



# **COLORADO CAMPAIGN & POLITICAL FINANCE COUNTY MANUAL**

Published By

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**SECRETARY OF STATE**

**DEPARTMENT OF STATE**

Revised October 2008



## Using the Manual

This manual provides guidelines and helpful tips for proper compliance with the law. It is also a very useful guide to conducting research. You may wish to begin at the end – with the Appendix – and read Art. XXVIII, CPF/FCPA statutes and rules, and review the filing forms before beginning the training chapters.

***REMEMBER:*** You must read Article XXVIII of the Colorado Constitution; Colorado Revised Statute (C.R.S.) Title 1, Article 45 and the accompanying Campaign and Political Finance Rules to fully understand Colorado Campaign and Political Finance procedures and requirements.

### **NOTICE:**

**THIS MANUAL WAS CREATED FOR REFERENCE AND TRAINING PURPOSES ONLY AND SHOULD NOT BE USED AS A SUBSTITUTE FOR LEGAL ADVICE.**

## Table of Contents

<b><u>Chapter</u></b>	<b><u>Page No.</u></b>
I. Registering Your Committee . . . . .	5
A. Candidate Committees . . . . .	5
B. Issue Committees . . . . .	7
C. Political Parties . . . . .	8
D. Political Committees . . . . .	9
E. Small Donor committees . . . . .	10
F. Federal . . . . .	10
G. Recall Committees . . . . .	11
H. Registering Your Committee On-Line . . . . .	11
II. Registered Agents . . . . .	12
A. Amending Committee Registrations Electronically. . . . .	13
III. Candidate Information . . . . .	14
IV. Responsibilities of Candidates, Committees & Parties . . . . .	14
V. Independent Expenditures . . . . .	15
VI. Electioneering Communications . . . . .	15
VII. Contributions . . . . .	16
VIII. Expenditures . . . . .	18
IX. Manual and Electronic Reporting Procedures . . . . .	18
A. Manual Reporting . . . . .	18
B. Electronic Reporting . . . . .	22
C. Trouble Shooting . . . . .	27
X. Waiver Process . . . . .	29

XI.	Terminating Your Committee .....	29
XII.	Conducting Research .....	30
XIII.	Filing a Complaint .....	30
XIV.	Frequently Asked Questions .....	31
XV.	Quick Reference Guides and Charts .....	35
	A. Constitutional & Statutory Quick Reference Guide .....	35
	B. Quick Reference of State Candidate Contribution Limits .....	37
	C. State Voluntary Spending Limits Guide .....	38
	D. Contributions Allowed Between Committees .....	39
	E. Election Cycle / Contribution limits .....	40
XVI.	Appendix .....	41
	Contact Information .....	42
	Article XXVIII, Colorado Constitution. ....	44
	C.R.S. Title 1, Article 45, Fair Campaign Practices Act (FCPA) .....	56
	Rules Concerning Campaign and Political Finance. ....	85

(All forms available at [www.sos.state.co.us](http://www.sos.state.co.us), Elections Center, Campaign Finance, Reporting and Filing Information., Campaign Finance Forms)

# I. Registering Your Committee

Whether you are a candidate committee, issue committee, political party, small donor committee or political committee, you must register **BEFORE** accepting contributions or making expenditures. [C.R.S. 1-45-108(3)]

How do you identify your committee “type”? Ask yourself these questions:

1. Are two or more persons (including natural persons) involved?
2. Are you raising or spending money?

If you answered “Yes” to either of these questions, read Sec. 2 (Definitions) of Art. XXVIII to see if you meet the criteria. Electronic registration is available through the Secretary of State’s website; however, it may be helpful if you completely review Article XXVIII, C.R.S. Title 1, Article 45, and Campaign and Political Finance Rules prior to registration.

Next, let’s examine the different types of committees.

## A. Candidate Committees

If you are a candidate, or working with others to financially support a specific candidate, begin by checking the definition of a **CANDIDATE COMMITTEE** to confirm that you meet the criteria. Next, review the following provisions governing **CANDIDATE COMMITTEES**. A candidate may have only one candidate committee at one time in any jurisdiction. *Note:*

*Candidates who do not accept contributions but spend their own funds must file disclosure reports itemizing all expenditures of \$20 or more. Candidates who do not have a committee and accept no contributions or make no expenditures are not required to file. You may file a voluntary report in order to provide full disclosure to the public. Call your appropriate officer whenever you need assistance.*



**Definitions:**

Art. XXVIII, Sec. 2

**Registration/Amendments:**

C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1

**Disclosure Requirements:**

C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4

**Amended Reports:**

Campaign and Political Finance Rule 4.2

**Filing Dates:**

C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5

**Sanctions:**

Art. XXVIII, Sec. 10

- Tip 1: Filing Dates for municipal, county and some special district candidates differ from state candidates. Please be certain you have the correct Filing Dates.*
- Tip 2a: Candidate committees for county offices such as County Clerk and Recorder, Assessor, County Treasurer, Sheriff, Coroner and Surveyor register their committee with the county clerk and recorder's office.*
- Tip 2b: Candidate committees for school boards file their committee registration with the county clerk and recorder's office of the candidate's residence. Candidate committees for special districts file their committee registration with the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303 C.R.S. is located.*
- Tip 3: Only state candidates have contribution limits under Art. XXVIII. Home rule municipalities and counties may impose their own limits. Local candidates check with your municipal or county clerk. RTD candidates do not have contribution limits and are not required to file a personal financial disclosure statement 10 days after filing their candidate affidavit. (Art. XXVIII, Sec. 3)*
- Tip 4: Corporations or labor organizations cannot contribute to candidate committees (state, local, and municipal). [Art. XXVIII, Sec. 3(4) and Campaign and Political Finance Rule 7.2] (Corporation definition for CPF/FCPA purposes – C.R.S. 1-45-103(7) and Campaign and Political Finance Rule 1.4)*
- Tip 5: Candidate committees cannot accept contributions from foreign citizens, corporations, or governments. [Art. XXVIII, Sec. 3(12)]*
- Tip 6: Candidate committees cannot accept contributions from, or make contributions to, another candidate committee. [Art. XXVIII, Sec. 3(6)]*
- Tip 7: A candidates' candidate committee may reimburse the candidate for expenditures the candidate made on behalf of the candidate committee at any time. [C.R.S. 1-45-108(1)(e)]*
- Tip 8: A candidates candidate committee may accept and expend contributions received for the general election at any time. [C.R.S. 1-45-103.7(4)]*
- Tip 9: The candidate or the registered agent may sign the "Report of Contributions and Expenditures" for the candidate committee. (Campaign and Political Finance Rule 2.2)*
- Tip 10: A candidate committee may only be closed by filing a termination report, indicating a "zero" balance, or by action of the secretary of state. (Article XXVIII, Section 2(3); C.R.S. 1-45-106(1)(a)(III); Campaign and Political Finance Rules 2.10 and 3.4)*
- Tip 11: No person shall act as a conduit for a contribution to a candidate committee. [Art. XXVIII, Sec. 3(7)]*

## B. Issue Committees

Is there an issue in your community that you and others feel strongly about? Whether you support or oppose the issue, Colorado law requires that you register as an issue committee **BEFORE** accepting contributions or making any expenditures. Please review the definition of **ISSUE COMMITTEE** to confirm that you meet the criteria. Next, read the following statutes:

<b>Definitions:</b>	Art. XXVIII, Sec. 2(10); Campaign and Political Finance Rule 1.6
<b>Registration/Amendments:</b>	C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1
<b>Disclosure Requirements:</b>	C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4
<b>Amended Reports:</b>	Campaign and Political Finance Rule 4.2
<b>Filing Dates:</b>	C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5
<b>Sanctions:</b>	Art. XXVIII, Sec. 10

**Tip 1:** *Filing Dates for municipalities, counties and some special districts differ from state committees. Please be certain you have the correct filing dates.*

**Tip 2:** *There are no monetary contribution limits for issue committees. (Art. XXVIII, Sec. 3)*

**Tip 3:** *Issue committees may return unexpended campaign funds to the contributors or donate them to a charitable organization recognized by the Internal Revenue Service. [C.R.S. 1-45-106(3)]*

**Tip 4:** *Only the registered agent may sign the committee report*

**Tip 5:** *Issue committees supporting or opposing ballot questions or ballot issues being voted on in multiple counties register with the Secretary of State's office except for Special District issue committees. Special District issue committees register with the clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303 C.R.S. is located.*

**Tip 6:** *An issue committee may be closed by filing a termination report indicating a "zero" balance or by the appropriate authority. (Campaign and Political Finance Rule 2.10 and 3.4)*

**Tip 7:** *Any amendments or changes to your registration must be filed with the appropriate officer within five days of the change. (Campaign and Political Finance Rule 3.1)*

## C. Political Parties

By definition, political party refers to either a major or minor political party that nominates candidates to the ballot. They are subject to constitutional and statutory guidelines for registering and reporting their campaign funds.

