

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

House Bill 2719

By Delegates Hornby, Criss, Riley, J. Cannon,
McCormick, Hillenbrand, Horst, Hite, Worrell, Crouse,
and Maynor

[Introduced February 20, 2025; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-8-1a, §3-8-5a, §3-8-5c, and §3-8-8 of the Code of West Virginia,
2 1931, as amended, all relating to the regulation and control of elections; updating
3 definitions and terms; clarifying reporting requirements in a candidate or candidate's
4 committee financial statements; providing that corporations and membership
5 organizations may contribute to a candidate, candidate's committee or political action
6 committee; and clarifying limitations on corporate contributions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-1a. Definitions.

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

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

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

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

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

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

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

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

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

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

24 (6) "Caregiving services" means direct care, protection, and supervision of a child, or other
25 person with a disability or a medical condition, for which a candidate has direct caregiving
26 responsibility. For the purposes of this article, the caregiving service expense incurred shall be in
27 direct connection with the candidate's campaign activities during the current election cycle.

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

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

37 (9) "Contribution" means a gift, subscription, loan, assessment, payment for services,
38 dues, advance, donation, pledge, contract, agreement, forbearance, promise of money, or other
39 tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other
40 tangible thing of value to a person, made for the purpose of influencing the nomination, election, or
41 defeat of a candidate.

42 (A) A coordinated expenditure is a contribution for the purposes of this article.

43 (B) An offer or tender of a contribution is not a contribution if expressly and unconditionally
44 rejected or returned. A contribution does not include volunteer personal services provided without
45 compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value
46 for reporting requirements and contribution limitations.

47 (10) "Coordinated expenditure" is an expenditure made in concert with, in cooperation
48 with, or at the request or suggestion of a candidate or candidate's committee and meeting the
49 criteria provided in §3-8-9a of this code.

50 (11) "Corporate political action committee" means a political action committee that is a
51 separate segregated fund of a corporation that may only accept contributions from its restricted
52 group as outlined by the rules of the State Election Commission.

53 (12) "Corporation" means any separately incorporated entity, whether under the laws of
54 West Virginia or any other state. The term corporation covers both for-profit and nonprofit
55 corporations and includes nonstock corporations, incorporated membership organizations,
56 incorporated cooperatives, incorporated trade associations, professional corporations and, under
57 certain circumstances, limited liability companies.

58 ~~(12)~~(13) "Direct costs of purchasing, producing, or disseminating electioneering
59 communications" means:

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

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

66 ~~(13)~~ (14) "Disclosure date" means either of the following:

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

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

73 ~~(14)~~(15) "Election" means any primary, general, or special election conducted under the
74 provisions of this code or under the charter of any municipality at which the voters nominate or
75 elect candidates for public office. For purposes of this article, each primary, general, special, or
76 local election constitutes a separate election. This definition is not intended to modify or abrogate
77 the definition of the term "nomination" as used in this article.

78 ~~(15)~~(16)(A) "Electioneering communication" means any paid communication made by
79 broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement, or
80 publication in any newspaper, magazine, or other periodical that:

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

84 (ii) Is publicly disseminated within:

85 (I) Thirty days before a primary election in which the nomination for office sought by the
86 candidate is to be determined; or

87 (II) Sixty days before a general or special election in which the office sought by the
88 candidate is to be filled; and

89 (iii) Is targeted to the relevant electorate.

90 (B) "Electioneering communication" does not include:

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

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

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

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

100 (ii) Activity by a candidate committee, party executive committee, a caucus campaign
101 committee, or a political action committee that is required to be reported to the State Election
102 Commission or the Secretary of State as an expenditure pursuant to §3-8-5 of this code or the
103 rules of the State Election Commission or the Secretary of State promulgated pursuant to such
104 provision: *Provided*, That independent expenditures by a party executive committee, caucus
105 committee, or a political action committee required to be reported pursuant to §3-8-2 of this code
106 are not exempt from the reporting requirements of this section;

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

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

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

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

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

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

127 ~~(16)~~(17) "Expressly advocating" means any communication that:

