’s or political party committee’s positions on legislative or policy issues, including  
14 substantive discussion of the legislative or policy issues, but not including a discussion of campaign  
15 plans, projects, activities, or needs;

16 (2) Information or materials used in the creation, production, distribution or undertaking of  
17 the political expenditure was obtained from a publicly available source;

18 (3) A candidate endorses another candidate;

19 (4) A candidate solicits funds for another candidate, a political committee, a party committee,  
20 or organizations eligible to receive tax-deductible donations under 26 U.S.C. §170 (or any successor  
21 provision) and regulations of the U.S. Department of Treasury;

22 (5) A candidate is clearly identified only in his or her capacity as the owner or operator of a  
23 business that existed prior to the candidacy, if the communication does not refer to an election or

1 another candidate who seeks the same office as that candidate; or

2 (6) A commercial vendor, former employee, or political committee has established and  
3 implemented a firewall that meets the following requirements: *Provided*, That the communication  
4 does not qualify for this exemption if specific information indicates that, despite the firewall,  
5 information about a candidate's, candidate committee's, measure committee's, or party committee's  
6 campaign plans, projects, activities, or needs that is material to the creation, production, or  
7 distribution of the political expenditure was used or conveyed to the person paying for the political  
8 expenditure:

9 (A) The firewall must be designed and implemented to prohibit the flow of information  
10 between employees or consultants providing services for the person paying for the communication  
11 and those employees or consultants currently or previously providing services to a candidate or party  
12 committee, or a candidate committee or measure committee supporting or opposing a candidate or  
13 measure clearly identified in the political expenditure; and

14 (B) The firewall must be described in a written policy that is distributed to all relevant  
15 employees, consultants, and clients affected by the policy.

16 (e) Any political expenditure that is made in coordination with a candidate or candidate's  
17 committee must contain a disclaimer that clearly identifies that the expenditure is coordinated.

18 **§3-8-2. Accounts for receipts and expenditures in elections; requirements for reporting**  
19 **independent expenditures.**

20 (a) Except for: (1) Candidates for party committeeman and committeewoman; and (2)  
21 federal committees required to file under the provisions of 2 U.S.C. §434, all candidates for  
22 nomination or election and all persons supporting, aiding or opposing the nomination, election or  
23 defeat of any candidate shall keep for a period of six months records of receipts and expenditures



1 which are made for political purposes. All of the receipts and expenditures are subject to regulation  
2 by the provisions of this article. Verified financial statements of the records and expenditures shall  
3 be made and filed as public records by all candidates and by their financial agents, representatives  
4 or any person acting for and on behalf of any candidate and by the treasurers of all political party  
5 committees. State level independent expenditure reporting and state level electioneering  
6 communications reporting do not qualify for a federal exemption within this section.

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

11 (A) The name of (i) the person making the expenditure; (ii) the name of any person sharing  
12 or exercising direction or control over the activities of the person making the expenditure; and (iii)  
13 the name of the custodian of the books and accounts of the person making the expenditure;

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

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

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

23 (E) The name and address of any person who contributed a total of more than \$250 between

1 the first day of the preceding calendar year, and the disclosure date, and whose political contributions  
2 were ~~made for the purpose of furthering the expenditure.~~ earmarked for, or who responded to a  
3 solicitation for, those contributions to be used to pay for independent expenditures. Disclosure or  
4 reporting is not required for any person who makes a general contribution that does not further a  
5 specific independent expenditure or electioneering communications.

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

8 (i) The month, day and year that the contributions of any single contributor exceeded \$250;

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

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

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

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

16 (G) (1) A certification that such independent expenditure was not "made in coordination"  
17 or otherwise a coordinated contribution as defined in section one-c of this article.

18 (2) Any person who makes a contribution for the purpose of funding an independent  
19 expenditure under this subsection shall, at the time the contribution is made, provide his or her name,  
20 address, occupation, his or her current employer, if any, or, if the individual is self-employed, the  
21 name of his or her business, if any, to the recipient of the contribution.

22 (3) The Secretary of State shall expeditiously prepare indices setting forth, on a  
23 candidate-by-candidate basis, all independent expenditures separately, made by, or on behalf of, or

1 for, or against each candidate, as reported under this subsection, and for periodically publishing such  
2 indices on a timely preelection basis.

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

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

19 (d) (1) A person, including a political committee, who makes or contracts to make  
20 independent expenditures aggregating \$10,000 or more at any time up to and including the fifteenth  
21 day before the date of an election shall file a report on a form prescribed by the Secretary of State,  
22 describing the expenditures within forty-eight hours.

23 (2) A person who files a report under subdivision (1) of this subsection, the person shall file

1 an additional report within forty-eight hours after each time the person makes or contracts to make  
2 independent expenditures aggregating an additional \$10,000 with respect to the same election as that  
3 to which the initial report relates.

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

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

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

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

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

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

1 (2) The Secretary of State shall make any document filed electronically pursuant to this  
2 subsection accessible to the public on the Internet not later than twenty-four hours after the document  
3 is received by the secretary.