<b>Definitions:</b>	Art. XXVIII, Sec. 2(13)
<b>Registration/Amendments:</b>	C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1
<b>Disclosure Requirements:</b>	C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4
<b>Amended Reports:</b>	Campaign and Political Finance Rule 4.2
<b>Filing Dates:</b>	C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5
<b>Contribution Limits:</b>	Art. XXVIII, Sec. 3(3)
<b>Sanctions:</b>	Art. XXVIII, Sec. 10

- Tip 1:** *Filing Dates for county parties differ from state parties. Please be certain you have the correct Filing Dates.*
- Tip 2:** *Political parties cannot accept contributions from foreign citizens, corporations, or governments. [Art. XXVIII, Sec. 3(12)]*
- Tip 3:** *Contributions by corporations and labor organizations are prohibited. [Art. XXVIII, Sec. 3(4) and Campaign and Political Finance Rule 7.2] (Corporation definition for CPF/FCPA purposes – C.R.S. 1-45-103(7) and Campaign and Political Finance Rule 1.4)*
- Tip 4:** *Political parties cannot accept contributions intended for a specific candidate. [Art. XXVIII, Sec. 3(3)(c)]*
- Tip 5:** *No political party shall accept aggregate contributions from any person – other than a small donor committee – that exceed \$3,175\* per year at the state, county, district and local levels combined and of such amount no more than \$2,650\* per year at the state level. [Art. XXVIII, Sec. 3(3)(a)]*
- Tip 6:** *No political party shall accept aggregate contributions from any small donor committee that exceed \$15,900\* per year at the state, county, district and local levels combined and of such amount no more than \$13,250\* at the state level. [Art. XXVIII, Sec. 3(3)(b)]*
- Tip 7:** *Only the registered agent may sign the committee reports.*
- Tip 8:** *Any amendments or changes to your registration must be filed with the appropriate officer within five days of the change. (Campaign and Political Finance Rule 3.1)*
- Tip 9:** *County parties file with the County Clerk and Recorder for their jurisdiction. [Article XXVIII, Section 2(13) & Section 7].*

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\* Contribution limits reflect adjustments made by CPF Rule 12 pursuant to Article XXVIII, Section 3(13) of the Colorado Constitution effective April 1, 2007.



## D. Political Committees (PCs)

Perhaps you and your friends want to support or oppose candidates or make independent expenditures. You may wish to register as a **POLITICAL COMMITTEE**. After reviewing the definition, please read the following:

<b>Definition:</b>	Art. XXVIII, Sec. 2(12); Campaign and Political Finance Rule 1.9
<b>Registration/Amendments:</b>	C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1
<b>Disclosure Requirements:</b>	C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4
<b>Amended Reports:</b>	Campaign and Political Finance Rule 4.2
<b>Filing Dates:</b>	C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5
<b>Contribution limits:</b>	Art. XXVIII, Sec. 3
<b>Sanctions:</b>	Art. XXVIII, Sec. 10

- Tip 1:** *Filing Dates for municipal, county and some special district committees differ from state committees. Please be certain you have the correct filing dates.*
- Tip 2:** *Definition of a political committee includes person, other than a natural person, or any group of two or more persons including natural persons that has received or spent \$200 or more to support or oppose the nomination or election of one or more candidates. [Art. XXVIII, Sec. 2(12)(a)]*
- Tip 3:** *Political committees cannot accept contributions from foreign citizens, corporations, or governments. [Art. XXVIII, Sec. 3(12)]*
- Tip 4:** *Political committees may not accept more than \$525\* per contributor per House of Representatives election cycle (every two years). [Art. XXVIII, Sec. 3(5)]*
- Tip 5:** *There are no statutory limitations on the use of unexpended campaign funds for political committees; however, keep in mind the definition of a political committee when expending these funds. [Art. XXVIII, Sec. 2(12)]*
- Tip 6:** *Only the registered agent may sign committee reports.*
- Tip 7:** *A political committee may only be closed by filing a termination report indicating a “zero” balance or by the appropriate authority. (Campaign and Political Finance Rule 2.10 and 3.4)*

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\* Contribution limits reflect adjustments made by CPF Rule 12 pursuant to Article XXVIII, Section 3(13) of the Colorado Constitution effective April 1, 2007.

## E. Small Donor Committees (SDC's)

Small Donor Committees are a form of a political committee that only accepts contributions of \$50 or less from natural persons per year. Please review the following before registering as a small donor committee:

<b>Definitions:</b>	Art. XXVIII, Sec. 2(14)
<b>Registration/Amendments:</b>	C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1
<b>Disclosure Requirements:</b>	C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4
<b>Amended Reports:</b>	Campaign and Political Finance Rule 4.2
<b>Filing Dates:</b>	C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5
<b>Contribution Limits:</b>	Art. XXVIII, Sec. 2(14) and Sec. 3
<b>Sanctions:</b>	Art. XXVIII, Sec. 10

***Tip 1: Small donor committees will be treated as a “single” committee if established by the same group of persons. [Art. XXVIII, Sec. 2 (14)(c)]***

***Tip 2: Small donor committees are allowed to contribute more to state candidate committees than political committees. (Art. XXVIII, Sec. 3)***

## F. Federal Committees

These committees may not be required to file as frequently as state committees, provided they meet certain criteria provided in the Rules Concerning Campaign and Political Finance. If registered with the Federal Election Commission (FEC) and the registration contains the information required by C.R.S. 1-45-108(3), a committee need not file a committee registration form or reports with the appropriate filing officer if the reports are accessible via the Internet and available to the public for Internet viewing in the lobby of the appropriate filing officer. (Campaign and Political Finance Rule 2.8) **Please contact the FEC at 1-800-424-9530 for more information or visit their website at [www.fec.gov](http://www.fec.gov).**

<b>Registration/Amendments:</b>	C.R.S. 1-45-108(3), Campaign and Political Finance Rules 2.8 and 3.1
<b>Disclosure Requirements:</b>	C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4
<b>Amended Reports:</b>	Campaign and Political Finance Rule 4.2
<b>Filing Dates:</b>	C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5
<b>Contribution limits:</b>	Art. XXVIII, Sec. 3
<b>Sanctions:</b>	Art. XXVIII, Sec. 10

## G. Recall Committees

A recall committee **is an issue committee** formed to support the recall of a public officer. [C.R.S. 1-45-108(6)] **Note: Committees authorized by a candidate are still candidate committees.**

***Tip 1: Filing calendars for recall committees are determined by the date of the election. The filing officer will prepare and issue the calendar. [C.R.S. 1-45-108(6)]***

## H. Registering Your Committee On-Line

Did you know that you can register your state and county committees on-line using the Secretary of State's website? Instead of having to drive down or mail your registration to the Secretary of State's office or your County Clerk and Recorder's office you may do it from the comfort of your own home, office or library. Just log onto [www.sos.state.co.us](http://www.sos.state.co.us).



Select **Campaign Finance** located under the **Elections** Center link.



Select **Search or File Campaign Finance Reports** located under **Campaign Finance Online System**. This will take you to the Campaign Finance Home page.



Select **Committee Registration**

- Indicate the type of committee being registered using the drop down box
- Input the committee's information: Full committee name, address, phone and e-mail address
- Select the proper Jurisdiction for the committee
- Acronyms - this is optional
- Purpose or Nature of committee is required and should be as specific as possible. Example: Running for Secretary of State or County Commissioner District 3; Supporting Ballot Issue # 3B, etc.



Complete the Registered Agent Information - Name and mailing Address and then click on Save.



A Committee Confirmation page will appear; unless a candidate committee. A candidate committee must indicate for which office the committee will be associated with (Example: Secretary of State 2010) before receiving a confirmation page.

At this point the committee's information is submitted to the jurisdiction, indicated on the registration, for approval. If approved, the committee will receive their committee id number and login information by e-mail to the e-mail address submitted on the registration. If declined the committee will be notified, by e-mail to the e-mail address submitted on the registration, of the reason the committee registration was declined. The committee would follow the above steps to register the declined committee making sure to include all required information. **Before**

**accepting or making contributions on behalf of the committee your registration must have been accepted by the proper jurisdiction.** Please contact the proper jurisdiction for questions regarding your registration.

## II. Registered Agents

The **REGISTERED AGENT** plays a pivotal role in the success of every committee. The registered agent must be a natural person and is responsible for maintaining all committee records as well as filing all reports on time. The registered agent must keep track of all the money coming in – and all the money going out. However, all constitutional/statutory requirements must be adhered to in order to avoid complaints against the committee. It is recommended that you thoroughly review Sections 7 – 10 of Art. XXVIII and C.R.S. 1-45-108 (Disclosure), 1-45-109 (Filing).

<b>Definition:</b>	C.R.S. 1-45-108(3)(b)
<b>Registration:</b>	C.R.S. 1-45-108(3), Campaign and Political Finance Rules 2.2 and 3.1
<b>Disclosure Requirements:</b>	C.R.S. 1-45-108, and Campaign and Political Finance Rule 4
<b>Amendments to Reports:</b>	Campaign and Political Finance Rule 4.2
<b>Deposits and record keeping:</b>	Campaign and Political Finance Rule 4
<b>Filing Dates:</b>	C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5
<b>Contribution Limits:</b>	Art. XXVIII, Sec. 3
<b>Sanctions:</b>	Art. XXVIII, Sec. 10

**Tip:** *You remain the registered agent until the committee files an amended registration appointing a new agent or the registered agent files a letter of resignation with the County Clerk and Recorder. (Campaign and Political Finance Rules 2.3 and 3.1)*

## A. Amending Committee Registrations Electronically







Amending your committee registration electronically was introduced in July 2000. Since then, many committees have valued the ability to change the name of the committee, address, or registered agent information on our web site in just a few minutes. You will need your assigned committee login and password to amend electronically.



