

ENGROSSED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 541

(By Senators Carmichael, Blair
and D. Hall)

[Originating in the Committee on
the Judiciary;
reported March 2, 2015.]

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, §3-8-7, §3-8-8, §3-8-9, §3-8-10, §3-8-12 and §3-8-14 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto five new sections, designated §3-8-1b, §3-8-1c, §3-8-5c, §3-8-8a and §3-8-9a, all relating generally to the regulation and control of elections; modifying and adding definitions; modifying what committees qualify for a federal reporting exemption; modifying reporting requirements for independent expenditures; clarifying scope of reporting obligations by committee treasurers; requiring certain contributions be reported to State Election Commission within forty-eight hours of their receipt; requiring financial statements for candidates for State Senate, House of Delegates, circuit judge and family court judge to be filed electronically with Secretary of State; permitting certain financial statements to be filed by mail, in person or by facsimile or other electronic means; establishing a processing fee for financial statements not filed electronically; requiring Secretary of State to maintain an online searchable database; setting

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contribution limits for candidate nomination and general election; prohibiting contribution of monies to general election campaign prior to candidate's nomination; providing for indexing of contribution limits; setting contribution limits to state party executive committee, or subsidiary thereof, or state party legislative caucus committee; prohibiting contributions by foreign nationals; directing Secretary of State to publish an online list of late filing violators; prohibiting contributions to candidates or candidate committees by corporations or membership organizations; clarifying and modifying disclosure requirements for covered organizations; identifying additional lawful election expenses; permitting coordinated contributions by state political party committees and political party caucuses for certain elections; identifying additional lawful expenditures for excess campaign funds; creating criminal offenses and setting penalties; setting requirements for disclosures on certain communications; and setting requirements for the sale of newspaper or magazine space to candidates or their agents.

Be it enacted by the Legislature of West Virginia:

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

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

6 **§3-8-1a. Definitions.**

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

8 (1) "Ballot issue" means a constitutional amendment, special levy, bond issue, local option

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1 referendum, municipal charter or revision, an increase or decrease of corporate limits or any other
2 question that is placed before the voters for a binding decision.

3 (2) "Billboard advertisement" means a commercially available outdoor advertisement, sign
4 or similar display regularly available for lease or rental to advertise a person, place or product.

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

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

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

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

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

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

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

22 (6) "Clearly identified" means that the name, nickname, photograph, drawing or other

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1 depiction of the candidate appears or the identity of the candidate is otherwise apparent through an
2 unambiguous reference, such as “the Governor”, “your Senator” or “the incumbent” or through an
3 unambiguous reference to his or her status as a candidate, such as “the Democratic candidate for
4 Governor” or “the Republican candidate for ~~Supreme Court of Appeals~~ House of Delegates”.

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

13 ~~(8)~~ (7) “Corporate political action committee” means a political action committee that is a
14 separate segregated fund of a corporation that may only accept contributions from its restricted group
15 as outlined by the rules of the State Election Commission.

16 ~~(9)~~ (8) “Direct costs of purchasing, producing or disseminating electioneering
17 communications” means:

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

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

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1 purchase air time.

2 ~~(10)~~ (9) “Disclosure date” means either of the following:

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

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

9 ~~(11)~~ (10) “Election” means any primary, general or special election conducted under the
10 provisions of this code or under the charter of any municipality at which the voters nominate or elect
11 candidates for public office. For purposes of this article, each primary, general, special or local
12 election constitutes a separate election. This definition is not intended to modify or abrogate the
13 definition of the term “nomination” as used in this article.

14 ~~(12)~~ (11) (A) “Electioneering communication” means any paid communication made by
15 broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement or
16 published in any newspaper, magazine or other periodical that:

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

19 (ii) Is publicly disseminated within:

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

22 (II) Sixty days before a general or special election at which the office sought by the candidate

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1 is to be filled; and

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

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

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

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

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

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

21 (iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election
22 Commission or the Secretary of State or a communication promoting that debate or forum made by

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1 or on behalf of its sponsor;

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

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

7 (vi) A statement or depiction by a membership organization, in existence prior to the date on
8 which the individual named or depicted became a candidate, made in a newsletter or other
9 communication distributed only to bona fide members of that organization;

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

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

18 ~~(13)~~ (12) "Expressly advocating" means any communication that:

19 (A) Uses phrases such as "vote for the Governor", "reelect your Senator", "support the
20 ~~Democratic nominee~~ incumbent candidate for Supreme Court", "cast your ballot for the Republican
21 challenger for House of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life" or
22 "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as pro-life or

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1 pro-choice, “vote against Old Hickory”, “defeat” accompanied by a picture of one or more
2 candidates, or “reject the incumbent”;

3 (B) Communications of campaign slogans or individual words, that can have no other
4 reasonable meaning than to urge the election or defeat of one or more clearly identified candidates,
5 such as posters, bumper stickers, advertisements, etc., which say “Smith’s the One”, “Jones ‘06”,
6 “Baker”, etc; or

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

9 ~~(14)~~ (13) “Financial agent” means any individual acting for and by himself or herself, or any
10 two or more individuals acting together or cooperating in a financial way to aid or take part in the
11 nomination or election of any candidate for public office, or to aid or promote the success or defeat
12 of any political party at any election.

13 ~~(15)~~ (14) “Fundraising event” means an event such as a dinner, reception, testimonial,
14 cocktail party, auction or similar affair through which contributions are solicited or received by such
15 means as the purchase of a ticket, payment of an attendance fee or by the purchase of goods or
16 services.

17 ~~(16)~~ (15) “Independent expenditure” means an expenditure by a person:

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

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

22 Supporting or opposing the election of a clearly identified candidate includes supporting or

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1 opposing the candidates of a political party. An expenditure which does not meet the criteria for an
2 independent expenditure is considered a contribution.

3 ~~(17)~~ (16) “Mass mailing” means a mailing by United States mail, facsimile or electronic mail
4 of more than five hundred pieces of mail matter of an identical or substantially similar nature within
5 any thirty-day period. For purposes of this subdivision "substantially similar" includes
6 communications that contain substantially the same template or language, but vary in nonmaterial
7 respects such as communications customized by the recipient's name, occupation or geographic
8 location.

9 ~~(18)~~ (17) “Membership organization” means a group that grants bona fide rights and
10 privileges, such as the right to vote, to elect officers or directors and the ability to hold office, to its
11 members and which uses a majority of its membership dues for purposes other than political
12 purposes. “Membership organization” does not include organizations that grant membership upon
13 receiving a contribution.

14 (18) “Membership organization political action committee” means a political action
15 committee that is a separate segregated fund of a membership organization that may only accept
16 contributions from its restricted group as outlined by the rules of the State Election Commission.