128 (A) Uses phrases such as "vote for the Governor", "re-elect your Senator", "support the
129 incumbent nominee for Supreme Court", "cast your ballot for the Republican challenger for House
130 of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life", or "vote Pro-Choice"
131 accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice,
132 "vote against Old Hickory", "defeat" accompanied by a picture of one or more candidates, "reject
133 the incumbent";

134 (B) Communicates campaign slogans or individual words that can have no other
135 reasonable meaning than to urge the election or defeat of one or more clearly identified
136 candidates, such as posters, bumper stickers, advertisements, etc., which say "Smith's the One",
137 "Jones '06", "Baker", etc.; or

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

140 ~~(17)~~(18) "Financial agent" means any individual acting for and by himself or herself, or any
141 two or more individuals acting together or cooperating in a financial way to aid or take part in the
142 nomination or election of any candidate for public office, or to aid or promote the success or defeat
143 of any political party at any election.

144 ~~(18)~~(19) "Financial transactions" means all contributions or loans received and all
145 repayments of loans or expenditures made to promote the candidacy of any person by any
146 candidate or any organization advocating or opposing the nomination, election, or defeat of any
147 candidate to be voted on.

148 ~~(19)~~(20) "Firewall" means a policy designed and implemented to prohibit the flow of
149 information between employees or consultants providing services for the person paying for a
150 communication and those employees or consultants currently or previously providing services to a
151 candidate, or to a committee supporting or opposing a candidate clearly identified in the
152 communication.

153 ~~(20)~~(21) "Foreign national" means the following:

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

155 (i) A government of a foreign country;

156 (ii) A foreign political party;

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

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

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

162 (iv) A partnership, association, corporation, organization, or other combination of persons
163 organized under the laws of, or having its principal place of business in, a foreign country.

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

167 ~~(24)~~(22) "Fund-raising event" or "fundraiser" means an event such as a dinner, reception,
168 testimonial, cocktail party, auction, or similar affair through which contributions are solicited or
169 received.

170 ~~(22)~~(23) "In concert or cooperation with or at the request or suggestion of" means that a
171 candidate or his or her agent consulted with:

172 (A) The sender regarding the content, timing, place, nature, or volume of a particular
173 communication or communication to be made; or

174 (B) A person making an expenditure that would otherwise offset the necessity for an
175 expenditure of the candidate or candidate's committee.

176 ~~(23)~~(24) "Independent expenditure" means an expenditure by a person:

177 (A) Expressly advocating the election or defeat of a clearly identified candidate, including
178 supporting or opposing the candidates of a political party; and

179 (B) That is not made in concert or cooperation with or at the request or suggestion of such
180 candidate, his or her agents, the candidate's authorized political committee, or a political party
181 committee or its agents.

182 An expenditure which does not meet the criteria for an independent expenditure is
183 considered a contribution.

184 ~~(24)~~(25) "Local" refers to the election of candidates to a city, county, or municipal office and
185 any issue to be voted on by only the residents of a particular political subdivision.

186 ~~(25)~~(26) "Mass mailing" means a mailing by United States mail, facsimile, or electronic mail
187 of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-
188 day period. For purposes of this subdivision, "substantially similar" includes communications that
189 contain substantially the same template or language, but vary in nonmaterial respects such as
190 communications customized by the recipient's name, occupation, or geographic location.

191 ~~(26)~~(27) "Membership organization" means a group that grants bona fide rights and
192 privileges, such as the right to vote, to elect officers or directors, and the ability to hold office to its
193 members and which uses a majority of its membership dues for purposes other than political
194 purposes. "Membership organization" does not include organizations that grant membership upon
195 receiving a contribution.

196 ~~(27)~~(28) "Membership organization political action committee" means a labor organization
197 or a trade association, cooperative, or other incorporated membership organization that: Is
198 composed of members; expressly states the qualifications for membership in its articles and by-
199 laws; makes its articles, by-laws, and other organizational documents available to its members;
200 expressly seeks members; acknowledges acceptance of membership, such as by sending
201 membership cards to new members or including them on a membership newsletter list; and is
202 organized such that it operates a subsidiary entity or segregated fund within the membership
203 organization primarily for the purpose of influencing any election on the ballot in the State of West
204 Virginia.