***Tip 1: If a registered agent is amended electronically or resigns, the County Clerk and Recorder may send verification of the change and a new login and password will be issued for security purposes. (Campaign and Political Finance Rule 2.3 and 3.1)***

### **AMENDING COMMITTEE REGISTRATION INFORMATION ELECTRONICALLY**

Why bother with paper, when you can file it electronically. The electronic filing system allows you to amend your committee information on the Secretary of State's web site in just a few minutes. Just log onto [www.sos.state.co.us](http://www.sos.state.co.us)

-  Select **Campaign Finance** located under Elections Center.
-  Select **Search or File Campaign Finance Reports** located under **Campaign Finance Online System**.
-  Select **Login** (located in the left-hand margin), and enter your assigned User ID, and Password (case sensitive). If you do not have your committee's user id and password, **and** you are the registered agent and/or candidate, you will need to submit a manual committee registration amendment form to your appropriate filing office. You may also use the "Forgot Password?" link to reset your password; however, once the password is reset you will have only four (4) hours to login and change it to something more permanent. Please be advised that when a committee changes registered agents, the committee's user ID and password will be changed.
-  Select **Reporting**
-  Select **Committee Maintenance (located on the Committee Center page)**
-  Now you may change or add any information. Once you have completed your changes, select **Next** and this will save your information, and bring you back to the Committee Center menu.

Please contact a member of your County Clerk and Recorder's election staff with any questions.

### III. Candidate Information

If you are considering running for public office, you, your agent, fundraisers, and campaign manager need to become familiar with the requirements of Article XXVIII of the Colorado Constitution, Title 1, Article 45 C.R.S. and the Rules Concerning Campaign and Political Finance. Here are some helpful tips to get you started:

- Tip 1: You become a candidate when you publicly announce and thereafter accept a contribution or make an expenditure on behalf of your candidacy. [Art. XXVIII, Sec. 2(2) and Campaign and Political Finance Rule 1.10]*
- Tip 2: You must file a notarized candidate affidavit with the appropriate officer within 10 days of publicly announcing an intention to seek election or retention to public office. (C.R.S. 1-45-110)*
- Tip 3: Candidates for county offices such as County Clerk and Recorder, Assessor, County Treasurer, Sheriff, Coroner and Surveyor file their candidate affidavit with the county clerk and recorder's office of their county.*
- Tip 4: Candidates for school board file their candidate affidavit with the county clerk and recorder's office of their residence. Candidates for special district file their candidate affidavit with the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303 C.R.S. is located.*
- Tip 5: You remain a candidate – for campaign finance purposes – as long as your committee is open. [Art. XXVIII, Sec. 2(2)]*
- Tip 6: Unexpended contributions to candidate committees may be used only for specific purposes. (C.R.S. 1-45-106)*

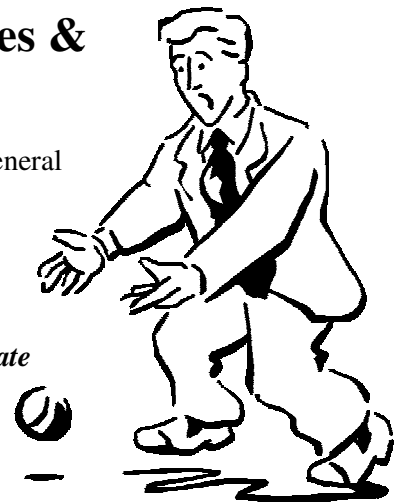
Please read Article XXVIII, Section 10 Sanctions and C.R.S. 1-45-112 Duties of municipal clerk and county clerk and recorder very carefully before registering.

### IV. Responsibilities of Candidates, Committees & Parties

**Don't drop the ball! Know your responsibilities.** Listed below are general guidelines of candidate, committee and party responsibilities regarding campaign finance. This list is a starting point, not a comprehensive list, and *does not* limit the candidate, committee or party to only the responsibilities listed here.

*Tip 1: Prior to registration of a committee/party or filing of candidate paperwork, carefully read and make sure you understand all of the constitutional/statutory provisions and rules of campaign finance for Colorado.*

*Tip 2: Candidate committees and political parties must register prior to accepting contributions. [C.R.S. 1-45-108(3)]*



- Tip 3:** *Make sure campaign finance reports are filed timely regardless of the filing method. It is the responsibility of the candidate, committee or party to verify that reports are filed timely. If filing reports manually, be reminded that the appropriate officer does not recognize postmark dates for campaign finance purposes. Manual reports are considered filed when the office receives them. Please give yourself plenty of mailing time.*
- Tip 4:** *Update the appropriate filing office of changes (such as purpose, registered agent, address, e-mail etc) made to the original registration or filing of the candidate, committee or party. (Campaign and Political Finance Rule 3.1)*

## V. Independent Expenditures

Independent expenditures provide individuals, political parties and political committees the opportunity to support or oppose candidates **INDEPENDENTLY** of candidates, candidate committees or their agents. To ensure that you follow the appropriate statutory guidelines for **INDEPENDENT EXPENDITURES**, please review the following statutes and rules:

**Definition:** Art. XXVIII, Sec. 2(9)

**Reporting:** Art. XXVIII, Sec. 5

- Tip 1:** *Expenditures made by a candidate committee, or controlled by or coordinated with a candidate or their agent, are NOT “independent expenditures.” [Art. XXVIII, Sec. 2(9)]*
- Tip 2:** *Independent expenditures apply ONLY to expenditures made to support or oppose a candidate or candidates. They DO NOT apply to expenditures made to support or oppose an issue. [Art. XXVIII, Sec. 2(9)]*
- Tip 3:** *Special reporting requirements for independent expenditures DO NOT apply to expenditures made by a candidate committee or the agent of a candidate.*
- Tip 4:** *Independent Expenditure reports are filed with the Colorado Secretary of State.*

## VI. Electioneering Communications

Any person spending \$1000 or more per calendar year for broadcast or print messages that “unambiguously” refer to any candidate and are distributed within 30 days before a primary or 60 days before a general election is now required to report these expenditures.

**Definition:** Art. XXVIII, Sec. 2(7)

**Reporting:** Art. XXVIII, Sec. 6, C.R.S. 1-45-108

**Sanctions:** Art. XXVIII, Sec. 10

- Tip 1:** *Reports are due at the same time as committee reports, but are filed with the Secretary of State. (Art. XXVIII, Sec. 6; C.R.S. 1-45-108)*
- Tip 2:** *Reports must include all expenditures and the name and address of contributors giving more than \$250 per year. [Art. XXVIII, Sec. 6(1)]*

**Tip 3:** Reports must include occupation and employer of “natural persons” contributing more than \$250 per year. [Art. XXVIII, Sec. 6(1)]

**Tip 4:** It is unlawful for a corporation or labor organization to provide funding for electioneering communications. [Art. XXVIII, Sec. 6(2)] (Corporation definition for CPF/FCPA purposes – C.R.S. 1-45-103(7) and Campaign and Political Finance Rule 1.4)

## VII. Contributions



There are two main types of **CONTRIBUTIONS: Monetary and Non-Monetary**. To ensure compliance with the law for all **CONTRIBUTIONS**, please review the following:

<b>Definitions:</b>	Art. XXVIII, Sec. 2(5)
<b>Limits:</b>	Art. XXVIII, Sec. 3
<b>Major Contributors:</b>	C.R.S. 1-45-108(2.5)
<b>Unexpended Campaign Funds:</b>	C.R.S. 1-45-106
<b>Sanctions:</b>	Art. XXVIII, Sec. 10

**Tip 1:** All contributions of \$20 or more per reporting period must be itemized. [C.R.S. 1-45-108(1)(a)(I) and Campaign and Political Finance Rule 4.1]

**Tip 2:** Volunteer services by an individual are not considered contributions. [Art. XXVIII, Sec. 2(5)(b) and Campaign Political Finance Rule 1.3(b)]

**Tip 3:** Contribution does not include transfer of member dues to a small donor committee. [Art. XXVIII, Sec. 2(5)(b)]

**Tip 4:** Contributions to candidates or political parties from corporations are prohibited. [Art. XXVIII, Sec. 3(4)(a)]

**Tip 5:** A contribution by check is considered received on the date the check is deposited. [Campaign and Political Finance Rule 4.3(a)]

**Tip 6:** For checks from natural persons the contributor is the person who signed the check.

**Tip 7:** No committee may accept contributions of cash or coin for more than \$100. [Art. XXVIII, Sec. 3(10)]

**Tip 8:** All contributions received must be deposited in a financial institution in a separate account with a title that includes the name of the committee or political party. [Art. XXVIII, Sec. 3(9)]



## **Limited Liability Company Contributions**

Recent changes in Colorado's Campaign Finance Laws changed how Candidate Committees, Political Parties and Political Committees can accept and report contributions received from Limited Liability Companies (LLC). These changes did not affect LLC contributions to issue committees.