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

21 (20) “Person” means an individual, corporation, partnership, committee, association and any
22 other organization or group of individuals.

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

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

6 (B) A membership organization political action committee, as that term is defined by
7 subdivision (18) of this section;

8 (C) An unaffiliated political action committee, as that term is defined by subdivision (29) of
9 this section.

10 (22) “Political committee” means any candidate’s committee, political action committee or
11 political party committee, as defined in subdivision (5), (21) or (25) of this section.

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

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

19 ~~(24)~~ (25) “Political party committee” means a committee established by a political party or
20 political party caucus for the purposes of engaging in the influencing of the election, nomination or
21 defeat of a candidate in any election.

22 ~~(25)~~ (26) “Political purposes” means supporting or opposing the nomination, election or

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1 defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement
2 of the debt of a candidate or political committee or the administration or activities of an established
3 political party or an organization which has declared itself a political party and determining the
4 advisability of becoming a candidate under the precandidacy financing provisions of this chapter.

5 ~~(26)~~ (27) “Targeted to the relevant electorate” means that a communication ~~which~~ refers to
6 a clearly identified candidate for statewide office or the Legislature and ~~which~~ can be received by
7 one hundred forty thousand or more individuals in the state in the case of a candidacy for statewide
8 office, eight thousand two hundred twenty or more individuals in the district in the case of a
9 candidacy for the State Senate and two thousand four hundred ten or more individuals in the district
10 in the case of a candidacy for the House of Delegates.

11 ~~(27)~~ (28) “Telephone bank” means telephone calls that are targeted to the relevant electorate,
12 other than telephone calls made by volunteer workers, regardless of whether paid professionals
13 designed the telephone bank system, developed calling instructions or trained volunteers.

14 ~~(28)~~ ~~“Two-year election cycle” means the twenty-four month period that begins the day after~~
15 ~~a general election and ends on the day of the subsequent general election.~~

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

18 **§3-8-1b. Political contribution defined.**

19 (a) “Political contribution” means:

20 (1) Any gift, subscription, loan, advance, deposit of money or payment or anything of value
21 given to any entity that is registered or is required to be registered as a political committee at the time
22 the political contribution is made, or that is given to be used specifically for making political

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1 contributions to other recipients or for making political expenditures; or

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

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

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

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

11 (3) The payment by any corporation or membership organization for the costs of
12 communicating with its restricted class about any subject;

13 (4) The appearance of a candidate at any residence or the facilities of any corporation,
14 membership organization, social or civic organization, or educational institution to speak about the
15 candidate's campaign: *Provided*, That the use of such venue is furnished by the venue's owner and
16 is not paid for by a third party;

17 (5) The costs of hosting a debate or candidates' forum: *Provided*, That at least two opposing
18 candidates with respect to any given office sought are invited with the same or similar advance
19 notice and method of invitation;

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

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

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1 involvement;

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

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

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

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

12 (8) Any cost incurred for covering or carrying a news story, commentary or editorial by a
13 broadcasting station or cable television operator, Internet website, or newspaper or other periodical
14 publication, including an Internet or other electronic publication: *Provided*, That the cost for the
15 news story, commentary or editorial is not paid for by, and the medium is not owned or controlled
16 by, a candidate, candidate committee, party committee or other political committee; and

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

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

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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 constitutes express advocacy or electioneering communications,
5 as those terms are defined in subdivisions (11) and (12), section one-a of this article; or

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

8 (A) The republication of materials in a voter guide described under subdivision (6),
9 subsection (b), section one-b of this article;

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

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

15 (b) The term "political expenditure" does not include anything that is excluded from the
16 definition of a "political contribution", as set forth in subsection (b), section one-b of this article of
17 the definition of "political contribution."

18 (c) A "political expenditure" is "made in coordination" or otherwise considered to be
19 coordinated if:

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

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

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

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

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

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

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

14 (3) A candidate endorses another candidate;

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

18 (5) A candidate is clearly identified only in his or her capacity as the owner or operator of a
19 business that existed prior to the candidacy, if the communication does not refer to an election or
20 another candidate who seeks the same office as that candidate; or

21 (6) A commercial vendor, former employee or political committee has established and
22 implemented a firewall that meets the following requirements: *Provided*, That the communication

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1 does not qualify for this exemption if specific information indicates that, despite the firewall,
2 information about a candidate's, candidate committee's, measure committee's, or party committee's
3 campaign plans, projects, activities or needs that is material to the creation, production or
4 distribution of the political expenditure was used or conveyed to the person paying for the political
5 expenditure:

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

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

13 (e) Political expenditures may only be made in coordination with a candidate or candidate's
14 committee as set forth in section nine-a of this article.

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

17 **§3-8-2. Accounts for receipts and expenditures in elections; requirements for reporting**
18 **independent expenditures.**

19 (a) Except for: (1) Candidates for party committeeman and committeewoman; ~~and~~ (2)
20 federal committees required to file under the provisions of 2 U. S. C. §434; and (3) candidates for
21 delegate to a national convention, all candidates for nomination or election and all persons
22 supporting, aiding or opposing the nomination, election or defeat of any candidate shall keep for a

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1 period of six months records of receipts and expenditures which are made for political purposes;
2 Provided, That any federal committee that makes state level independent expenditures or engages
3 in state level electioneering communications is not exempt from the recordkeeping and reporting
4 provisions of this article. All of the receipts and expenditures are subject to regulation by the
5 provisions of this article. Verified financial statements of the records and expenditures shall be made
6 and filed as public records by all candidates and by their financial agents, representatives or any
7 person acting for and on behalf of any candidate and by the treasurers of all political party
8 committees.

9 (b) ~~(†)~~ In addition to any other reporting required by the provisions of this chapter, any person
10 who makes independent expenditures in an aggregate amount or value in excess of \$1,000 during
11 a calendar year shall file a disclosure statement, on a form prescribed by the Secretary of State, that
12 contains all of the requirements set forth in section eight-a of this article. ~~following information:~~

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

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

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

21 ~~(D) The elections to which the independent expenditure pertain, the names, if known, of the~~
22 ~~candidates referred to or to be referred to therein, whether the expenditure is intended to support or~~

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1 ~~oppose the identified candidates and the amount of the total expenditure reported pursuant to~~
2 ~~paragraph (C) of this subdivision spent to support or oppose each of the identified candidates;~~

3 ~~(E) The name and address of any person who contributed a total of more than \$250 between~~
4 ~~the first day of the preceding calendar year, and the disclosure date, and whose political contributions~~
5 ~~were made for the purpose of furthering the expenditure.~~

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~~

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1 candidate-by-candidate basis, all independent expenditures separately, made by, or on behalf of, or
2 for, or against each candidate, as reported under this subsection, and for periodically publishing such
3 indices on a timely preelection basis:

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

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

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

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1 ~~describing the expenditures within forty-eight hours.~~

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

6 ~~(c)~~ (c) Any communication paid for by an independent expenditure must include a clear and
7 conspicuous public notice that:

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

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

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

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

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

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

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

11 ~~(i)~~ (g) This section does not apply to candidates for federal office.