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

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

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

12 **§3-8-3. Committee treasurers; required to receive and disburse funds.**

13 Every political committee shall appoint and retain a treasurer to receive, keep and disburse  
14 all sums of money which may be collected or received by such committee, or by any of its members,  
15 for election expenses, and, unless such treasurer is first appointed and thereafter retained, it shall be  
16 unlawful for any such committee or any of its members to collect, receive or disburse money for any  
17 such purposes. All moneys collected or received by any such committee, or by any of its members,  
18 for election expenses shall be paid over to, and pass through the hands of, the treasurer, and shall be  
19 disbursed by ~~him~~ the Treasurer, and it shall be unlawful for any such committee, or any of its  
20 members, to disburse any money for election expenses unless such money shall be paid to, and  
21 disbursed by, the treasurer. The same person may be designated to act as treasurer for two or more  
22 political party committees. This section creates no obligation upon any entity or individual, other  
23 than a political committee as defined by this article.

1 **§3-8-4. Treasurers and financial agents; written designation requirements.**

2 (a) No person may act as the treasurer of any political action committee or political party  
3 committee supporting, aiding or opposing the nomination, election or defeat of any candidate for an  
4 office encompassing an election district larger than a county unless a written statement of  
5 organization, on a form to be prescribed by the Secretary of State, is filed with the Secretary of State  
6 at least twenty-eight days before the election at which that person is to act as a treasurer and is  
7 received by the Secretary of State before midnight, eastern standard time, of that day or, if mailed,  
8 is postmarked before that hour. The form shall include the name of the political action committee  
9 or political party committee; the name of the treasurer; the mailing address, telephone number and  
10 e-mail address, if applicable, of the committee and of the treasurer if different from the committee  
11 information; the chairman of the committee; the affiliate organization, if any; type of committee  
12 affiliation, as defined in subdivisions ~~(21)~~(20) and (24), section one-a of this article, if any; and  
13 whether the committee will participate in statewide, county or municipal elections. The form shall  
14 be certified as accurate and true and signed by the chairman and the treasurer of the committee:  
15 *Provided*, That a change of treasurer or financial agent may be made at any time by filing a written  
16 statement with the Secretary of State.

17 (b) No person may act as the treasurer for any candidate for nomination or election to any  
18 statewide office, or to any office encompassing an election district larger than a county or to any  
19 legislative office unless a written statement designating that person as the treasurer or financial agent  
20 is filed with the Secretary of State at least twenty-eight days before the election at which that person  
21 is to act as a treasurer and is received by the Secretary of State before midnight, eastern standard  
22 time, of that day or if mailed, is postmarked before that hour: *Provided*, That a change of treasurer  
23 or financial agent may be made at any time by filing a written statement with the Secretary of State.

1 (c) No person may act as treasurer of any committee or as financial agent for any candidate  
2 to be nominated or elected by the voters of a county or a district therein, except legislative  
3 candidates, or as the financial agent for a candidate for the nomination or election to any other office,  
4 unless a written statement designating him or her as the treasurer or financial agent is filed with the  
5 clerk of the county commission at least twenty-eight days before the election at which he or she is  
6 to act and is received before midnight, eastern standard time, of that day or if mailed, is postmarked  
7 before that hour: *Provided*, That a change of treasurer may be made at any time by filing a written  
8 statement with the clerk of the county commission.

9 (d) Notwithstanding the provisions of subsections (a), (b) and (c) of this section, a filing  
10 designating a treasurer for a state or county political executive committee may be made anytime  
11 before the committee either accepts or spends funds. Once a designation is made by a state or county  
12 political executive committee, no additional designations are required under this section until a  
13 successor treasurer is designated. A state or county political executive committee may terminate a  
14 designation made pursuant to this section by making a written request to terminate the designation  
15 and by stating in the request that the committee has no funds remaining in the committee's account.  
16 This written request shall be filed with either the Secretary of State or the clerk of the county  
17 commission as provided by subsections (a), (b) and (c) of this section.

18 (e) This section creates no obligation upon any entity or person other than a political action  
19 committee or political party committee, candidate or treasurer or financial agent for any candidate  
20 as described in this section.

21 **§3-8-5. Detailed accounts and verified financial statements required.**

22 (a) Every candidate, treasurer, person and association of persons, organization of any kind,  
23 including every corporation, directly, or by an independent expenditure, supporting a political

1 committee established pursuant to paragraph (C), subdivision (1), subsection (b), section eight of this  
2 article or engaging in other activities permitted by this section and also including the treasurer or  
3 equivalent officer of the association or organization, expressly advocating the election or defeat of  
4 a clearly identified candidate for state, district, county or municipal office, and the treasurer of every  
5 political committee shall keep detailed accounts of every sum of money or other thing of value  
6 received by him or her, including all loans of money or things of value and of all expenditures and  
7 disbursements made, liabilities incurred, by the candidate, financial agent, person, association or  
8 organization or political committee, for political purposes, or by any of the officers or members of  
9 the committee, or any person acting under its authority or on its behalf.