- LLC Contributions made to a **Candidate Committee** or **Political Party** are prohibited if any of the LLC members are:
  - Corporation or Labor Organization
  - Natural Person who is not a U.S. Citizen
  - Foreign Government
  - Professional, Volunteer Lobbyist or a principal of and is prohibited by C.R.S. 1-45-105.5(1)
  - Also prohibited if the LLC elects to be treated as a corporation by the IRS or the shares of the LLC are publicly traded
- LLC Contributions made to a **Political Committee** are prohibited if any of the LLC members are:
  - An entity formed under and subject to the laws of a foreign country
  - Natural Person who is not a U.S. Citizen
  - Foreign Government

LLCs making contributions to candidate committees, political parties and political committees are required to provide the recipient committee with the following:

- A written affirmation statement that the contribution is permitted by law. (The Secretary of State's office does have a sample form on its website which the LLC may use or they may create their own form.)
- Affirmation must include name & address of all LLC members
- Information on how to attribute the contribution among the LLC members
  - The attributed amount shall reflect the capital the member has invested in the company at the time the contribution is made (percentage of ownership)
  - If amount attributed to an LLC member is \$100 or more then occupation and employer information must also be provided

Candidate Committees, Political Parties and Political Committees receiving contributions from LLCs must:

- Retain affirmation statement for 1 year after the end of the election cycle
- LLC contributions must be itemized on disclosure reports regardless of the amount contributed

- The individual LLC member names should be listed as the contributor followed by the name of the LLC in parenthesis. Example: John Doe (xyz LLC)

The amount an LLC member contributes through the LLC and the amount they contribute individually may not exceed their personal contribution limit, if applicable, to the recipient candidate committee, political party or political committee.

## VIII. Expenditures

Simply stated, **EXPENDITURES** refer to the money an individual or committee spends. To ensure that your committee follows the law for making and reporting **EXPENDITURES**, please review the following statutes and rules:

**Definitions:** Art. XXVIII, Sec. 2(8)

**Sanctions:** Art. XXVIII, Sec. 10

*Tip 1: An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined. [Art. XXVIII, Sec. 2(8)]*

*Tip 2: Expenditures that are controlled by or coordinated with a candidate or a candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee. [Art. XXVIII, Sec. 2(9)]*

*Tip 3: Use the state per diem rate for mileage.*

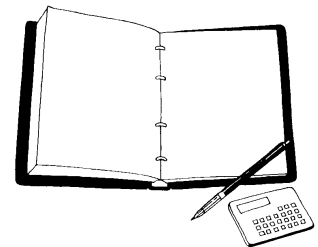
*Tip 4: No committee may spend more than \$100 in cash or coin. [Art. XXVIII, Sec. 3(10)]*

*Tip 5: All expenditures of \$20 or more must be itemized. [C.R.S. 1-45-108(1)(a)(I), Campaign and Political Finance Rule 4.4]*

## IX. Manual and Electronic Reporting

### A. Manual Reporting

There are two options for filing; manual and electronic. While some committees have opted for the convenience of electronic filing, others prefer to file paper or “manual” reports. As with all reporting, it is important that your record keeping procedures are as simple as possible. For current filers, the following section will be a valuable refresher; for first-time filers, please thoroughly study the statutes on disclosure and reporting before you begin.



**Disclosure requirements:** Art. XXVIII, Sec. 7, and C.R.S. 1-45-108

**Reporting requirements:** Art. XXVIII, Sec. 8, and C.R.S. 1-45-109

**Report of Contributions and Expenditures (Cover Page):** This page is designed to provide contribution and expenditure totals and past/current balances at a glance and to verify the committee name and address, the current reporting period, report status (current or amended) and the current registered agent.

*Tip 1: All requested information on the Cover Page is required by statute and, therefore, mandatory.*

*Tip 2: Committee information (name, address, etc.) shall be amended within five days of any change by filing an amended committee registration form with the appropriate authority (secretary of state, county clerk or municipal clerk). (Campaign and Political Finance Rule 3.1)*

*Tip 3: Only the registered agent may sign the report. (Campaign and Political Finance Rule 2.3) An exception is made for candidate committees, allowing either the candidate or the registered agent to sign. (Campaign and Political Finance Rule 2.2)*

*Tip 4: File contributions and expenditures for the reporting period indicated only.*

*Tip 5: When filing an amended report of contributions and expenditures, a new form should be completed that includes the cover page of the report, the Detailed Summary page and any updated Schedules listing only the amended information. (Campaign and Political Finance Rule 4.2)*

*Tip 6: Type or print legibly. Please, no fonts smaller than 12 pt.*

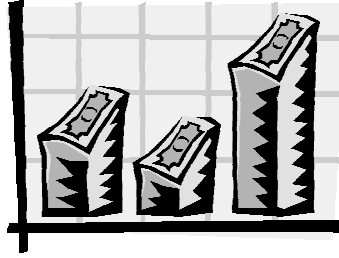
**Detailed Summary:** The Detailed Summary gives filers an opportunity to bring forward the totals of all the individual contribution and expenditure pages. These totals then are brought forward to the “Report of Contributions and Expenditures”.

*Tip 1: Do not include “Non-Monetary” totals on the Report of Contributions and Expenditures cover page.*

*Tip 2: Be sure to total all “Non-Itemized” amounts (contributions and expenditures under \$20) on the detailed summary only if they have not been itemized on “Schedule A” or “Schedule B”.*

*Tip 3: Contribution and expenditure totals on the “Detailed Summary” should match totals on the “Report of Contributions and Expenditures” cover page.*

**Schedule A – Contributions:** All monetary contributions of \$20 or more are reported on this form. It also allows committees to track and report aggregate totals for all contributors. (It may help manual filers to keep internal contribution records in alphabetical order by contributor.) Be sure that you know the appropriate election cycle for your committee to ensure that you do not exceed contribution limits. Please consult Art. XXVIII Sec. 2(5), or with your appropriate elections official for clarification. *Avoid relying on “hearsay” advice.*



- Tip 1:** Do not report “Non-Monetary” amounts on Schedule A - monetary contributions. Use the “Statement of Non-Monetary Contributions” reporting form for this purpose.
- Tip 2:** Candidates, small donor committees, political parties and political committees cannot accept contributions from foreign citizens, corporations or governments. [Art. XXVIII, Sec. 3(12)]
- Tip 3:** A contribution made by check is considered “received” on the date the check is deposited into the committee account. Contributions by lobbyists to state officers and candidates are considered accepted “when possession of the check is transferred to any person not under the control of the issuer.” [Campaign and Political Finance Rule 4.3(a) and (b)]
- Tip 4:** For checks from natural persons the contributor is the person who signed the check.
- Tip 5:** State law prohibits making a contribution with the expectation that some or all will be reimbursed by another person. [Art. XXVIII, Sec. 3(11)]

**Notice of Major Contributor:** A Major Contributor Report is in addition to regular reporting requirements. All committees are required to file a major contributor report for contributions of \$1,000 or more received within 30 days before the primary or general election. [C.R.S. 1-45-108(2.5)] This notice is file with the secretary of state.

- Tip 1:** Do not file “major contribution” reports for contributions of more than \$1,000 received before the 30-day cut-off.
- Tip 2:** Contributions filed as “major contributions” should also be included on the Schedule A in the regular reports.

**Schedule B – Expenditures:** All expenditures of \$20 or more per reporting period are itemized on this form. Expenditure also includes expenditures made by a third party on behalf of a candidate or committee.

- Tip 1:** Third-party expenditures are reported as non-monetary contributions.
- Tip 2:** Reimbursements to candidates, staff, and volunteers are reported as expenditures.



**Schedule C - Loans:** Candidates may receive loans from financial institutions, “if the loan bears the usual and customary interest rate...” [Article XXVIII, Sec. 3(8)]. This form gives committees a vehicle for reporting and tracking repayment until the loan is repaid in full.

***Tip 1: Contribution limits shall not apply to loans from a financial institution. [Art. XXVIII, Sec. 3(8)]***

***Tip 2: Loans from a financial institution cannot be forgiven. [Art. XXVIII, Sec. 3(8)]***

***Tip 3: Loans made by a candidate to their own committee may be forgiven. [CPF Rule 4.5]***

**Schedule D - Returned Contributions & Expenditures:** This form has been designed to accommodate both committees returning contributions and committees reporting returned contributions or expenditures. It should be filed with a Report of Contributions and Expenditures reflecting the revised totals and either Schedule A or Schedule B.

***Tip 1: Amended reports with Returned Contribution statements may be filed at any time. They need not be held until the next filing date.***

**Statement of Non-Monetary Contributions:** All non-monetary contributions are reported on this form. It also allows committees to track and report aggregate totals for all contributors. Be sure that you know the appropriate election cycle for your committee to ensure that you do not exceed contribution limits. Please consult with your appropriate officer for clarification.

***Tip 1: Non-monetary contributions of one hundred dollars or more must list the occupation and employer of natural persons. [Art. XXVIII, Sec. 7, C.R.S. 1-45-108(a)(II)]***

**Notice of Independent Expenditure In Excess Of One Thousand Dollars:** Any person making an independent expenditure of \$1,000 or more must file the Notice of Independent Expenditure form. If the Independent Expenditure is made within thirty days of a primary or general election, the form must be filed within 48 hours after obligating funds for the expenditure. This notice is filed with the Secretary of State. (Art. XXVIII, Sec. 5)

***Tip 1: Independent expenditures made by political parties and committees must still be reported on "Schedule B" within the correct reporting period.***

***Tip 2: Any expenditure made by a candidate committee or a candidate's agent is not considered an "independent expenditure". [Art. XXVIII, Sec. 2(9)]***

**Candidate Statement of Non-Receipt of Contributions or Non-Expenditures Funds:** Candidates that accept no contributions and make no expenditures are not required to register a committee or file disclosure reports. Candidates, however, may wish to file this form to publicly disclose their "zero" contribution and expenditure status.