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

15 **§3-8-3. Committee treasurers; required to receive and disburse funds.**

16 Every political committee shall appoint and retain a treasurer to receive, keep and disburse
17 all sums of money which may be collected or received by such committee, or by any of its members,
18 for election expenses, and, unless such treasurer is first appointed and thereafter retained, it shall be
19 unlawful for any such committee or any of its members to collect, receive or disburse money for any
20 such purposes. All moneys collected or received by any such committee, or by any of its members,
21 for election expenses shall be paid over to, and pass through the hands of, the treasurer, and shall be
22 disbursed by ~~him~~ the treasurer, and it shall be unlawful for any such committee, or any of its

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1 members, to disburse any money for election expenses unless such money shall be paid to, and
2 disbursed by, the treasurer. The same person may be designated to act as treasurer for two or more
3 political party committees. This section creates no obligation upon any entity or individual, other
4 than a political committee as defined in this article.

5 **§3-8-4. Treasurers and financial agents; written designation requirements.**

6 (a) No person may act as the treasurer of any political action committee or political party
7 committee supporting, aiding or opposing the nomination, election or defeat of any candidate for an
8 office encompassing an election district larger than a county unless a written statement of
9 organization, on a form to be prescribed by the Secretary of State, is filed with the Secretary of State
10 at least twenty-eight days before the election at which that person is to act as a treasurer and is
11 received by the Secretary of State before midnight, eastern standard time, of that day or, if mailed,
12 is postmarked before that hour. The form shall include the name of the political action committee
13 or political party committee; the name of the treasurer; the mailing address, telephone number and
14 e-mail address, if applicable, of the committee and of the treasurer if different from the committee
15 information; the chairman of the committee; the affiliate organization, if any; type of committee
16 affiliation, as defined in subdivisions (21) and ~~(24)~~ (25), section one-a of this article, if any; and
17 whether the committee will participate in statewide, county or municipal elections. The form shall
18 be certified as accurate and true and signed by the chairman and the treasurer of the committee:
19 *Provided*, That a change of treasurer or financial agent may be made at any time by filing a written
20 statement with the Secretary of State.

21 (b) No person may act as the treasurer for any candidate for nomination or election to any
22 statewide office, or to any office encompassing an election district larger than a county or to any

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1 legislative office unless a written statement designating that person as the treasurer or financial agent
2 is filed with the Secretary of State at least twenty-eight days before the election at which that person
3 is to act as a treasurer and is received by the Secretary of State before midnight, eastern standard
4 time, of that day or if mailed, is postmarked before that hour: *Provided*, That a change of treasurer
5 or financial agent may be made at any time by filing a written statement with the Secretary of State.

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

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

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

4 **§3-8-5. Detailed accounts and verified financial statements required.**

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

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

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

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

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

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

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

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

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

22 **§3-8-5a. Information required in financial statement.**

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

4 (1) The name, residence and mailing address and telephone number of each candidate,
5 financial agent, treasurer or person and the name, address and telephone number of each association,
6 organization or committee filing a financial statement.

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

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

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

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

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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 fundraising event held during the period covered by the
22 financial statement:

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

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

4 (3) The total of all moneys received at the fundraising event.

5 (4) The expenditures incident to the fundraising event.

6 (5) The net receipts of the fundraising event.

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

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

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

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

22 (h) No political contribution may be made, directly or indirectly, in a fictitious name,

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1 anonymously or by one person through an agent, relative or other person so as to conceal the identity
2 of the source of the contribution or in any other manner so as to effect concealment of the
3 contributor's identity.

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

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

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

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

20 (2) If the total payroll deduction for political purposes of each participating member equals
21 \$25 or less over the course of a calendar or fiscal year, as specified by the organization, the
22 organization shall report the total amount received for political purposes through payroll deductions

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1 during the reporting period and, to the maximum extent possible, the amount of each yearly payroll
2 deduction contribution level and the number of members contributing at each such specified level.
3 The membership organization shall maintain records of the name and yearly payroll deduction
4 amounts of each participating member.

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

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

17 (i) (1) The name of the committee;

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

19 (iii) (3) The location where the activity occurred;

20 (iv) (4) The date of the fundraiser;

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

22 (vi) (6) The name and amount received from any person or organization purchasing more

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1 than \$50 worth of food, beverages, services, novelty items, raffle tickets or memorabilia;

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

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

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

6 (a) The financial statements provided for in this article shall be filed, by or on behalf of
7 candidates, with:

8 (1) The Secretary of State for legislative offices, circuit judge, family court judge, and for
9 statewide and other offices to be nominated or elected by the voters of a political division greater
10 than a county;

11 (2) The clerk of the county commission by candidates for offices to be nominated or elected
12 by the voters of a single county or a political division within a single county, except for legislative
13 offices, circuit judge and family court judge; or

14 (3) The proper municipal officer by candidates for office to be nominated or elected to
15 municipal office.

16 (b) ~~The statements may be filed by mail, in person, or by facsimile or other electronic means~~
17 ~~of transmission: *Provided, That the financial* Financial statements filed by or on behalf of candidates~~
18 for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of
19 Agriculture, State Senate, House of Delegates, ~~and~~ Supreme Court of Appeals, circuit judge and
20 family court judge shall be filed electronically by the means of an Internet program to be established
21 by the Secretary of State. Candidates for House of Delegates, State Senate, circuit judge and family
22 court judge may file financial statements in person, or by facsimile or other electronic means of

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1 submission until the total amount of contributions received by the candidate exceeds \$10,000 for the
2 election cycle. The Secretary of State shall charge a \$25 processing fee for any financial statements
3 that are not filed electronically.

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

7 (d) Candidates for all other offices than those identified in subsection (b) of this section may
8 file statements by mail, in person or by facsimile or other electronic means of transmission. For
9 purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the
10 date of the postmark of the United States Postal Service, and in the case of hand delivery or delivery
11 by facsimile or other electronic means of transmission, the date delivered to the office of the
12 Secretary of State or to the office of the clerk of the county commission, in accordance with the
13 provisions of subsection (a) of this section, during regular business hours of such office.