205 ~~(28)~~(29) "Name" means the full first name, middle name, or initial, if any, and full legal last
206 name of an individual and the full name of any association, corporation, committee, or other
207 organization of individuals, making the identity of any person who makes a contribution apparent
208 by unambiguous reference.

209 ~~(29)~~(30) "Person" means an individual, corporation, partnership, committee, association,
210 and any other organization or group of individuals.

211 ~~(30)~~(31) "Political action committee" means a committee organized by one or more
212 persons, the primary purpose of which is to support or oppose the nomination or election of one or
213 more candidates. The following are types of political action committees:

214 (A) A corporate political action committee, as that term is defined in this section;

215 (B) A membership organization political action committee, as that term is defined in this
216 section; and

217 (C) An unaffiliated political action committee, as that term is defined in this section.

218 ~~(34)~~(32) "Political committee" means any candidate committee, political action committee,
219 or political party committee.

220 ~~(32)~~(33) "Political party" means a political party as that term is defined by §3-1-8 of this
221 code or any committee established, financed, maintained, or controlled by the party, including any
222 subsidiary, branch, or local unit thereof, and including national or regional affiliates of the party.

223 ~~(33)~~(34) "Political party committee" means a committee established by a political party or
224 political party caucus for the purposes of engaging in the influencing of the election, nomination, or
225 defeat of a candidate in any election.

226 ~~(34)~~(35) "Political purposes" means supporting or opposing the nomination, election, or
227 defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the
228 retirement of the debt of a candidate or political committee or the administration or activities of an
229 established political party or an organization which has declared itself a political party, and
230 determining the advisability of becoming a candidate under the pre-candidacy financing provisions
231 of this chapter.

232 ~~(35)~~(36) "Targeted to the relevant electorate" means a communication which refers to a
233 clearly identified candidate for statewide office or the Legislature and which can be received by
234 140,000 or more individuals in the state in the case of a candidacy for statewide office, 8,220 or
235 more individuals in the district in the case of a candidacy for the State Senate, and 2,410 or more
236 individuals in the district in the case of a candidacy for the House of Delegates.

237 ~~(36)~~(37) "Telephone bank" means telephone calls that are targeted to the relevant
238 electorate, other than telephone calls made by volunteer workers, regardless of whether paid
239 professionals designed the telephone bank system, developed calling instructions, or trained
240 volunteers.

241 ~~(37)~~(38) "Unaffiliated political action committee" means a political action committee that is
242 not affiliated with a corporation or a membership organization.

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

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

18 (4) The name of any corporation or membership organization making a contribution and
19 the amount of the contribution. If the total contributions of any one corporation or membership
20 organization in any one election cycle amount to more than \$250, the principal place of business of
21 the contributor, mailing address of the contributor and, if the contributor is a corporation, a clear
22 description of the principal type of business conducted by the corporation shall also be reported.

23 ~~(4)(5)~~ The total amount of contributions received during the period covered by the financial
24 statement.

25 ~~(5)(6)~~ The name, residence and mailing address of any individual or the name and mailing
26 address of each lending institution making a loan or of the spouse cosigning a loan, as
27 appropriate, the amount of any loan received, the date and terms of the loan, including the interest
28 and repayment schedule, and a copy of the loan agreement.

29 ~~(6)~~(7) The name, residence and mailing address of any individual or the name and mailing
30 address of each partnership, firm, association, committee, organization or group having previously
31 made or cosigned a loan for which payment is made or a balance is outstanding at the end of the
32 period, together with the amount of repayment on the loan made during the period and the balance
33 at the end of the period.

34 ~~(7)~~(8) The total outstanding balance of all loans at the end of the period.