***Tip 1: This filing is voluntary but may prevent the perception that a candidate has failed to file reports.***

**Statement of Personal Expenditures by a Candidate:** Candidates who do not have a candidate committee and accept no contributions but prefer to expend only their own funds are required to disclose the amount of any expenditure. (*Campaign and Political Finance Rule 4.14*)

***Tip 1: This filing is mandatory and may also prevent the perception that a candidate has failed to file reports.***

***Tip 2: This report is filed according to the same filing schedule as candidate committees.***

**Amended Reports:** Whenever a committee becomes aware of an error in past reporting, the committee must amend the report as soon as possible by filing an “**Amended Report of Contributions and Expenditures.**”

*Tip 1: If an error is identified in a previous report, all reports that follow must be amended to reflect the subsequent amended totals.*

*Tip 2: When amending a report, file only the first page of the Report of Contributions and Expenditures, the second page titled Detailed Summary Page, and any updated schedules listing only the amended information. (Campaign and Political Finance Rule 4.2)*

## **B. Electronic Reporting – It’s Quick and Easy!**

The Secretary of State’s Office introduced state and county committees to electronic campaign finance reporting in July 2000. Since that time, many committees have enjoyed the convenience of filing their reports directly, via the Internet.

The Secretary of State’s Office offers several ways to file electronically. Filers may use the standard online interface or may choose to utilize a bulk filing process by submitting disclosure reports in a specified format. For more information on bulk data filing, please contact your county clerk and recorder.



In order to use the standard online interface, you will need to apply for a committee registration online. A user ID and password will then be generated and emailed to you.

*Tip 1: Effective January 1, 2007, electronically filed reports are due the same day as manual reports. [C.R.S. 1-45-108(2.3)(b) and Campaign and Political Finance Rule 5.6 (b)]*

*Tip 2: Keep your e-mail address current with your County Clerk and Recorder’s office because confirmations of reports filed electronically are sent via E-mail. If you do not receive the electronic confirmation, please contact the County Clerk and Recorder.*








*Tip 3: Municipal candidates and or committees, except in some specific instances within the City and County of Broomfield and Denver, cannot utilize the Secretary of State’s electronic filing interface. Please contact your municipal clerk for filing options.*

*Tip 4: You do not have to wait until the end of the reporting period to enter your transactions. You can work on the report and save your information throughout the reporting period and it is not publically viewable until you click on the “File Report” or “File My Report” action button.*

*Tip 5: If you fail to click on the “File Report” or “File My Report” action button before the report deadline, penalties for late filing will be imposed.*

## ELECTRONIC FILING INSTRUCTIONS

Did you know that you can file your county Contribution and Expenditure Report utilizing the Secretary of State's electronic filing system and it will be considered filed with your County Clerk and Recorder's office? It's easy and convenient. Just log onto to the Secretary of State's website at [www.sos.state.co.us](http://www.sos.state.co.us).

-  Select **Campaign Finance** located under Elections Center.
-  Select **Search or File Campaign Finance Reports** located under **Campaign Finance Online System**.
-  Select **Login** (located in the left-hand margin), and enter your assigned User ID, Password (case-sensitive). The Account Center page for your committee will be displayed.
  - Please note: First time users will be taken to the "Account Challenge Question / Answer" page. On this page the user will be asked to input a question and answer that will be used, by their appropriate filing office, to verify the candidate or registered agent's identity in the event the committee misplaces it's user ID and password and requests that it be reset. The user would then select Reporting to be taken to the Account Center page.
-  Select **Work on a Report**, and click on **Start Date** of the current reporting period (verify on your filing calendar). *If entering an Amended Filing select Adjustment Reporting*
-  Once you have clicked on the Start Date you will be taken to the **Report Entry Wizard** page. This page will allow you to select options of Enter Sum Totals or Enter Line Items.
-  Select **Enter Sum Totals** to report non-itemized (\$19.99 or less) contributions or expenditures. When you go to enter non-itemized totals the page will display entry boxes for Contributions, Expenditures, Other Receipts (Interest, Dividends, Etc.), and Non-Monetary Contributions. **Enter non-itemized totals** and **click on Save**, which will return you to the Report Entry Wizard page.
-  Select **Enter Line Items** to report itemized (\$20.00 or more) contributions, expenditures, non-monetary contributions or loans. When you go to Enter Line Items you will have the option to select: Enter Itemized Contributions, Enter Itemized Expenditures, Enter Loans Received, Enter Returned Contributions, Enter Returned Expenditures and Enter Loan Payments. The two most commonly used links are Enter Itemized Contributions and Enter Itemized Expenditures.
  - To enter itemized contributions select **Enter Itemized Contributions**, which will take you to the Itemized Contribution page. If you have not entered any contributions on the specific report, you will have a message stating "Found 0 Matching Records". Once you have added and saved entries, they will appear in a summary format on this page.
  - Select **Add** to input your contributions, which will take you to the Contribution Detail page. On this page you may enter six (6) contributions (items). Or you may choose the number of contribution line items to enter for that page. To select the number of contribution line items for a page, enter the desired number of items and click on "click here". This will update the number of entries for that page. Each item entry will then ask for Date, Amount (for the report period and aggregate amount during either a candidates election cycle or time period

for contribution limits, if applicable), Contribution Type, Organization Name (if contributor is not a natural person), First Name & Last Name (is broken up if contributor is a natural person), Contributor Type, the number of members if a membership organization, Address, City, State, Zip Description, Employer and Occupation. ***Tip: Save your work every 15-20 minutes to avoid a time out error.***


- **Date** (Required) – Input the date in which the committee received the contribution. Note: Contributions received by check are considered received when deposited.
  - **Amount** (Required) – The amount of the contribution received followed by the Total Amount this cycle. For example: John Smith’s contribution was \$100 during this report period. If this was his first contribution during the election cycle, the Total Amount this cycle could be \$100. If Mr. Smith had contributed \$50 in a different report period, the Total Amount this cycle would be \$150. Total Amount this cycle is the aggregate amount for the individual contributor and not the aggregate amount from all contributors.
  - **Contribution Type** (Required) – Determines if the contribution is monetary (cash, check, money order and/or credit card) or non-monetary (for example: office supplies – use fair market value to determine the value of non-monetary contributions).
  - **Organization Name** (Required, if applicable) – Input the name of the contributor if the contributor is not a natural person. For example: Political Committees, Small Donor Committees, Political Parties, etc.
  - **Individual First Name** (Required, if applicable) Input the first name of the contributor. For checks from natural persons, the contributor is generally the person who signed the check. Should not be Mr. and Mrs. Smith.
  - **Last Name** (Required, if applicable) – Input the last name of the contributor. For checks from natural persons, the contributor is generally the person who signed the check. Should not be Mr. and Mrs. Smith.
  - **Contributor Type** (Required) – Select one type of contributor.
  - **Number of Members** (Required, if applicable) – Used by Small Donor Committees in very specific instances. Contact your appropriate filing office with questions.
  - **Address, City, State, Zip** (Required Fields) – Input the contributor’s address
  - **Description** (Optional) State candidates are encouraged to use this field to report if a received contribution is for the primary or general election or both.
  - **Employer and Occupation** – Required for contributors who are natural persons (human beings) that contributed \$100.00 or more.
- Select **Save** after entering contributions. (This saves the data so you may return to it later without it being viewed by the public.) This will take you to the Itemized Contributions page and let you review the entries you have made. If satisfied, you may continue to enter more contributions by selecting Add. If you need to correct an entry, click on the contributor’s name and make the necessary changes and click on save; you will be returned to the Itemized Contributions page. If done with itemized contributions, select the Back action button below the displayed entries. This will take you back to the Report Entry page where you may select a different action such as Enter Itemized Expenditures. The Report Entry page keeps updating the totals for the report as more entries are made.
  - To enter itemized expenditures select **Enter Itemized Expenditures**, which will take you to the Itemized Expenditures page. If you have not entered any expenditures on the specific





report, you will have a message stating “Found 0 Matching Records”. Once you have added and saved entries, they will appear in a summary format on this page.


- Select **Add** to input your expenditures, which will take you to the Expenditure Detail page. On this page you may enter six (6) expenditures (items). Or you may choose the number of expenditure line items for that page. To specify the number of expenditure line items for a page, enter the desired number of items and click on “click here”. This will update the number of entries. Each entry item will then ask for Expense Type, Electioneering Media Type, Date Paid, Amount, Name, Address, City, State, Zip and Purpose. **Tip: Save your work every 15-20 minutes to avoid a time out error.**
  - **Expense Type** (Required) – In the drop down box select either “Electioneering” or “Other”. If an expenditure is for Electioneering Communication select “Electioneering”; otherwise, “Other” should be selected. Contact your appropriate filing office with questions about whether an expense falls under electioneering.
  - **Electioneering Media Type** (Required, if applicable) – This should be left blank unless an expenditure is identified as “Electioneering” then the most appropriate media type should be selected.
  - **Date Paid** (Required) – Input the date in which the committee made the expenditure.
  - **Amount** (Required) – Input the amount of the expenditure
  - **Name** – Input the recipient’s name
  - **Address, City, State, Zip** (Required Fields) – Input address of whom the expenditure was made to.
  - **Purpose** (Required) – Purpose of the expenditure. Be specific.
- Select **Save** after entering expenditures. (This saves the data so you may return to it later without it being viewed by the public.) If any expenditure(s) were identified as “Electioneering” an additional data entry page titled “Electioneering Spending Report” will be displayed and must be completed.
- If an expenditure(s) was identified as “Electioneering” expense type
  - Select a Payee and then associate that Payee to a candidate(s) which the electioneering communication expenditure was used to support or oppose. Multiple candidates can be associated with the same Payee Expenditure. (Hold Ctrl key and left click on the various candidate names)
  - The contributor information on this page is **ONLY** required if a person contributing to the committee expressly asked that their contribution be used for Electioneering Communication expenditures.
  - Then click Update Report. This will take you to the Itemized Expenditures page and let you review the entries you have made. If satisfied, you may continue to enter more expenditure by selecting Add. If you need to correct an entry, click on the name for the expenditure and make the necessary changes. Click Save to be returned to the Itemized Expenditures page. Once done with itemized expenditures, select the Back action button below the displayed entries. This will take you back to the Report Entry page where you may select a different action. The Report Entry page keeps updating the totals for the report as more entries are made.