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

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

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1 **§3-8-5c. Contribution limitations to candidate committees; indexing of candidate's committee**
2 **thresholds; prohibition against contributions by foreign nationals.**

3 (a) Except as provided in section eight of this article, a person, political party or political
4 action committee may not:

5 (1) Contribute more than \$2,700, as adjusted pursuant to subsection (c) of this section,
6 directly to a candidate's committee for a candidate seeking nomination; or

7 (2) Contribute more than \$2,700, as adjusted pursuant to subsection (c) of this section,
8 directly to a candidate's committee for a candidate seeking election: *Provided*, That no candidate
9 may receive contributions for the general election until he or she has been nominated.

10 (b) The contribution limits contained in subsection (a) of this section apply only to elections
11 to be held after the effective date of this section, and do not apply to candidate committees that were
12 created for elections held prior to the effective date of this section.

13 (c) Notwithstanding the provisions of subsection (a) of this section to the contrary, an
14 individual may not, directly or indirectly, make contributions to a state party executive committee,
15 or subsidiary thereof, or state party legislative caucus committee which, in the aggregate, exceed the
16 value of \$10,000 in any calendar year: *Provided*, That a person may not earmark or otherwise
17 designate any portion of a contribution made pursuant to this section to be used to support or oppose
18 the election of a particular candidate: *Provided, however*, That any such designation or earmark that
19 accompanies a contribution made pursuant to this subsection shall not be binding on the entity that
20 receives the contribution.

21 (d) On the last day of every calendar year in which an election for House of Delegates is held,
22 the Secretary of State shall adjust the dollar values for the fixed dollar amounts for limitations on

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1 contributions under this chapter by comparing the percentage increase or decrease in the consumer
2 price index by the corresponding consumer price index since the same date after the last such regular
3 election year, as determined by the most comprehensive index of consumer prices available for West
4 Virginia from the Bureau of Labor Statistics of the United States Department of Labor. The
5 Secretary of State shall multiply these thresholds by that percentage change in the consumer price
6 index, and shall round up each dollar value adjustment made to the nearest \$100. The State Election
7 Commission shall announce the adjustments made under this subsection within thirty days after the
8 relevant index of consumer prices is published.

9 (e) *Prohibition against contributions by foreign nationals.* --

10 (1) It shall be unlawful for:

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

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

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

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

17 (B) A person to solicit, accept or receive a contribution or donation described in
18 subparagraph (i) or (ii), paragraph (A) of this subdivision.

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

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

21 (i) A government of a foreign country;

22 (ii) A foreign political party;

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

2 (I) Is an individual and a citizen of the United States; or

3 (II) That such person is not an individual and is organized under or created by the laws of the
4 United States or of any state or other place subject to the jurisdiction of the United States and has
5 its principal place of business within the United States; and

6 (iv) A partnership, association, corporation, organization or other combination of persons
7 organized under the laws of or having its principal place of business in a foreign country; and

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

11 **§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.**

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

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1 (b) (1) Any ~~person, candidate, financial agent~~ or treasurer of a political ~~party~~ committee who
2 fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete
3 or grossly inaccurate statement ~~may~~ shall be assessed a civil penalty by the Secretary of State of \$25
4 \$10 a day for each day after the due date the statement is delinquent, grossly incomplete or grossly
5 inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the
6 Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete or
7 grossly inaccurate statement by any person, candidate, financial agent or treasurer of a political ~~party~~
8 committee and forward copies of such delinquent, incomplete or inaccurate statements to the
9 Secretary of State.

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

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

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

18 ~~(4)~~ (5) The Secretary of State and county clerk may review and audit any sworn statement
19 required to be filed pursuant to this article. The State Election Commission shall propose legislative
20 rules for promulgation, in accordance with chapter twenty-nine-a of this code, to establish procedures
21 for the assessment of civil penalties as provided in this section.

22 (c) ~~No candidate nominated at a primary election who has failed to file a sworn statement,~~

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1 as required by this article, shall have his or her name placed on the official ballot for the ensuing
2 election, unless there has been filed by or on behalf of such candidate, or by his or her financial
3 agent, if any, the financial statement relating to nominations required by this article. (1) Any
4 candidate, whether nominated by primary election or appointed by executive committee or executive
5 committee chair, who has failed to file any sworn statement as required by this article, relating to the
6 immediately preceding primary election for any office by the eighty-fourth day before the general
7 election, is disqualified and may not have his or her name appear on the general election ballot. The
8 provisions of subsection (d), section five-b of this article notwithstanding, any sworn statement filed
9 after the deadline required by section five of this article must be received in the office indicated by
10 subsection (a), section five-b of this article by the close of business on the eighty-fourth day before
11 the general election.

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

17 **§3-8-8. Corporation and membership organization contributions forbidden; exceptions;**
18 **penalties; promulgation of rules; additional powers of State Election Commission.**

19 (a) An officer, agent or person acting on behalf of any membership organization or any
20 corporation, whether incorporated under the laws of this or any other state or of a foreign country,
21 may not pay, give, lend or authorize to be paid any money or other thing of value belonging to the
22 corporation to any candidate or candidate's campaign for nomination or election to any statewide

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1 office or any other elective office in the state or any of its subdivisions.

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

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

12 (2) It is unlawful for:

13 (A) A membership organization, corporation or separate segregated fund to make a primary
14 or other election contribution or expenditure by using money or anything of value secured: (i) By
15 physical force, job discrimination or financial reprisal; (ii) by the threat of force, job discrimination
16 or financial reprisal; or (iii) as a condition of employment;

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

21 (C) Any person soliciting any other person for a contribution to a membership organization,
22 corporation or separate segregated fund to fail to inform the person solicited at the time of the

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1 solicitation of his or her right to refuse to contribute without any reprisal;

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

3 To solicit contributions to the fund from any person other than the membership organization's

4 members or the corporation's stockholders, ~~and~~ their families and ~~its~~ their executive or

5 administrative personnel and their families; or (ii) to contribute any membership organization or

6 corporate funds;

7 (E) A separate segregated fund established by a membership organization or corporation to

8 receive contributions to the fund from any person other than the membership organization's

9 members or corporation's stockholders, ~~and~~ their immediate families and ~~its~~ their executive or

10 administrative personnel and their immediate families;

11 (F) A membership organization or corporation to engage in job discrimination or to

12 discriminate in job promotion or transfer because of a member's or an employee's failure to make

13 a contribution to the membership organization or corporation or a separate segregated fund;

14 (G) A separate segregated fund to make any contribution, directly or indirectly, in excess of

15 ~~\$1,000~~ the amounts permitted in section five-c of this article in connection with or on behalf of any

16 campaign for nomination or election to any elective office in the state or any of its subdivisions, or

17 in connection with or on behalf of any committee or other organization or person engaged in

18 furthering, advancing, supporting or aiding the nomination or election of any candidate for any such

19 office;

20 (H) A membership organization or corporation to pay, give or lend or to authorize payment,

21 giving or lending of any moneys or other things of value belonging to the membership organization

22 or corporation to a separate segregated fund for the purpose of making a contribution to a candidate

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1 or a candidate's committee. This provision does not prohibit a separate segregated fund from using
2 the property, real or personal, facilities and equipment of a membership organization or corporation
3 solely to establish, administer and solicit contributions to the fund, subject to the rules of the State
4 Election Commission as provided in subsection (d) of this section: *Provided*, That any such
5 membership organization or corporation shall also permit any group of its employees represented
6 by a bona fide political action committee to use the real property of the membership organization or
7 corporation solely to establish, administer and solicit contributions to the fund of the political action
8 committee, subject to the rules of the State Election Commission promulgated in accordance with
9 said subsection.