35 ~~(8)~~(9) The name, residence and mailing address of any person to whom each expenditure
36 was made or liability incurred, including expenditures made on behalf of a candidate or political
37 committee that otherwise are not made directly by the candidate or political committee, together
38 with the amount and purpose of each expenditure or liability incurred and the date of each
39 transaction.

40 ~~(9)~~(10) The total expenditure for the nomination, election or defeat of a candidate or any
41 person supporting, aiding or opposing the nomination, election or defeat of any candidate in
42 whose behalf an expenditure was made or a contribution was given for the primary or other
43 election.

44 ~~(10)~~(11) The total amount of expenditures made during the period covered by the financial
45 statement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

81 financial statement shall include a statement of distribution of anonymous contributions, which
82 total amount shall equal the total of all anonymous contributions received during the period.

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

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

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

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

102 (l) Notwithstanding the provisions of section five of this article or of the provisions of this
103 section to the contrary, an alternative reporting procedure may be followed by a political party
104 committee in filing financial reports for fund-raising events if the total profit does not exceed \$5,000
105 per year. A political party committee may report gross receipts for the sale of food, beverages,
106 services, novelty items, raffle tickets or memorabilia, except that any receipt of more than \$50 from

107 an individual or organization shall be reported as a contribution. A political party committee using
108 this alternative method of reporting shall report:

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

§3-8-5c. Contribution limitations.

1 (a)(1) A person, corporation, membership organization, political party, or political action
2 committee may not, in an election cycle:

3 (A) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a
4 candidate seeking nomination, including by making contributions to the candidate's committee; or

5 (B) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a
6 candidate seeking election, including by making contributions to the candidate's committee:

7 *Provided*, That a candidate may receive contributions for the general election prior to nomination,
8 however, such funds may not be expended until after the date of the nomination is declared.

9 (2) The contribution limits of this section apply only to elections to be held after the effective
10 date of this section and do not apply to candidate committees that were created for elections held
11 prior to the effective date of this section: Provided, That any candidate committees created for
12 elections held prior to the effective date of the amendments to this section enacted during the
13 regular session of the Legislature, 2025, may receive contributions from a corporation or

14 membership organization for purposes of supporting the retirement of the debt of any such
15 candidate committee.

16 (b) A person, except candidate committees and caucus campaign committees, may not,
17 directly or indirectly, make contributions to a state party executive committee, or any subsidiary,
18 branch, or local unit thereof, or a caucus campaign committee which, in the aggregate, exceed
19 \$10,000 in any calendar year: *Provided*, That a person may not earmark or otherwise designate
20 any portion of a contribution made pursuant to this subsection to be used to support or oppose the
21 election of a particular candidate: *Provided, however*, That any such designation or earmark that
22 accompanies a contribution made pursuant to this subsection may not be binding on the entity that
23 receives the contribution.

24 (c) A person corporation or membership organization may not, directly or indirectly, make
25 contributions to a political action committee, related to a particular election, which, in the
26 aggregate, exceed \$5,000.

27 (d) Candidate committees and caucus campaign committees may make contributions to
28 their affiliated state party executive committees, or any subsidiary, branch, or local unit thereof, or
29 a caucus campaign committee up to \$75,000.

30 ~~(e) The amendments to this section enacted during the regular session of the Legislature,~~
31 ~~2022, shall not be effective until November 9, 2022.~~

**§3-8-8. Corporate contributions ~~forbidden~~ permitted; ~~exceptions~~ limitations; penalties;
promulgation of rules; additional powers of State Election Commission.**