- If expenditure(s) was identified as “Other” expense type
  - This will take you to the Itemized Expenditures page and let you review the entries you have made. If satisfied, you may continue to enter more expenditures by selecting Add. If you need to correct an entry, click on the name for the expenditure and make the necessary changes. Click Save to be returned to the Itemized Expenditures page. Once done with itemized expenditures, select the Back action button below the displayed entries. This will take you back to the Report Entry page where you may select a different action. The Report Entry page keeps updating the totals for the report as more entries are made.

 A process similar to entering itemized contributions and itemized expenditures is used for loans, loan payments, returned contributions, and returned expenditures.

 Once all the information has been saved, the report is ready to be filed. On the Report Entry page, scroll to the bottom of the page and select the action button **Back to Report** returning you to the Report Entry Wizard page.

 Enter the Committee’s financial institution information on the bottom of the Report Entry Wizard page. Just below the committee’s financial institution information is a box to check only if the report being filed is a termination report. Don’t forget that a termination report must show a zero balance. Also, be sure that there is no outstanding debt for the committee. Otherwise, **do not** check this box.

 Select **File My Report** **ONLY IF YOU ARE READY TO FILE!** YOUR REPORT IMMEDIATELY BECOMES PUBLIC ONCE IT IS FILED. You should be returned to the Account Center page after the filing is posted. If the system indicates that you are still on the “Report Entry Wizard” page the filing may not have been completed. Check the top of the page for red warning messages alerting you to missing data. **(REPORTS ARE NOT OFFICIALLY RECEIVED BY THE APPROPRIATE FILING OFFICE UNTIL YOU SELECT / CLICK ON “FILE MY REPORT”).**

To check if the report was filed, click on “Work on a Report”. If the report was filed, the reporting period should not appear on the Report Selection Page. If a second attempt fails, contact your appropriate filing office for assistance. You may view the filing on the website by using the Search Reports link.

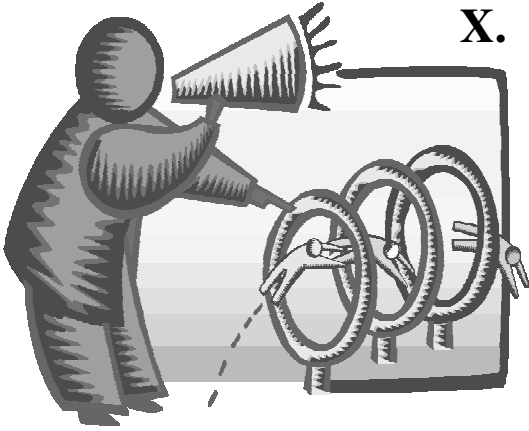
Please contact a member of your County Clerk and Recorder’s election staff with any questions.

## C. Trouble Shooting - Electronic Challenges

Does the thought of electronic filing have you running for the hills? Don't put those sneakers on yet! Listed below are some common problems experienced by all levels of computer users. Before contacting your filing office try using the chart below. This may save you and your filing office valuable time.

Problem	Solution
User ID and or Password are not recognized	<p>The User ID and password are case sensitive; therefore, check and make sure you're using the correct case.</p> <p>If your User ID or password contains the letters L, O or I or the numbers one or zero, make sure that the letters should be letters and not numbers or vice versa.</p> <p>A change in registered agent may have prompted a change in the User ID and password. You may contact your designated election office to confirm your User ID but they're unable to lookup passwords. If you have your User ID can use the "Forgot Password?" link to have your password reset and sent to you by e-mail. Please note that the reset password is only good for four (4) hours after being reset. You will need to login with the temporary password and reset it to something more permanent using the "Change Password" link.</p>
Accessing the Web or the SOS Website	<p>Can you get to other sites on the web? Check with your internet provider to make sure there is not a connectivity problem occurring with your provider.</p> <p>If using a dial-up modem and you have call waiting you may want to disable your call waiting during your internet use. Information on this process may be found in the information pages of your telephone book.</p> <p>From time to time we may upgrade portions of the Secretary of State's website. Upgrades do not always display a new or different look. If you have bookmarked the SOS website and do not update your bookmark periodically, you may be returning to an "old" version of the website. Try accessing the website without using your bookmark.</p>

Problem	Solution
	<p>Avoid using the Secretary of State’s website during maintenance hours. Maintenance hours are 2:00 a.m. – 6:00 a.m. daily.</p>
<p>My report shows “past” or is not showing as filed; I can see the report link but cannot access it.</p>	<p>The last step to file an electronic report is to click on the action button “File My Report”. If this action is not completed, the report will not be filed and could cause the candidate or committee to miss a report filing deadline, resulting in penalties being assessed. In most cases, the report information has been saved and is just waiting to be filed. A report that has not been filed will prevent the user from filing the current or next report showing due until the previous report is filed. File the past report to access the current report.</p>
<p>I did not receive an e-mail confirmation of electronic filing.</p>	<p>An outdated e-mail address may be to blame. As long as the candidate or committee maintains a current e-mail address with the appropriate election office you should receive, almost immediately, an e-mail confirming your electronic report filing. You may check the e-mail address on record by using the Committee Maintenance link. The Committee Maintenance screen allows you to update important information about the candidate or committee.</p>



## X. Waiver Process

If a state candidate, committee or party receives a penalty pursuant to Article XXVIII, Section 10 of the Colorado Constitution, that person or committee may submit a written request, addressed to the Secretary of State, explaining why a waiver or reduction in the penalty should be granted. The Secretary of State's office must receive the request **no later than 30 days after the date the notice was mailed**. Mail waiver requests to Colorado Secretary of State, Attn: Elections Division, 1700 Broadway, Suite 270, Denver, CO 80290.

The Secretary will review the requests and make a determination, at which time the candidate, committee or party will be notified in writing as to the outcome of their request. An invoice will accompany the letter if a penalty remains.

If a state candidate, committee or party does not agree with the determination made by the Secretary of State, they may appeal the decision by filing a complaint with the Secretary of State's office. The complaint will be forwarded to the Administrative Law Judge (ALJ) for review. The last resort for appealing a penalty is the Court of Appeals.

Please review Article XXVIII, Sec. 9 and 10 for complete understanding of the complaint and appeals process. *Municipal clerks and county clerk and recorders do have the ability to waive or reduce penalties sanctioned by Article XXVIII of the Colorado Constitution pursuant to C.R.S. 1-45-109(2)(b).*

## XI. Terminating Your Committee

It is very important that committees terminate properly to end all filing requirements and avoid fines and penalties for non-reporting. A committee may only terminate by filing a Report of Contributions and Expenditures indicating a "zero" balance. The disbursement of unexpended campaign funds is unregulated for political parties, political committees and small donor committees; specific guidelines are given for candidate and issue committees. (C.R.S. 1-45-106)

*Tip 1: A committee which has a loan cannot be terminated until the loan has been paid and the committee has reached a zero balance.*

*Tip 2: Inactive candidate committees must terminate after nine years.*  
*[C.R.S. 1-45-106 (1)(a)(III)]*

*Tip 3: A federal committee may terminate their active status with the Secretary of State if the committee submits a letter of termination. A termination letter may be filed at any time. (Campaign and Political Finance Rule 3.2)*

## XII. Conducting Research

Researching campaign reports has become easier than ever with the implementation of our website at [www.sos.state.co.us](http://www.sos.state.co.us). Data is updated daily providing the most current and accurate information available to everyone with access to the Internet. For those without Internet access, data may be obtained at the **Colorado Department of State, 1700 Broadway, Suite 270 Denver, CO 80290 (downtown Denver)**. If coming to the office is not convenient or feasible, please send your written request to the above address, attention Elections Division. All requests are processed in the order received; pre-paid copies are available for \$0.25 per page. Please allow five to ten days for large orders. You may also submit a request via the Campaign Finance e-mail [CPFHelp@sos.state.co.us](mailto:CPFHelp@sos.state.co.us) or by fax at **303-869-4861**.

Since local candidates and committees are not under the jurisdiction of the Secretary of State's office, there may be occasions in which individuals requesting information or copies of filings will be directed to contact the county clerk and recorder's office or municipal / town clerk's office. Information regarding the process for making requests and the cost of copies should be discussed with the county or municipal / town clerk's office.

## XIII. Filing Campaign & Political Finance Complaints

Any person who believes that there has been an intentional violation of the provisions set forth in Article XXVIII of the State Constitution, Title 1, Article 45 of the Colorado Revised Statutes or the Secretary of State's Rules Concerning Campaign and Political Finance may file a complaint with the Secretary of State's Office.

### COMPLAINTS MUST INCLUDE

- ✧ Complainant's name, address and signature
- ✧ Counsel's name, address and signature (if Complainant is represented by counsel)
- ✧ Name and address of each respondent alleged to have committed a violation
- ✧ Description of the violation

The Secretary of State's office will ensure the complaint is submitted with all required information and then refer the complaint to an Administrative Law Judge at the Office of Administrative Courts for a hearing.