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

14 (d) Any person, membership organization or corporation violating any provision of this
15 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
16 \$10,000. A membership organization or corporation may not reimburse any person the amount of
17 any fine imposed pursuant to this section.

18 (e) To ensure uniform administration and application of the provisions of this section and of
19 those of the Federal Election Campaign Act Amendments of 1976 relating to membership
20 organization and corporate contributions, the State Election Commission shall propose rules for
21 legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this
22 code to implement the provisions of this section consistent, insofar as practicable, with the rules and

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1 regulations promulgated by the Federal Election Commission to carry out similar or identical
2 provisions of 2 U. S. C. §441b.

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

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

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

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

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

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

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

20 (i) Any person who discloses the fact of any complaint, investigation or report or any part
21 thereof, or any proceedings thereon, is guilty of a misdemeanor and, upon conviction thereof, shall
22 be fined not less than \$1,000 nor more than \$5,000 and shall be confined in jail not less than six

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1 months nor more than one year.

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

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

7 **§3-8-8a. Disclosure requirements for covered organizations.**

8 (a) *Disclosure statement.* --

9 (1) Any covered organization that makes political disbursements aggregating more than
10 \$1,000 in a calendar year shall, not later than forty-eight hours after the \$1,000 threshold is met, file
11 a statement with the Secretary of State that contains the information described in subdivision (2) of
12 this subsection. Subsequent reports shall be filed within forty-eight hours of each additional
13 campaign-related political expenditure aggregating more than \$1,000:

14 (A) In the case of the first statement filed under this subsection, for the period beginning on
15 the first day of the preceding calendar year and ending on the first such disclosure date; and

16 (B) In the case of any subsequent statement filed under this subsection, for the period
17 beginning on the previous disclosure date and ending on such disclosure date.

18 (2) The information to be included in the statement required by this subsection is as follows:

19 (A) The name of the covered organization and the principal place of business of that
20 organization.

21 (B) The amount of each campaign-related disbursement made by that organization during the
22 period covered by the statement of more than \$1,000.

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1 (C) In the case of a campaign-related disbursement that is not a covered transfer, the election
2 to which the campaign-related disbursement pertains and, if the disbursement is made for a public
3 communication, the name of any candidate identified in that communication and whether that
4 communication is in support of or in opposition to that candidate.

5 (D) A certification by the chief executive officer or the head of the covered organization that
6 the campaign-related disbursement is not made in cooperation, consultation or concert with or at the
7 request or suggestion of a candidate, authorized committee or agent of a candidate, political party,
8 or agent of a political party.

9 (E) If the covered organization makes campaign-related disbursements exclusively using
10 funds in a segregated bank account consisting of funds that were contributed, donated, transferred
11 or paid directly to that account by persons other than the covered organization that controls the
12 account, for each contribution, donation, transfer, payment of dues or other payment to the account:

13 (i) The name and address of each person who made that contribution, donation, transfer,
14 payment of dues or other payment during the period covered by the statement: *Provided*, That if an
15 individual's contribution is \$250 or less, then the individual's name alone should be reported;

16 (ii) The date and amount of that contribution, donation, transfer, payment of dues or other
17 payment; and

18 (iii) The aggregate amount of all those contributions, donations, transfers, payments of dues
19 and other payments made by the person during the period beginning on the first day of the preceding
20 calendar year and ending on the disclosure date.

21 (F) Subject to subdivision (4) of this subsection, if the covered organization makes
22 campaign-related disbursements using funds other than funds in a segregated bank account described

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1 in paragraph (E) of this subdivision, for each contribution, donation, transfer or payment of dues to
2 the covered organization:

3 (i) The name and address of each person who made that contribution, donation, transfer or
4 payment of dues during the period covered by the statement: *Provided*, That if an individual's
5 contribution is \$250 or less, then the individual's name alone should be reported;

6 (ii) The date and amount of that contribution, donation, transfer or payment of dues; and

7 (iii) The aggregate amount of all those contributions, donations, transfers and payments of
8 dues made by the person during the period beginning on the first day of the preceding calendar year
9 and ending on the disclosure date.

10 (3) *Exceptions.* --

11 (A) The requirement to include in a statement filed under subdivision (1) of this subsection
12 the information described in subdivision (1) of this subsection does not apply to amounts received
13 by the covered organization in the ordinary course of any trade or business conducted by the covered
14 organization or in the form of investments in the covered organization.

15 (B) *Donor restriction on use of funds.* -- The requirement to include in a statement submitted
16 under subdivision (1) of this subsection the information described in paragraph (F), subdivision (2)
17 of this subsection does not apply if:

18 (i) The person described in that subdivision prohibited, in writing, the use of the contribution,
19 donation, transfer, payment of dues or other payment made by that person for campaign-related
20 disbursements; and

21 (ii) The covered organization agreed to follow the prohibition and deposited the contribution,
22 donation, transfer, payment of dues or other payment in an account which is segregated from any

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1 account used to make campaign-related disbursements.

2 (4) *Disclosure date.* --

3 (A) Except as provided in paragraph (B) of this subdivision, the term “disclosure date”
4 means:

5 (i) The first date during any calendar year by which a person has made campaign-related
6 disbursements aggregating more than \$1,000; and

7 (ii) Each date following the date described in subparagraph (i) of this paragraph during that
8 calendar year by which a person has made campaign-related disbursements aggregating more than
9 \$1,000.

10 (B) In the case of a statement filed with respect to a campaign-related disbursement which
11 is a covered transfer described in paragraph (E), subdivision (1), subsection (f) of this section, the
12 term “disclosure date” means the date on which the covered organization making that transfer knew
13 or should have known that the recipient of that transfer made campaign-related disbursements in an
14 aggregate amount of \$50,000 or more during the two-year period beginning on the date of the
15 transfer.