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

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

12 (c)(1) The provisions of this section do not prohibit a membership organization or
13 corporation from soliciting, through any officer, agent, or person acting on behalf of the
14 membership organization or corporation, contributions to a separate segregated fund to be used
15 for political purposes. Any separate segregated fund is considered a political action committee for
16 the purpose of this article and is subject to all reporting requirements applicable to political action
17 committees. A membership organization or corporation may pay, give, lend or authorize payment,
18 giving, or lending of any moneys or other things of value belonging to the membership
19 organization or corporation to a separate segregated fund for the purpose of making a contribution
20 to a candidate or a candidate's committee: *Provided*, That any such payment, giving or lending of
21 any moneys or other things of value to the separate segregated fund do not exceed the
22 contribution limits of §3-8-5c(c) of this code: *Provided further*, That a separate segregated fund
23 may use the property, real or personal, facilities, and equipment of a membership organization or
24 corporation solely to establish, administer, and solicit contributions to the fund, subject to the rules
25 of the State Election Commission as provided in subsection (e) of this section: *And provided*
26 further, That any such membership organization or corporation shall also permit any group of its
27 employees represented by a bona fide political action committee to use the real property of the
28 membership organization or corporation solely to establish, administer, and solicit contributions to
29 the fund of the political action committee, subject to the rules of the State Election Commission
30 promulgated in accordance with said subsection.

31 (2) It is unlawful for:

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

36 (B) Any person soliciting a membership organization member, stockholder, executive, or
37 administrative personnel member or their family members for a contribution to a membership
38 organization, corporation, or separate segregated fund to fail to inform the person solicited of the
39 political purposes of the separate segregated fund at the time of the solicitation;

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

43 (D) A separate segregated fund established by a membership organization or a
44 corporation: (i) To solicit contributions to the fund from any person other than the membership
45 organization's members or the corporation's stockholders and their families, or its executive or
46 administrative personnel and their families; or (ii) to contribute any membership organization or
47 corporate funds;

48 (E) A separate segregated fund established by a membership organization or corporation
49 to receive contributions to the fund from any person other than the membership organization's
50 members or corporation's stockholders and their immediate families and their executive or
51 administrative personnel and their immediate families;

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

55 (G) A separate segregated fund to make any contribution, directly or indirectly, in excess of
56 the amounts permitted in §3-8-5c of this code in connection with or on behalf of any campaign for
57 nomination or election to any elective office in the state or any of its subdivisions, or in connection

58 with or on behalf of any committee or other organization or person engaged in furthering,
59 advancing, supporting, or aiding the nomination or election of any candidate for any such office; or

60 ~~(H) A membership organization or corporation to pay, give, or lend or to authorize payment,~~
61 ~~giving, or lending of any moneys or other things of value belonging to the membership~~
62 ~~organization or corporation to a separate segregated fund for the purpose of making a contribution~~
63 ~~to a candidate or a candidate's committee. This provision does not prohibit a separate segregated~~
64 ~~fund from using the property, real or personal, facilities, and equipment of a membership~~
65 ~~organization or corporation solely to establish, administer, and solicit contributions to the fund,~~
66 ~~subject to the rules of the State Election Commission as provided in subsection (e) of this section:~~
67 ~~*Provided, That any such membership organization or corporation shall also permit any group of its*~~
68 ~~*employees represented by a bona fide political action committee to use the real property of the*~~
69 ~~*membership organization or corporation solely to establish, administer, and solicit contributions to*~~
70 ~~*the fund of the political action committee, subject to the rules of the State Election Commission*~~
71 ~~*promulgated in accordance with said subsection.*~~

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

76 (d) Any person, membership organization, or corporation violating any provision of this
77 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
78 \$10,000. A membership organization or corporation may not reimburse any person the amount of
79 any fine imposed pursuant to this section.

80 (e) To ensure uniform administration and application of the provisions of this section and of
81 those of the Federal Election Campaign Act Amendments of 1976 relating to membership
82 organization and corporate contributions, the State Election Commission shall propose rules for
83 legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions

84 of this section consistent, insofar as practicable, with the rules and regulations promulgated by the
85 Federal Election Commission to carry out similar or identical provisions of 52 U.S.C. §30118.

86 (f) In addition to the powers and duties set forth in §3-1A-1 *et seq.* of this code, the State
87 Election Commission has the following powers and duties:

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

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

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

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

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

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

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

107 (j) The amendments to this section enacted during the second extraordinary session of the
108 Legislature, 2008, are intended to conform to the existing proscription to constitutionally
109 permissible limits and not to create a new offense or offenses.