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

13 (1) Of all financial transactions, whenever the total exceeds \$500, which have taken place  
14 before the last Saturday in March, to be filed within six days thereafter and annually whenever the  
15 total of all financial transactions ~~relating to an election~~ for each candidate or political committee  
16 exceeds \$500;

17 (2) Of all financial transactions which have taken place before the fifteenth day preceding  
18 each primary or other election and subsequent to the previous statement, if any, to be filed within  
19 four business days after the fifteenth day;

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

23 (4) Of all financial transactions, whenever the total exceeds \$500 or whenever any loans are



1 outstanding, which have taken place before the forty-third day preceding the general election day,  
2 to be filed within four business days after the forty-third day.

3 (c) If any political contribution of \$1,000 or more is received by any candidate committee or  
4 political committee after the sixteenth day, but more than forty-eight hours, before 12:01 a.m. of the  
5 day of the primary or general election, the treasurer of the candidate committee or political party  
6 committee shall notify the Secretary of State within forty-eight hours of receipt of the political  
7 contribution. The notification shall be in writing and shall include the name of the candidate and  
8 office sought by the candidate, or the name of the political committee if appropriate, the  
9 identification of the contributor, and the date of receipt and amount of the contribution on a form  
10 prescribed by the Secretary of State. The notification shall be in addition to the reporting of these  
11 contributions on the post-election report.

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

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

19 ~~(e)~~ (f) Candidates for the office of conservation district supervisor elected pursuant to the  
20 provisions of article twenty-one-a, chapter nineteen of this code are required to file only the reports  
21 required by subdivisions (2) and (3), subsection (b) of this section immediately prior to and after the  
22 primary election: *Provided*, That during the election in the year 2008, the statements required by this  
23 subsection shall be filed immediately prior to and after the general election.

1 **§3-8-5a. Information required in financial statement.**

2 (a) Each financial statement required by the provisions of this article, other than a disclosure  
3 of electioneering communications pursuant to section two-b of this article, shall contain only the  
4 following 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 association,  
7 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 end  
9 of the period covered by the financial statement.

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

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

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

1 schedule, and a copy of the loan agreement.

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

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

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

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

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

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

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

23 (1) The type of event, date held and address and name, if any, of the place where the event

1 was held.

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

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

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

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

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

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

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

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

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

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

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

10 (k) Any membership organization which raises funds for political purposes by payroll  
11 deduction, assessing them as part of its membership dues or as a separate assessment, may report the  
12 amount raised as follows:

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

17 (2) If the total payroll deduction for political purposes of each participating member equals  
18 \$25 or less over the course of a calendar or fiscal year, as specified by the organization, the  
19 organization shall report the total amount received for political purposes through payroll deductions  
20 during the reporting period and, to the maximum extent possible, the amount of each yearly payroll  
21 deduction contribution level and the number of members contributing at each such specified level.  
22 The membership organization shall maintain records of the name and yearly payroll deduction  
23 amounts of each participating member.

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

6 (l) Notwithstanding the provisions of section five of this article or of the provisions of this  
7 section to the contrary, an alternative reporting procedure may be followed by a political party  
8 committee in filing financial reports for fund-raising events if the total profit does not exceed \$5,000  
9 per year. A political party committee may report gross receipts for the sale of food, beverages,  
10 services, novelty items, raffle tickets or memorabilia, except that any receipt of more than \$50 from  
11 an individual or organization shall be reported as a contribution. A political party committee using  
12 this alternative method of reporting shall report:

13 ~~(i)~~(1) The name of the committee;

14 ~~(ii)~~(2) The type of fund-raising activity undertaken;

15 ~~(iii)~~(3) The location where the activity occurred;

16 ~~(iv)~~(4) The date of the fundraiser;

17 ~~(v)~~(5) The name of any individual who contributed more than \$50 worth of items to be sold;

18 ~~(vi)~~(6) The name and amount received from any person or organization purchasing more than  
19 \$50 worth of food, beverages, services, novelty items, raffle tickets or memorabilia;

20 ~~(vii)~~(7) The gross receipts of the fundraiser; and

21 ~~(viii)~~(8) The date, amount, purpose and name and address of each person or organization  
22 from whom items with a fair market value of more than \$50 were purchased for resale.

23 **§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, family court judge, and for  
4 statewide and other offices to be nominated or elected by the voters of a political division greater  
5 than a county;

6 (2) The clerk of the county commission by candidates for offices to be nominated or elected  
7 by the voters of a single county or a political division within a single county, except for legislative  
8 offices, circuit judge and family 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 means~~  
12 ~~of transmission: *Provided, That the financial*~~ Financial statements filed by or on behalf of candidates  
13 for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of  
14 Agriculture, State Senate, House of Delegates, and Supreme Court of Appeals, circuit judge and  
15 family court judge shall be filed electronically by the means of an Internet program to be established  
16 by the Secretary of State. Candidates for House of Delegates, State Senate, circuit judge and family  
17 court judge may file financial statements by mail, in person, or by facsimile or other electronic means  
18 of submission until the total amount of contributions received by the candidate exceeds \$10,000 for  
19 the election cycle. The Secretary of State shall charge a \$25 processing fee for any financial  
20 statements that are not filed electronically.