16 (b) *Coordination with other provisions.* -- A segregated bank account referred to in paragraph
17 (E), subdivision (2), subsection (a) of this section may be treated as a separate segregated fund for
18 purposes of section 527(f)(3) of the Internal Revenue Code of 1986.

19 (c) *Filing.* -- Statements required to be filed under subsection (a) of this section shall be
20 subject to the requirements of subsection (h), section two of this article to the same extent and in the
21 same manner as if those reports had been required under said section.

22 (d) *Campaign-related disbursement defined.* -- As used in this section, the term

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1 “campaign-related disbursement” means a disbursement by a covered organization for any of the
2 following:

3 (1) An independent expenditure consisting of a public communication, as defined in section
4 two of this article;

5 (2) An electioneering communication, as defined in section two of this article; or

6 (3) A covered transfer.

7 (e) *Covered organization defined.* -- In this section, the term “covered organization” means
8 any of the following:

9 (1) A membership organization, corporation and any other legal entity, including, but not
10 limited to, a limited liability company, limited liability partnership, cooperative, estate, trust,
11 partnership or other legal entity authorized to exist by the laws of this state, another state or the
12 federal government;

13 (2) An organization described in section 501(c) of the Internal Revenue Code of 1986 and
14 exempt from taxation under section 501(a) of that code;

15 (3) Any political organization under section 527 of the Internal Revenue Code of 1986, other
16 than a political committee under this article, except as provided in subdivision (4) of this subsection;

17 or

18 (4) A political committee with an account established for the purpose of accepting donations
19 or contributions that do not comply with the contribution limits or source prohibitions under this
20 article, but only with respect to the accounts established for that purpose.

21 (f) *Covered transfer defined.* --

22 (1) *General.* -- In this section, the term “covered transfer” means any transfer or payment of

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1 funds by a covered organization to another person if the covered organization:

2 (A) Designates, requests or suggests that the amounts be used for:

3 (i) Campaign-related disbursements other than covered transfers; or

4 (ii) Making a transfer to another person for the purpose of making or paying for that
5 campaign-related disbursements;

6 (B) Made that transfer or payment in response to a solicitation or other request for a donation
7 or payment for:

8 (i) The making of or paying for campaign-related disbursements other than covered transfers;
9 or

10 (ii) Making a transfer to another person for the purpose of making or paying for those
11 campaign-related disbursements;

12 (C) Engaged in discussions with the recipient of the transfer or payment regarding:

13 (i) The making of or paying for campaign-related disbursements other than covered transfers;
14 or

15 (ii) Donating or transferring any amount of that transfer or payment to another person for the
16 purpose of making or paying for those campaign-related disbursements;

17 (D) Made campaign-related disbursements other than a covered transfer in an aggregate
18 amount of \$50,000 or more during the two- year period ending on the date of the transfer or payment,
19 or knew or had reason to know that the person receiving the transfer or payment made those
20 disbursements in that an aggregate amount during that two-year period; or

21 (E) Knew or had reason to know that the person receiving the transfer or payment would
22 make campaign-related disbursements in an aggregate amount of \$50,000 or more during the two-

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1 year period beginning on the date of the transfer or payment.

2 (2) The term “covered transfer” does not include any of the following:

3 (A) A disbursement made by a covered organization in the ordinary course of any trade or
4 business conducted by the covered organization or in the form of investments made by the covered
5 organization.

6 (B) A disbursement made by a covered organization if:

7 (i) The covered organization prohibited, in writing, the use of that disbursement for
8 campaign-related disbursements; and

9 (ii) The recipient of the disbursement agreed to follow the prohibition and deposited the
10 disbursement in an account which is segregated from any account used to make campaign-related
11 disbursements.

12 (3) *Exception for certain transfers among affiliates.* --

13 (A) The term “covered transfer” does not include an amount transferred by one covered
14 organization to another covered organization which is treated as a transfer between affiliates under
15 paragraph (B) of this subdivision if the aggregate amount transferred during the year by that covered
16 organization to that same covered organization is equal to or less than \$50,000.

17 (B) A transfer of amounts from one covered organization to another covered organization
18 shall be treated as a transfer between affiliates if:

19 (i) One of the organizations is an affiliate of the other organization; or

20 (ii) Each of the organizations is an affiliate of the same organization; except that the transfer
21 shall not be treated as a transfer between affiliates if one of the organizations is established for the
22 purpose of making campaign-related disbursements.

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1 (C) For purposes of paragraph (B) of this subdivision, a covered organization is an affiliate
2 of another covered organization if:

3 (i) The governing instrument of the organization requires it to be bound by decisions of the
4 other organization;

5 (ii) The governing board of the organization includes persons who are specifically designated
6 representatives of the other organization or are members of the governing board, officers or paid
7 executive staff members of the other organization, or whose service on the governing board is
8 contingent upon the approval of the other organization; or

9 (iii) The organization is chartered by the other organization.

10 (D) This subdivision applies with respect to an amount transferred by a covered organization
11 to an organization described in paragraph (3), section 501(c) of the Internal Revenue Code of 1986
12 and exempt from tax under section 501(a) of that code in the same manner as this paragraph applies
13 to an amount transferred by a covered organization to another covered organization.

14 (g) Any person who makes a contribution for the purpose of funding an independent
15 expenditure under this section shall, at the time the contribution is made, provide his or her name,
16 address, occupation, his or her current employer, if any, or, if the individual is self-employed, the
17 name of his or her business, if any, to the recipient of the contribution.

18 (h) The Secretary of State shall expeditiously prepare indices setting forth, on a
19 candidate-by-candidate basis, all independent expenditures separately, made by, or on behalf of, or
20 for, or against each candidate, as reported under this subsection, and periodically publish such
21 indices on a timely preelection basis.

22 (i) Any person who willfully fails to comply with this section is guilty of a misdemeanor and,

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1 upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more than one
2 year, or both fined and confined.

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

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

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

16 **§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their**
17 **purposes; limitation upon expenses; use of advertising agencies and reporting**
18 **requirements; delegation of expenditures.**

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

22 (1) For rent, maintenance, office equipment and other furnishing of offices to be used as

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1 political headquarters and for the payment of necessary ~~clerks, stenographers, typists, janitors and~~
2 ~~messengers~~ employees actually employed therein;

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~(14)~~ (14) For legitimate advertising agency services, including commissions, in connection
22 with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7), (9)

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1 and (10) of this subsection;

2 ~~(12)~~ (15) For the purchase of memorials, flowers or citations by political party executive
3 committees or political action committees representing a political party;

4 ~~(13)~~ (16) For the purchase of nominal noncash expressions of appreciation following the
5 close of the polls of an election or within thirty days thereafter;

6 ~~(14)~~ (17) For the payment of dues or subscriptions to any national, state or local committee
7 of any political party without limitation;

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

11 ~~(15)~~ (19) For contributions to a county party executive committee, state party executive
12 committee or a state party legislative caucus political committee;

13 (20) For any political expenditure; and

14 ~~(16)~~ (21) For contributions to a candidate committee: *Provided*, That a candidate committee
15 may not contribute to another candidate committee except as otherwise provided by section ten of
16 this article.