Once the complaint has been submitted with the Office of Administrative Courts all future communications, pleadings and correspondence should be directed to that office **only** at the address and phone number listed below.

The Office of Administrative Courts  
633 17<sup>th</sup> Street, Suite 1300  
Denver, CO 80202

☎ 303-866-2000

🌐 [www.colorado.gov/dpa/oac](http://www.colorado.gov/dpa/oac)

## REMEMBER

Complaints Must be filed within 180 days of the alleged violation.

The Secretary of State's office cannot offer legal advice or interpret the law; our office can only advise with regard to the procedures for filing a complaint.

Please refer to these sections of law before filing a complaint:

- ♦ Colorado State Constitution, Article XXVIII, Sections 9 & 10
- ♦ Colorado Revised Statutes, Title 1, Article 45
- ♦ Secretary of State's Rules Concerning Campaign and Political Finance, Rule 6

## **XIV. Frequently Asked Questions (FAQ's)**

Q: When do you become a candidate under Article XXVIII?

A: You become a candidate when you publicly announce AND THEREAFTER receive a contribution or make an expenditure in support of your candidacy.

Q: May governor and lieutenant governor candidates maintain separate candidate committees?

A: No. Article XXVIII combines these two candidate committees into one and the contribution and spending limits for governor apply to the committee.

Q: May state or local candidates accept corporate and labor money under Article XXVIII?

A: No. Contributions from corporations and labor organizations to candidates are prohibited. Except for local public offices in certain home rule counties or home rule municipalities, Section 3(4)(a) of Article XXVIII and Rule 7.2 of the Secretary of State's "Rules Concerning Campaign and Political Finance" prohibit contributions and expenditures by corporations and labor organizations for candidates for office in local elections, including school board elections.

Q: Is a political committee required to segregate the contributions it receives from corporations and labor organizations from the contributions it receives from natural persons?

A: No.

Q: How long do we keep our committee records?

A: Committees must keep their records for 180 days following any general election in which the committee or party received contributions, unless a complaint is filed, then the records must remain available until the matter is resolved. LLC affirmations must be kept for one (1) year after the end of the election cycle.

Q: What is "electioneering communication"?

A: This term refers to print, radio, TV and any other communications that unambiguously refer to any candidate and are distributed within 30 days of the primary and 60 days of the general election.

- Q: Do I have to report what I spend on “electioneering communications”?
- A: Yes. Anyone spending \$1,000 or more per calendar year on “electioneering communications” must report to the secretary of state, using the manual or electronic Report of Electioneering Communications form. Reports must detail spending on Electioneering Communications as well as the name and address of each person contributing more than \$250 per year. If the contributor is a natural person you must also provide the contributor’s occupation and employer information.
- Q: May a corporation or labor organization contribute or provide funding for electioneering communications?
- A: No. Article XXVIII prohibits corporations or labor organization from funding this type of activity; however, a political committee or small donor committee established by a corporation or labor organization may provide funding for electioneering communication.
- Q: Are conduit contributions prohibited?
- A: Yes. Contributions delivered to a candidate committee by a third party are prohibited.
- Q: Are organizations, such as the Colorado Federation of Republican Women, which are social in nature, considered part of the Colorado Republican Party for reporting purposes? If not, under what circumstances are affiliates considered part of the Colorado Republican party for purposes of Article XXVIII?
- A: If the organizations are solely social in nature and not part of the party’s formal nominating process they are not considered part of the party for reporting purposes. Social organizations associated with a particular political party are not considered “affiliates” of the party for reporting purposes under Article XXVIII, Sec. 2(13) of the Colorado Constitution. There may be other provisions, however, of Article XXVIII of the Colorado Constitution that may apply depending on the activities of the organizations.
- Q: May lobbyists or principals of lobbyists contribute to a member of the General Assembly who is a candidate for office in a home rule city or county when the General Assembly is in session?
- A: Section 1-45-105.5, C.R.S. precludes lobbyists or principals of lobbyists from contributing to a member of the General Assembly who is a candidate for office in a home rule city or county when the General Assembly is in session.
- Q: May a political committee make a contribution to a member of the General Assembly while in session? And what if the political committee has a lobbyist?
- A: Political Committees may contribute to a legislator during the session, unless the political committee “employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist”.
- Q: Does the prohibition on the receipt of campaign contributions from lobbyists while the Colorado General Assembly is in session apply to federal lobbyist or individuals who lobby in other states who are not registered as lobbyists with the Colorado Secretary of State?



- A: The prohibition on lobbyist contributions applies only to persons who are professional or volunteer lobbyists and who are subject to C.R.S. 24-6-301, etc. A note of caution: These individuals covered by the law could also be “federal” lobbyists or lobbyists subject to the laws of other states. In other words, “lobbyists” that do not lobby in Colorado are not covered. They do not try to influence members of the General Assembly, so the purpose behind the law does not apply to out-of-state lobbyists who do not lobby in Colorado.
- Q: May corporations and labor organizations make direct contributions to “Small Donor” committees?
- A: No, only their employees or members may make contributions to Small Donor Committees.
- Q: How do “Small Donor” committees work?
- A: Small Donor Committees are a form of political committee. The contribution limit from their supporters is lower than political committees at only \$50 per natural person per year, but they may make larger contributions to candidates: \$5,300\* to Governor/Lt. Governor combined, Secretary of State, Attorney General, State Treasurer and \$2,125\* to State Senate, State House of Representatives, State Board of Education, CU Regent, District Attorney for the primary and general elections.
- Q: May a Small Donor Committee transfer a portion of the Balance of Funds on Hand back to the Local Union for regular union expenditure use?
- A: No
- Q: May the transfer of membership dues from a membership organization to a small donor committee be excluded from the \$50 limitation set forth in Section 2(14)(a) based upon the exclusive language contained in Section 2(5)(b), which states, that”...Contribution *does not include*...a transfer by a membership organization of a portion of a member’s dues to a small donor committee sponsored by such membership organization”?
- A: The transfer, itself, of membership dues from a membership organization to a small donor committee is excluded from the \$50 limitation set forth in Article XXVIII, Sec. 2(14)(a) of the Colorado Constitution based upon the exclusive language contained in Article XXVIII, Sec. 2(5)(b) of the Colorado Constitution. However, that portion of a member’s dues transferred from a small donor committee is considered a pro-rata contribution from the individual members to a small donor committee.
- Q: Is a membership organization required to segregate the dues it receives from corporations from the dues it receives from natural persons?
- A: Not if the dues received from corporations are for the membership dues of natural persons. If the dues are received from corporations for their own corporate memberships, then such dues must be segregated and cannot be transferred to a small donor committee.

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\* Contribution limits reflect adjustments made by CPF Rule 12 pursuant to Article XXVIII, Section 3(13) of the Colorado Constitution effective April 1, 2007

- Q: May a membership organization transfer dues to a small donor committee paid to it by a member's corporation on behalf of one or more individual members?
- A: Yes. The dues transferred by such membership organization to the small donor committee sponsored by such organization will be treated as pro-rata contributions from the individual members whose portion of membership dues was transferred. It is not considered to be a contribution from the corporation paying the member's dues, but rather a contribution from the member.
- Q: How does a small donor committee list a membership transfer from a membership organization since they are not contributions?
- A: If a small donor committee (SDC) receives \$20 or more in dues and other contributions from any individual during a reporting period; the small donor committee should list each such individual. The total amount received from each individual that totals less the \$20 during a reporting period should be reported as a non-itemized contribution as one entry from the membership organization with the description of "dues transfer". The membership organization must provide to the small donor committee a list of the members and the amount of dues transferred for each member and the small donor committee must keep that list for audit purposes to be sure that individuals do not exceed the \$50 per year contribution limit.
- Q: May a candidate make a contribution to a (Federal) 527 organization from the candidate's candidate committee?
- A: No. Candidate committees are formed to support the nomination or election of a candidate to a state or local office; 527 organizations are allowed to support issues as well as candidates. They are not limited to solely supporting the candidate from whom they received the contribution. Therefore, this type of contribution is not allowed. Any such contributions made by a candidate committee to a 527 organization must be returned to the candidate committee.
- Q: Unexpended campaign contributions for candidate committees are allowed to be used for Political Issue Education under C.R.S. 1-45-106(II). May a candidate committee contribute unexpended campaign contributions to (Federal) 527 organizations for political issue education?
- A: No. 527 organizations may support or oppose a wide variety of issues. Political Issue Education [as referred to in C.R.S. 1-45-106(II)] is issue education that is personal to the candidate. In other words, political issue education is to be limited to specifically educating the elected official on legislative issues directly affecting their constituents or the elected official educating his/her constituents about the elected official or legislative issues directly affecting those constituents.

## XV. Quick Reference Guides and Charts

This section contains constitutional and statutory references and charts. While you should thoroughly read all of Colorado's campaign finance laws and rules, this section directs you to some of the most frequently requested campaign finance information. As always, if you have questions please contact the appropriate filing officer for clarification.