21 (c) Committees required to report electronically may apply to the state Election Commission  
22 for an exemption from mandatory electronic filing in the case of hardship. An exemption may be  
23 granted at the discretion of the state Election Commission.

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

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

9 (f) The Secretary of State shall maintain an online searchable database accessible to the  
10 public on the Secretary of State's website. The database shall include the ability to search  
11 contribution and expenditure data submitted by candidates and political action committees.  
12 Information capable of search shall include, but not be limited to, a contributor's first name, last  
13 name, city, state, occupation, employer, contribution amount, date, expenditure payee, payer, city  
14 state, purpose and amount.

15 **§3-8-5c. Contribution limitations to candidate committees; indexing of candidate's committee**  
16 **thresholds; prohibition against contributions by foreign nationals.**

17 (a) Except as provided in section eight of this article, a person, political party, political action  
18 committee, corporation or union may not:

19 (1) Contribute more than the following amounts directly to a candidate's committee for a  
20 candidate seeking nomination:

21 (A) For Governor, Attorney General, Auditor, Treasurer, Secretary of State, Commissioner  
22 of Agriculture or West Virginia Supreme Court of Appeals, \$25,000;

23 (B) For West Virginia State Senate, \$15,000;



1 (C) For West Virginia House of Delegates, \$10,000;  
2 (D) For Circuit Judge and Family Court Judge, \$5,000; and  
3 (E) For any other elected office of the State or any political subdivision within West Virginia  
4 not otherwise mentioned in this subsection, \$2,600; or

5 (2) Contribute more than the following amounts directly to a candidate's committee for a  
6 candidate seeking election:

7 (A) For Governor, Attorney General, Auditor, Treasurer, Secretary of State, Commissioner  
8 of Agriculture or West Virginia Supreme Court of Appeals, \$25,000;

9 (B) For West Virginia State Senate, \$15,000;

10 (C) For West Virginia House of Delegates, \$10,000;

11 (D) For Circuit Judge and Family Court Judge, \$5,000; and

12 (E) For any other elected office of the State or any political subdivision within West Virginia  
13 not otherwise mentioned in this subsection, \$2,600.

14 (b) Contributions may be directly received by a candidate's committee of a candidate for the  
15 election of the candidate prior to his or her nomination. However, those contributions may not be  
16 used for campaign expenditures that occur until after the date of the candidate's nomination.

17 (c) On the last day of every calendar year in which an election for House of Delegates is held,  
18 the State Election Commission shall adjust the dollar values for the fixed dollar amounts for  
19 limitations on contributions under this chapter by comparing the percentage increase or decrease in  
20 the consumer price index by the corresponding consumer price index since the same date after the  
21 last such regular election year, as determined by the most comprehensive index of consumer prices  
22 available for West Virginia from the Bureau of Labor Statistics of the United States Department of  
23 Labor. The State Election Commission shall multiply these thresholds by that percentage change

1 in the consumer price index shall round up each dollar value adjustment made to the nearest \$100.  
2 The State Election Commission shall announce the adjustments made under this subparagraph within  
3 thirty days after the relevant index of consumer prices is published.

4 (d) Prohibition against contributions by foreign nationals.

5 (1) It shall be unlawful for:

6 (A) A foreign national, directly or indirectly, to make:

7 (i) A contribution or donation of money or other thing of value, or to make an express or  
8 implied promise to make a contribution or donation, in connection with a State or local election;

9 (ii) A contribution or donation to a committee of a political party; or

10 (iii) A political expenditure, independent expenditure, or disbursement for an electioneering  
11 communication, as those terms are defined in this article; or

12 (B) a person to solicit, accept, or receive a contribution or donation described in  
13 subparagraphs (i) or (ii) of paragraph (A) of this subdivision.

14 (2) As used in this section, the term “foreign national” means:

15 (A) a foreign principal, as such term is defined in 22 U.S.C. § 611(b), which includes:

16 (i) a government of a foreign country;

17 (ii) a foreign political party;

18 (iii) a person outside of the United States, unless it is established that such person:

19 (I) is an individual and a citizen of the United States, or

20 (II) that such person is not an individual and is organized under or created by the laws of the  
21 United States or of any State or other place subject to the jurisdiction of the United States and has  
22 its principal place of business within the United States; and

23 (iv) a partnership, association, corporation, organization, or other combination of persons

1 organized under the laws of or having its principal place of business in a foreign country; and

2 (B) a individual who is not a citizen of the United States or a national of the United States,  
3 as defined in 8 U.S.C. § 1101(a)(22), and who is not lawfully admitted for permanent residence, as  
4 defined by 8 U.S.C. § 1101(a)(20).

5 **§3-8-5e. Precandidacy financing and expenditures.**

6 (a) Notwithstanding any other provisions of this code, it is lawful for a person, otherwise  
7 qualified to be a candidate for any public office or position to be determined by public election, to  
8 receive contributions or make expenditures, or both, personally or by another individual acting as  
9 a treasurer, to determine the advisability of becoming such a candidate or preparing to be such a  
10 candidate: *Provided*, That such contributions may be received and such expenditures made only  
11 during the four years immediately preceding the term for which such person may be a candidate or  
12 during the term of office immediately preceding the term for which such person may be a candidate,  
13 whichever is less: *Provided, however*, That no person is disqualified from receiving contributions  
14 or making expenditures as permitted under the provisions of this section solely because such person  
15 then holds a public office or position.