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

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

22 (d) Every advertising agency subject to the provisions of this article shall file, in the manner

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

5 (e) Any candidate may designate a financial agent by a writing duly subscribed by ~~him~~ the
6 candidate which shall be in such form and filed in accordance with the provisions of section four of
7 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 and political party caucus may
12 make expenditures in an amount not to exceed \$20,000 in connection with the general election
13 campaign of candidates for Governor, Attorney General, Auditor, Commissioner of Agriculture,
14 Secretary of State, Treasurer, State Senate and House of Delegates.

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

18 **§3-8-10. Use of excess campaign contributions.**

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

22 (1) Used by the candidate to defray any usual and customary expenses incurred in connection

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1 with his or her duties as a holder of public office; and

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

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

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

6 (C) Any state party executive committee or state party legislative caucus committee in an
7 amount not to exceed ~~\$15,000~~ \$20,000 in a calendar year; or

8 (D) Any local committee of any political party in an amount not to exceed \$20,000; or

9 (E) Any other candidate for public office in accordance with the existing limitations on
10 contributions.

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

14 **§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising;**
15 **solicitation of contributions; intimidation and coercion of employees; promise of**
16 **employment or other benefits; public contractors; penalty.**

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

20 (b) An owner, publisher, editor or employee of a newspaper or other periodical may not
21 insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends
22 to influence the voting at any election, unless directly designating it as a paid advertisement and

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1 stating the name of the person authorizing its publication and the candidate in whose behalf it is
2 published.

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

15 (d) Except as provided in section eight of this article, a person entering into any contract with
16 the state or its subdivisions, or any department or agency of the state, either for rendition of personal
17 services or furnishing any material, supplies or equipment or selling any land or building to the state,
18 or its subdivisions, or any department or agency of the state, if payment for the performance of the
19 contract or payment for the material, supplies, equipment, land or building is to be made, in whole
20 or in part, from public funds may not, during the period of negotiation for or performance under the
21 contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly,
22 make any contribution to any political party, committee or candidate for public office or to any

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1 person for political purposes or use; nor may any person or firm solicit any contributions for any
2 purpose during any period.

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

7 (f) Except as provided in section eight of this article, a person may not, directly or indirectly,
8 make any contribution in excess of the ~~value of \$1,000~~ amounts permitted by section five-c of this
9 article in connection with any campaign for nomination or election to or on behalf of any statewide
10 office, in connection with any other campaign for nomination or election to or on behalf of any other
11 elective office in the state or any of its subdivisions, or in connection with or on behalf of any person
12 engaged in furthering, advancing, supporting or aiding the nomination or election of any candidate
13 for any of the offices.

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

21 (h) ~~It is unlawful for any person to create, establish or organize more than one political~~
22 ~~organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) with the intent~~

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1 ~~to avoid or evade the contribution limitations contained in subsection (g) of this section.~~

2 (†) (h) Notwithstanding the provisions of subsection (f) of this section to the contrary, a
3 person may not, directly or indirectly, make contributions to a state party executive committee or
4 state party legislative caucus committee which, in the aggregate, are in excess of the amounts
5 permitted by section five-c of this article in any calendar year.

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

13 (†) (j) A person may not solicit any contribution, other than contributions to a campaign for
14 or against a county or local government ballot issue, from any nonelective salaried employee of the
15 state government or of any of its subdivisions: *Provided*, That in no event may any person acting
16 in a supervisory role solicit a person who is a subordinate employee for any contribution. A person
17 may not coerce or intimidate any nonelective salaried employee into making a contribution. A
18 person may not coerce or intimidate any nonsalaried employee of the state government or any of its
19 subdivisions into engaging in any form of political activity. The provisions of this subsection may
20 not be construed to prevent any employee from making a contribution or from engaging in political
21 activity voluntarily without coercion, intimidation or solicitation.

22 (†) ~~A person may not solicit a contribution from any other person without informing the other~~

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1 ~~person at the time of the solicitation of the amount of any commission, remuneration or other~~
2 ~~compensation that the solicitor or any other person will receive or expect to receive as a direct result~~
3 ~~of the contribution being successfully collected. Nothing in this subsection may be construed to~~
4 ~~apply to solicitations of contributions made by any person serving as an unpaid volunteer.~~

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

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

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

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

22 **§3-8-14. Publication and distribution of statements and solicitations; charge for newspaper**

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1 **or magazine space.**

2 (a) Whenever a political committee makes a disbursement for the purpose of financing any
3 communication through any broadcasting station, newspaper, magazine, outdoor advertising facility,
4 mailing or any other type of general public political advertising, or whenever any person makes a
5 disbursement for a campaign-related disbursement, or solicits any contribution through any
6 broadcasting station, newspaper, magazine, outdoor advertising facility, mailing or any other type
7 of general public political advertising or makes a disbursement for an electioneering communication,
8 that communication:

9 (1) If paid for and authorized by a candidate, an authorized political committee of a
10 candidate, or its agents, shall clearly state that the communication has been paid for by that
11 authorized political committee;

12 (2) If paid for by other persons but authorized by a candidate, an authorized political
13 committee of a candidate, or its agents, shall clearly state that the communication is paid for by those
14 other persons and authorized by that authorized political committee; or

15 (3) If not authorized by a candidate, an authorized political committee of a candidate, or its
16 agents, shall clearly state the name and permanent street address, telephone number or World Wide
17 Web address of the person who paid for the communication and state that the communication is not
18 authorized by any candidate or candidate's committee.

19 (b) No person who sells space in a newspaper or magazine to a candidate or to the agent of
20 a candidate, for use in connection with that candidate's campaign, may charge any amount for that
21 space which exceeds the amount charged for comparable use of that space for other purposes.

22 (c) *Specification.* -- Any printed communication described in subsection (a) of this section

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1 shall:

2 (1) Be of sufficient type size to be clearly readable by the recipient of the communication;

3 (2) Be contained in a printed box set apart from the other contents of the communication; and

4 (3) Be printed with a reasonable degree of color contrast between the background and the
5 printed statement.

6 (d) *Additional requirements.* --

7 (1) *Communications by candidates or authorized persons.* --

8 (A) *By radio.* -- Any communication described in subdivision (1) or (2), subsection (a) of this
9 section which is transmitted through radio shall include, in addition to the requirements of that
10 subdivision, an audio statement by the candidate that identifies the candidate and states that the
11 candidate has approved the communication.

12 (B) *By television.* -- Any communication described in subdivision (1) or (2), subsection (a)
13 of this section which is transmitted through television shall include, in addition to the requirements
14 of that subdivision, a statement that identifies the candidate and states that the candidate has
15 approved the communication. Such statement:

16 (i) Shall be conveyed by:

17 (I) An unobscured, full-screen view of the candidate making the statement; or

18 (II) The candidate in voice-over, accompanied by a clearly identifiable photographic or
19 similar image of the candidate; and

20 (ii) Shall also appear in writing at the end of the communication in a clearly readable manner
21 with a reasonable degree of color contrast between the background and the printed statement, for a
22 period of at least four seconds.

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1 (2) *Communications by certain political committees.* -- Any communication described in
2 subdivision (3), subsection (a) of this section which, except to the extent provided in the last
3 sentence of this subdivision, is paid for by a political committee, including a political committee of
4 a political party, and which is transmitted through radio or television shall include, in addition to the
5 requirements of that paragraph, in a clearly spoken manner, the following audio statement: “ _____
6 is responsible for the content of this advertising.” The foregoing blank shall be filled in with the
7 name of the political committee paying for the communication and the name of any connected
8 organization of the payor. If transmitted through television, the statement shall be conveyed by an
9 unobscured, full-screen view of a representative of the political committee making the statement, or
10 by a representative of that political committee or other person in voice-over, and shall also appear
11 in a clearly readable manner with a reasonable degree of color contrast between the background and
12 the printed statement, for a period of at least four seconds. This subdivision does not apply to a
13 communication paid for, in whole or in part, with a payment which is treated as a campaign-related
14 disbursement under section eight-a and with respect to which a covered organization files a statement
15 under that section.

16 (e) *Communications by others.* --

17 (1) Any communication described in subdivision (3), subsection (a) of this section which is
18 transmitted through radio or television, other than a communication to which subdivision (2),
19 subsection (d) of this section applies, shall include, in addition to the requirements of that
20 subdivision, the following:

21 (A) The individual disclosure statement described in paragraph (A), subdivision (2) of this
22 subsection if the person paying for the communication is an individual, or the organizational

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1 disclosure statement described in paragraph (B), subdivision (2) of this subsection if the person
2 paying for the communication is not an individual.

3 (B) If the communication is transmitted through television and is paid for, in whole or in part,
4 with a payment which is treated as a campaign-related disbursement under section eight-a of this
5 article the top five contributors list, if applicable, unless, on the basis of criteria established in rules
6 promulgated by the Secretary of State, the communication is of such short duration that including
7 the top five contributors list in the communication would constitute a hardship to the person paying
8 for the communication by requiring a disproportionate amount of the content of the communication
9 to consist of the top five contributors list.

10 (C) If the communication is transmitted through radio and is paid for, in whole or in part,
11 with a payment which is treated as a campaign-related disbursement under section eight-a of this
12 section the top two contributors list, if applicable, unless, on the basis of criteria established in rules
13 promulgated by the secretary, the communication is of such short duration that including the top two
14 contributors list in the communication would constitute a hardship to the person paying for the
15 communication by requiring a disproportionate amount of the content of the communication to
16 consist of the top two contributors list.

17 (2) *Disclosure statements described.* --

18 (A) *Individual disclosure statements.* -- The individual disclosure statement described in this
19 paragraph is the following:

20 "I am _____, and I approve this message." The foregoing blank filled in
21 with the name of the applicable individual.

22 (B) *Organizational disclosure statements.* The organizational disclosure statement described

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1 in this paragraph is the following: “I am _____, the _____ of _____, and
2 _____ approves this message.”, with:

- 3 (i) The first blank to be filled in with the name of the applicable individual;
- 4 (ii) The second blank to be filled in with the title of the applicable individual; and
- 5 (iii) The third and fourth blanks each to be filled in with the name of the organization or other
6 person paying for the communication.

7 (3) *Method of conveyance of statement.* --

8 (A) In the case of a communication to which this subsection applies which is transmitted
9 through radio, the disclosure statements required under subdivision (1) of this subsection shall be
10 made by audio by the applicable individual in a clearly spoken manner.

11 (B) In the case of a communication to which this subsection applies which is transmitted
12 through television, the information required under subdivision (1) of this subsection:

13 (i) Shall appear in writing at the end of the communication or in a crawl along the bottom of
14 the communication in a clearly readable manner, with a reasonable degree of color contrast between
15 the background and the printed statement, for a period of at least six seconds; and

16 (ii) Shall also be conveyed by an unobscured, full-screen view of the applicable individual
17 or by the applicable individual making the statement in voice-over accompanied by a clearly
18 identifiable photograph or similar image of the individual, except in the case of a top five
19 contributors list.

20 (4) *Definitions.* -- In this subsection:

21 (A) “Applicable individual” means, with respect to a communication to which this subsection
22 applies:

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1 (i) If the communication is paid for by an individual, the individual involved;

2 (ii) If the communication is paid for by a corporation, the chief executive officer of the
3 corporation or, if the corporation does not have a chief executive officer, the highest ranking official
4 of the corporation; and

5 (iii) If the communication is paid for by any other person, the highest ranking official of that
6 person.

7 (B) “Campaign-related disbursement” and “covered organization” have the meanings given
8 them in section eight-a of this article.

9 (C) “Top five contributors list” means, with respect to a communication paid for, in whole
10 or in part, with a payment which is treated as a campaign-related disbursement under section eight-a,
11 a list of the five persons who provided the largest payments of any type in an aggregate amount equal
12 to or exceeding \$1,000 which are required under subsection (a), section eight-a of this article to be
13 included in the reports filed by a covered organization with respect to that communication during
14 the twelve-month period ending on the date of the disbursement and the amount of the payments
15 each such person provided. If two or more people provided the fifth largest of those payments, the
16 covered organization involved shall select one of those persons to be included on the top five
17 contributors list.

18 (D) “Top two contributors list” means, with respect to a communication paid for, in whole
19 or in part, with a payment which is treated as a campaign related disbursement under section eight-a
20 of this article a list of the persons who provided the largest and the second largest payments of any
21 type in an aggregate amount equal to or exceeding \$1,000 which are required under subsection (a)
22 of that section to be included in the reports filed by a covered organization with respect to that

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1 communication during the twelve-month period ending on the date of the disbursement and the
2 amount of the payments each such person provided. If two or more persons provided the second
3 largest of those payments, the covered organization involved shall select one of those persons to be
4 included on the top two contributors list.