16 (b) Any person undertaking to determine the advisability of becoming or preparing to be a  
17 candidate who declines to name the office for which he or she seeks to become a candidate may only  
18 receive contributions in the amount identified in paragraph (C), subdivision (1), subsection (a),  
19 section [section name] of this article. However, once a precandidate has identified the office for  
20 which he or she has declared precandidacy, the provisions of section [section name] of this article  
21 apply.

22 (b) Any person undertaking to determine the advisability of becoming or preparing to be a  
23 candidate, who desires to receive contributions before filing a certificate of candidacy, shall name

1 himself or another individual to act as a treasurer and shall file a designation of treasurer in the  
2 manner provided in section four of this chapter before receiving any contributions permitted by this  
3 section. Any expenditures made before the filing of a designation of treasurer shall be reported in  
4 accordance with the provisions of this section, regardless of the source of funds used for such  
5 expenditures.

6 (c) A person who receives a contribution who is acting for and by himself or as treasurer or  
7 agent for another pursuant to the provisions of this section shall keep detailed accounts of every sum  
8 of money or other thing of value received by him, and of all expenditures and disbursements made,  
9 and liabilities incurred, in the same manner as such accounts are required by section five of this  
10 article, for the period prior to the date of filing for candidacy for the office he is considering seeking.  
11 Any person who has received contributions or made expenditures subject to the provisions of this  
12 section shall file annually on the last Saturday in March or within six days thereafter preceding the  
13 election at which the names of candidates would appear on the ballot for the public office or position  
14 which the person originally considered seeking, a detailed itemized statement setting forth all  
15 contributions received and expenditures made pursuant to the provisions of this section concerning  
16 the candidacy of that person. If the person on whose behalf such contributions are received or  
17 expenditures are made becomes a candidate for any office or position to be decided at such election  
18 then the itemized statement shall be included within the first statement required to be filed by the  
19 provisions of section five of this article. If such person does not become a candidate for any office  
20 or position to be decided at such election, then the detailed itemized statements required by this  
21 subsection shall be the only statements required to be filed by such person. Regardless of whether  
22 such person becomes a candidate as originally intended, or becomes a candidate for some office  
23 other than the office or position originally intended, or does not become a candidate, all limits on

1 campaign contributions and campaign expenditures applicable to the candidacy of or advocacy of  
2 the candidacy of such person for the office he actually seeks, shall be applicable to and inclusive of  
3 the receipts had and expenditures made during such precandidacy period as well as after the person  
4 becomes a candidate.

5 **§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.**

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

17 (b) (1) Any ~~person, candidate, financial agent~~ or treasurer of a political ~~party~~ committee who  
18 fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete  
19 or grossly inaccurate statement ~~may~~ shall be assessed a civil penalty by the Secretary of State of ~~\$25~~  
20 \$10 a day for each day after the due date the statement is delinquent, grossly incomplete or grossly  
21 inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the  
22 Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete or  
23 grossly inaccurate statement by any person, candidate, financial agent or treasurer of a political ~~party~~

1 committee and forward copies of such delinquent, incomplete or inaccurate statements to the  
2 Secretary of State.

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

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

8 (4) The Secretary of State shall publish online a list of all late filing violators for each  
9 deadline in an election cycle. This list shall be maintained and be publically available online to  
10 include late activity for the previous five years to the current year.

11 ~~(4)~~ (5) The Secretary of State and county clerk may review and audit any sworn statement  
12 required to be filed pursuant to this article. The State Election Commission shall propose legislative  
13 rules for promulgation, in accordance with chapter twenty-nine-a of this code, to establish procedures  
14 for the assessment of civil penalties as provided in this section.

15 (c) No candidate nominated at a primary election who has failed to file a sworn statement,  
16 as required by this article, shall have his or her name placed on the official ballot for the ensuing  
17 election, unless there has been filed by or on behalf of such candidate, or by his or her financial  
18 agent, if any, the financial statement relating to nominations required by this article. It is unlawful  
19 to issue a commission or certificate of election, or to administer the oath of office, to any person  
20 elected to any public office who has failed to file a sworn statement as required by this article and  
21 no person may enter upon the duties of his or her office until he or she has filed such statement, nor  
22 may he or she receive any salary or emolument for any period prior to the filing of such statement.

23 ~~§3-8-8. Corporation contributions forbidden; exceptions; penalties; promulgation of rules;~~

1 ~~additional powers of State Election Commission~~ Additional powers of the State Election  
2 Commission.

3 (a) ~~An officer, agent or person acting on behalf of any corporation, whether incorporated~~  
4 ~~under the laws of this or any other state or of a foreign country, may not pay, give, lend or authorize~~  
5 ~~to be paid, any money or other thing of value belonging to the corporation to any candidate or~~  
6 ~~candidate's campaign for nomination or election to any statewide office or any other elective office~~  
7 ~~in the state or any of its subdivisions.~~

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

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

17 ~~——(2) It is unlawful for:~~

18 ~~——(A) A corporation or separate segregated fund to make a primary or other election~~  
19 ~~contribution or expenditure by using money or anything of value secured: (i) By physical force, job~~  
20 ~~discrimination or financial reprisal; (ii) by the threat of force, job discrimination or financial reprisal;~~  
21 ~~or (iii) as a condition of employment;~~

22 ~~——(B) Any person soliciting a stockholder or executive or administrative personnel and~~  
23 ~~members of their families for a contribution to a corporation or separate segregated fund to fail to~~

1 inform the person solicited of the political purposes of the separate segregated fund at the time of  
2 the solicitation;

3 ~~——(C) Any person soliciting any other person for a contribution to a corporation or separate  
4 segregated fund to fail to inform the person solicited at the time of the solicitation of his or her right  
5 to refuse to contribute without any reprisal;~~

6 ~~——(D) A separate segregated fund established by a corporation: (i) To solicit contributions to  
7 the fund from any person other than the corporation's stockholders and their families and its  
8 executive or administrative personnel and their families; or (ii) to contribute any corporate funds;~~

9 ~~——(E) A separate segregated fund established by a corporation to receive contributions to the  
10 fund from any person other than the corporation's stockholders and their immediate families and its  
11 executive or administrative personnel and their immediate families;~~

12 ~~——(F) A corporation to engage in job discrimination or to discriminate in job promotion or  
13 transfer because of an employee's failure to make a contribution to the corporation or a separate  
14 segregated fund;~~

15 ~~——(G) A separate segregated fund to make any contribution, directly or indirectly, in excess of  
16 \$1,000 in connection with or on behalf of any campaign for nomination or election to any elective  
17 office in the state or any of its subdivisions, or in connection with or on behalf of any committee or  
18 other organization or person engaged in furthering, advancing, supporting or aiding the nomination  
19 or election of any candidate for any such office;~~

20 ~~——(H) A corporation to pay, give or lend or to authorize payment, giving or lending of any  
21 moneys or other things of value belonging to the corporation to a separate segregated fund for the  
22 purpose of making a contribution to a candidate or a candidate's committee. This provision does  
23 not prohibit a separate segregated fund from using the property, real or personal, facilities and~~



1 ~~equipment of a corporation solely to establish, administer and solicit contributions to the fund,~~  
2 ~~subject to the rules of the State Election Commission as provided in subsection (d) of this section:~~  
3 ~~*Provided, That any such corporation shall also permit any group of its employees represented by a*~~  
4 ~~bona fide political action committee to use the real property of the corporation solely to establish,~~  
5 ~~administer and solicit contributions to the fund of the political action committee, subject to the rules~~  
6 ~~of the State Election Commission promulgated in accordance with said subsection.~~

7 ~~———(3) For the purposes of this section, the term “executive or administrative personnel” means~~  
8 ~~individuals employed by a corporation who are paid on a salary rather than hourly basis and who~~  
9 ~~have policy-making, managerial, professional or supervisory responsibilities.~~

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

13 ~~———(e) To ensure uniform administration and application of the provisions of this section and of~~  
14 ~~those of the Federal Election Campaign Act Amendments of 1976 relating to corporate~~  
15 ~~contributions, the State Election Commission shall propose rules for legislative approval in~~  
16 ~~accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the~~  
17 ~~provisions of this section consistent, insofar as practicable, with the rules and regulations~~  
18 ~~promulgated by the Federal Election Commission to carry out similar or identical provisions of 2~~  
19 ~~U.S.C. §441b.~~

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

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

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

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

5 (4) To report any alleged violations of this article to the appropriate prosecuting attorney  
6 having jurisdiction, which prosecuting attorney shall present to the grand jury such alleged  
7 violations, together with all evidence relating thereto, no later than the next term of court after  
8 receiving the report.

9 ~~(g)~~(b) The Attorney General shall, when requested, provide legal and investigative assistance  
10 to the State Election Commission.

11 ~~(h)~~(c) Any investigation, either upon complaint or initiative, shall be conducted in an  
12 executive session of the State Election Commission and shall remain undisclosed except upon an  
13 indictment by a grand jury.

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

18 (e) Notwithstanding the foregoing, it is unlawful for the Secretary of State's office, or any  
19 employee of the Secretary of State's office, to disclose the existence or nonexistence of any  
20 complaint, the facts of any pending complaint, investigation or report or any part thereof, or any  
21 proceedings thereon prior to the completion of the investigation. Any person who violates this  
22 subsection is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$1,000, nor  
23 more than \$5,000, and shall be confined in jail not less than six months nor more than one year.

1           ~~(j) The amendments to this section enacted during the second extraordinary session of 2008~~  
2 ~~are intended to conform to the existing proscription to constitutionally permissible limits and not to~~  
3 ~~create a new offense or offenses.~~

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

6 **§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their**  
7 **purposes; limitation upon expenses; use of advertising agencies and reporting**  
8 **requirements; delegation of expenditures.**

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

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

15           (2) In the case of a candidate who does not maintain a headquarters, for reasonable office  
16 expenses, including, but not limited to, filing cabinets and other office equipment and furnishings,  
17 computers, computer hardware and software, scanners, typewriters, calculators, audio visual  
18 equipment, the rental of the use of the same, or for the payment for the shared use of same with the  
19 candidate's business and for the payment of necessary clerks, stenographers and typists actually  
20 employed;

21           (3) For printing and distributing books, pamphlets, circulars and other printed matter and  
22 radio and television broadcasting and painting, printing and posting signs, banners and other  
23 advertisements, including contributions to charitable, educational or cultural events, for the

1 promotion of the candidate, or the candidate's name ~~or an issue on the ballot~~;

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

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

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

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

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

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

16 (10) For conducting public opinion poll or polls. For the purpose of this section, the phrase  
17 "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection,  
18 collation and evaluation of information reflecting public opinion, needs and preferences as to any  
19 candidate, group of candidates, party, issue or issues. No such poll shall be deceptively designed or  
20 intentionally conducted in a manner calculated to advocate the election or defeat of any candidate  
21 or group of candidates or calculated to influence any person or persons so polled to vote for or  
22 against any candidate, group of candidates, proposition or other matter to be voted on by the public  
23 at any election: *Provided*, That nothing herein shall prevent the use of the results of any such poll

1 or polls to further, promote or enhance the election of any candidate or group of candidates or the  
2 approval or defeat of any proposition or other matter to be voted on by the public at any election;

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

6 (12) For the purchase of memorials, flowers or citations by political party executive  
7 committees or political action committees representing a political party;

8 (13) For the purchase of nominal noncash expressions of appreciation following the close  
9 of the polls of an election or within thirty days thereafter;

10 (14) For the payment of dues, transfers or subscriptions to any national, state or local  
11 committee of any political party without limitation;

12 (15) For contributions to a county party executive committee, state party executive committee  
13 or a state party legislative caucus political committee;

14 (16) For any political expenditure; and

15 ~~(16)~~(17) For contributions to a candidate committee. ~~Provided, That~~ However, a candidate  
16 committee may not contribute to another candidate committee except as otherwise provided by  
17 section ten of this article.

18 ~~(b) A political action committee may not contribute to another political action committee or~~  
19 ~~receive contributions from another political action committee: Provided, That a political action~~  
20 ~~committee may receive contributions from its national affiliate, if any.~~

21 ~~(c)~~ (b) Every liability incurred and payment made shall be for the fair market value of the  
22 services rendered.

23 ~~(d)~~ (c) Every advertising agency subject to the provisions of this article shall file, in the

1 manner and form required by section five-a of this article, the financial statements required by  
2 section five of this article at the times required therein and include therein, in itemized detail, all  
3 receipts from and expenditures made on behalf of a candidate, financial agent or treasurer of a  
4 political party committee.

5 ~~(e)~~ (d) Any candidate may designate a financial agent by a writing duly subscribed by ~~him~~  
6 the candidate which shall be in such form and filed in accordance with the provisions of section four  
7 of this article.

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

10 (a) Notwithstanding any other provision of law with respect to limitations on expenditures  
11 or limitations on contributions, the state committee of a political party, including any subordinate  
12 committee of a state committee and political party caucus, may make expenditures in connection  
13 with the general election campaign of candidates for state office, subject to the limitations contained  
14 in subsections (b), (c), (d) and (e) of this section.

15 (b) The state committee of a political party may not make any expenditure in connection with  
16 the general election campaign of any candidate for Governor who is affiliated with such party which  
17 exceeds an amount equal to \$25,000.

18 (c) The state committee of a political party may not make any coordinated political  
19 expenditure in connection with the general election campaign of any candidate for statewide election,  
20 other than Governor, who is affiliated with such party which exceeds an amount equal to \$25,000.

21 (d) The state committee of a political party, including any subordinate committee of a state  
22 committee and political party caucus, may not make any expenditure in connection with the general  
23 election campaign of a candidate for state office who is affiliated with such party which exceeds:

1 (1) In the case of a candidate for election to the office of senator, \$15,000.

2 (2) In the case of a candidate for election to the office of delegate, \$10,000.

3 (e) For purposes of this section, all communications that are made in coordination with a  
4 candidate or candidate's committee must include a statement clearly identifying that the  
5 communications were made in coordination with the candidate or candidate's committee.

6 **§3-8-10. Use of excess campaign contributions.**

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

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

12 (2) Contributed by the candidate, after the general election, to:

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

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

16 (C) Any state party executive committee or state party legislative caucus committee ~~in an~~  
17 ~~amount not to exceed \$15,000 in a calendar year~~ without limitation; or

18 (D) Any local committee of any political party or any other candidate for public office ~~in~~  
19 ~~accordance with the existing limitations on contributions~~ without limitation.

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

23 **§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising;**

1                   **solicitation of contributions; intimidation and coercion of employees; promise of**  
2                   **employment or other benefits; public contractors; penalty.**

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

6           (b) An owner, publisher, editor or employee of a newspaper or other periodical may not  
7 insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends  
8 to influence the voting at any election, unless directly designating it as a paid advertisement and  
9 stating the name of the person authorizing its publication and the candidate in whose behalf it is  
10 published.

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

23          (d) Except as provided in section eight of this article, a person entering into any contract with



1 the state or its subdivisions, or any department or agency of the state, either for rendition of personal  
2 services or furnishing any material, supplies or equipment or selling any land or building to the state,  
3 or its subdivisions, or any department or agency of the state, if payment for the performance of the  
4 contract or payment for the material, supplies, equipment, land or building is to be made, in whole  
5 or in part, from public funds may not, during the period of negotiation for or performance under the  
6 contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly,  
7 make any contribution to any political party, committee or candidate for public office or to any  
8 person for political purposes or use; nor may any person or firm solicit any contributions for any  
9 purpose during any period.

10 (e) A person may not, directly or indirectly, promise any employment, position, work,  
11 compensation or other benefit provided for, or made possible, in whole or in part, by act of the  
12 Legislature, to any person as consideration, favor or reward for any political activity for the support  
13 of or opposition to any candidate, or any political party in any election.

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

20 ~~(g) A political organization (as defined in Section 527(e)(1) of the Internal Revenue Code~~  
21 ~~of 1986) may not solicit or accept contributions until it has notified the Secretary of State of its~~  
22 ~~existence and of the purposes for which it was formed. During the two-year election cycle, a~~  
23 ~~political organization (as defined in Section 527 (e) (1) of the Internal Revenue Code of 1986) may~~

1 ~~not accept contributions totaling more than \$1,000 from any one person prior to the primary election~~  
2 ~~and contributions totaling more than \$1,000 from any one person after the primary and before the~~  
3 ~~general election.~~

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

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

11 ~~(j) The limitations on contributions contained in this section do not apply to transfers between~~  
12 ~~and among a state party executive committee or a state party's legislative caucus political committee~~  
13 ~~from national committees of the same political party: *Provided*, That transfers permitted by this~~  
14 ~~subsection may not exceed \$50,000 in the aggregate in any calendar year to any state party executive~~  
15 ~~committee or state party legislative caucus political committee: *Provided, however*, That the moneys~~  
16 ~~transferred may only be used for voter registration and get-out-the-vote activities of the state~~  
17 ~~committees.~~

18 ~~(k) (f) A person may not solicit any contribution, other than contributions to a campaign for~~  
19 ~~or against a county or local government ballot issue, from any nonelective salaried employee of the~~  
20 ~~state government or of any of its subdivisions: *Provided*, That in no event may any person acting~~  
21 ~~in a supervisory role solicit a person who is a subordinate employee for any contribution. A person~~  
22 ~~may not coerce or intimidate any nonelective salaried employee into making a contribution. A~~  
23 ~~person may not coerce or intimidate any nonsalaried employee of the state government or any of its~~

1 subdivisions into engaging in any form of political activity. The provisions of this subsection may  
2 not be construed to prevent any employee from making a contribution or from engaging in political  
3 activity voluntarily without coercion, intimidation or solicitation.

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

9 (m) (g) A person may not place any letter, circular, flyer, advertisement, election  
10 paraphernalia, solicitation material or other printed or published item tending to influence voting at  
11 any election in a roadside receptacle unless it is: (1) Approved for placement into a roadside  
12 receptacle by the business or entity owning the receptacle; and (2) contains a written  
13 acknowledgment of the approval. This subdivision does not apply to any printed material contained  
14 in a newspaper or periodical published or distributed by the owner of the receptacle. The term  
15 "roadside receptacle" means any container placed by a newspaper or periodical business or entity to  
16 facilitate home or personal delivery of a designated newspaper or periodical to its customers.

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

20 ~~(o) (i)~~ The provisions of subsection (k) of this section, permitting contributions to a campaign  
21 for or against a county or local government ballot issue shall become operable on and after January  
22 1, 2005.

23 ~~(p) The limitations on contributions established by subsection (g) of this section do not apply~~

1 ~~to contributions made for the purpose of supporting or opposing a ballot issue, including a~~  
~~constitutional amendment.~~

NOTE: The purpose of this bill is to make changes concerning the regulation and control of elections. The bill modifies what qualifies as a federal reporting exemption. The bill requires certain contributions be reported to the State Election Commission within forty-eight hours of their receipt. The bill permits certain financial statements by mail or in person. The bill requires the Secretary of State to maintain an online database. The bill sets forth additional powers of the State Election Commission. The bill requires the Attorney General to provide assistance when requested. The bill permits a political committee to transfer funds to a national, state or local committee of a political party without limitation. The bill permits a political action committee to contribute to another political action committee. The bill establishes contribution requirements for various entities to candidates or candidate committees. The bill establishes expenditure limits by political party committees, political party caucuses and candidates. The bill permits candidates, after a general election, to transfer any unused contributions to state party executive committees, state party legislative caucus committees, local committees of a political party or any other candidate for public office without limitation. The bill modifies and adds definitions. The bill creates criminal penalties..

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

§3-8-1b, §3-8-1c, §3-8-5c and §3-8-9a are new; therefore, strike-throughs and underscoring have been omitted.