### A. Constitutional & Statutory Quick Reference Guide

<b><u>TERMS &amp; WHERE TO FIND DEFINITIONS</u></b>	<b>COLORADO CONSTITUTION ARTICLE XXVIII</b>	<b>COLORADO REVISED STATUTE (C.R.S.)</b>	<b>CPF RULES</b>
<b>Appropriate Officer</b>	Section 2(1)	1-45-103(1)	NA
<b>Candidate</b>	<i>Section 2(2)</i>	<i>1-45-103(2)</i>	NA
<b>Candidate Committee</b>	Section 2(3)	1-45-103(3)	NA
<b>Contributions</b>	<i>Section 2(5)</i>	<i>1-45-103(6)</i>	<i>1.2 &amp; 1.3</i>
<b>Corporation</b>	NA	1-45-103(7)	1.4 & 1.5
<b>Election Cycle</b>	<i>Section 2(6)</i>	<i>1-45-103(8)</i>	NA
<b>Expenditure</b>	<i>Section 2(8)</i>	<i>1-45-103(10)</i>	NA
<b>Independent Expenditure</b>	<i>Section 2(9)</i>	<i>1-45-103(11)</i>	NA
<b>Electioneering Communications</b>	<i>Section 2(7)</i>	<i>1-45-103(9)</i>	NA
<b>Issue Committee</b>	Section 2(10)	1-45-103(12)	1.6
<b>Person</b>	Section 2(11)	1-45-103(13)	1.7
<b>Political Committee</b>	Section 2(12)	1-45-103(14)	1.9
<b>Political Party</b>	Section 2(13)	1-45-103(15)	NA
<b>Small Donor Committee</b>	Section 2(14)	1-45-103(16)	NA
<b>Unexpended Contributions</b>	Section 2(15)	1-45-103(18)	NA

## **MORE CAMPAIGN AND POLITICAL FINANCE TERMS**

<b>ADDITIONAL CAMPAIGN AND POLITICAL FINANCE TERMS</b>	<b>CONSTITUTIONAL, STATUTORY &amp; CPF RULE CITES</b>
<i>COMMITTEE REGISTRATION / REGISTERED AGENT</i>	C.R.S. 1-45-108(3) CPF Rule 1.12, Rule 2
<i>CONTRIBUTION LIMITS</i> for state office and various state, county and municipal committee if county or municipality is no Home Rule (see CPF Rule 7)	Art. XXVIII, Sec. 3 C.R.S. 1-45-103.7
<i>VOLUNTARY SPENDING LIMITS</i> (State only)	Art. XXVIII, Sec. 4
<i>LOBBYIST CONTRIBUTIONS TO GENERAL ASSEMBLY / GOVERNOR</i> (State only)	C.R.S. 1-45-105.5
<i>UNEXPENDED CAMPAIGN CONTRIBUTIONS</i>	Art. XXVIII, Sec. 2 (15) C.R.S. 1-45-106
<i>INDEPENDENT EXPENDITURE</i>	Art. XXVIII, Sec. 5 – Threshold for reporting and where to file report
<i>ELECTIONEERING COMMUNICATIONS</i>	Art. XXVIII, Sec.6 – Threshold for reporting and where to file report CPF Rule 9
<i>DISCLOSURE</i> (WHEN AND WHAT TO REPORT)	Article XXVIII, Sec. 7 C.R.S. 1-45-108 CPF Rule 4 & 5
<i>WHERE TO FILE</i> (JURISDICTION)	Article XXVIII, Sec. 8 C.R.S. 1-45-109 CPF Rule 4 & 5
<i>CANDIDATE AFFIDAVIT / FINANCIAL DISCLOSURE</i> – Personal Financial Disclosures are required for state candidates.	C.R.S. 1-45-110 CPF Rule 8 C.R.S. 24-6-202 – Personal Financial Disclosure
<i>DUTIES OF SECRETARY OF STATE/ COMPLAINTS</i>	Art. XXVIII, Sec. 9 CPF Rule 6
<i>DUTIES OF CLERKS (COUNTY &amp; MUNICIPAL)</i>	C.R.S. 1-45-112
<i>SANCTIONS (Penalties) / WAIVER REQUESTS</i>	Art. XXVIII, Sec. 10 CPF Rule 6
<i>HOME RULE COUNTIES &amp; MUNICIPALITIES</i>	C.R.S. 1-45-116 CPF Rule 7
<i>LIMITS ON GOVERNMENT ACTIVITY</i>	C.R.S. 1-45-117

## B. Quick Reference of State Candidate Contribution Limits

### MAXIMUM CONTRIBUTION LIMITS FOR CANDIDATES PER ELECTION CYCLE

Contribution limits listed in this chart reflect adjustments made by CPF Rule 12 pursuant to Article XXVIII, Sec. 3(13) of the Colorado Constitution effective April 1, 2007.

Office Sought (Candidate Committee)	Governor / Lt. Governor	Secretary of State	Attorney General	State Treasurer	State Senate	State House of Representatives	State Board of Education	CU Regent	District Attorney	Regional Transportation District
<b>Natural Person / Political Committee &amp; Business Entity</b> <u>(Other than a corporation)</u>	Primary* \$525	Primary* \$525	Primary* \$525	Primary* \$525	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	No Limit
	General* \$525	General* \$525	General* \$525	General* \$525	General* \$200	General* \$200	General* \$200	General* \$200	General* \$200	
<b>Small Donor Committee</b>	Primary* \$5,300	Primary* \$5,300	Primary* \$5,300	Primary* \$5,300	Primary* \$2,125	Primary* \$2,125	Primary* \$2,125	Primary* \$2,125	Primary* \$2,125	No Limit
	General* \$5,300	General* \$5,300	General* \$5,300	General* \$5,300	General* \$2,125	General* \$2,125	General* \$2,125	General* \$2,125	General* \$2,125	
<b>Political Party</b>	\$530,000	\$106,000	\$106,000	\$106,000	\$19,080	\$13,780	\$13,780	\$13,780	\$13,780	No Limit
<b>Candidate Committee</b> (to another Candidate committee)	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
<b>Issue Committee</b>	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
<b>Corporations &amp; Labor Unions</b>	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited

\* All major party candidates may accept contributions for the primary and general election. Minor party candidates who appear on a primary election ballot may accept contributions for the primary and general elections. Unaffiliated and minor party candidates who do not appear on a primary election ballot may only accept contributions for the general election. The Governor and Lt. Governor are considered one committee and the contribution and spending limits for governor apply to the joint committee.

Contribution limits double for a candidate who has accepted voluntary spending limits if his or her opponent has not accepted the voluntary spending limits and has raised more than 10 percent of the spending limit. Contributions from a political party are based on a candidate's election cycle and cannot be doubled.

Contributions to a candidate committee by the candidate are counted as political party contributions when a candidate accepts voluntary spending limits. Any unexpended campaign contributions which are carried forward to a subsequent election cycle are also counted as a political party contribution.

## C. State Voluntary Spending Limits Guide

Please note that there is nothing in Article XXVIII of the Colorado Constitution or Title 1, Article 45 of the Colorado Revised Statutes addressing voluntary spending limits for county or municipal candidates. Please contact your county clerk and recorder or municipal clerk to see if your county or municipality has spending limit guidelines or restrictions.

### **VOLUNTARY SPENDING LIMITS**

*This chart reflects the voluntary spending limits as adjusted by CPF Rule 12 pursuant to Article XXVIII, Section 4(7) of the Colorado Constitution effective April 1, 2007.*

<b>OFFICE / CANDIDATE</b>	<b>VOLUNTARY SPENDING LIMITS</b>
Governor / Lieutenant Governor	\$2,650,000
Secretary of State	530,000
Attorney General	530,000
State Treasurer	530,000
State Senate	95,400
State House of Representatives	68,900
State Board of Education	68,900
Regent of the University of Colorado	68,900
District Attorney	68,900
Regional Transportation District (RTD)	No Limit

Remember: Contribution limits double for a candidate who has accepted voluntary spending limits if his or her opponent has not accepted the voluntary spending limits and has raised more than 10 percent of the spending limit; however, **this does not double the candidate's spending limit**. Political Party contribution limits cannot be doubled.

## D. Committee Contributions

This chart reflects contribution limits for all political committees, small donor committees, issue committees and political parties within the State of Colorado. Home Rule counties or municipalities may have their own contribution limits; therefore, you should contact the county clerk and recorder or municipal clerk. The limits in this chart reflect adjustments made by CPF Rule 12 pursuant to Article XXVII, Sec. 3(13) of the Colorado Constitution. In addition, please review Campaign and Political Finance Rule 2.6 and 2.7 relating to issue committee and political committee contributions.

	<b>Committee Receiving Contribution</b>			
	<b>Political Committee (per State House of Representatives election cycle)</b>	<b>Small Donor Committee (per calendar year)</b>	<b>Political Party (per calendar year)</b>	<b>Issue Committee</b>
<b>CONTRIBUTORS</b>				
<b>Natural Person</b>	\$525	\$50	\$3,175 (State, county, district & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit
<b>Political Party</b>	\$525	Prohibited	\$3,175 (State, county, district & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit
<b>Political Committee (PC)</b>	\$525	Prohibited	\$3,175 (State, county, district & local levels combined of which no more than \$2,650 may be given to the state party.)	Prohibited
<b>Small Donor Committee (SDC)</b>	\$525	Prohibited	\$15,900 (State, County, district and local levels combined of which no more than \$13,250 may be given to the state party.)	Prohibited
<b>Issue Committee</b>	Prohibited	Prohibited	Prohibited	No Limit
<b>Business Entity (Other than a Corporation)</b>	\$525	Prohibited	\$3,175 (State, county, district & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit
<b>Corporations &amp; Labor Unions</b>	\$525	Prohibited	Prohibited	No Limit

## E. Election Cycle / Contribution Limits

Contribution limits may not necessarily be based on election cycles. If contribution limits apply to your committee please review all applicable laws thoroughly and carefully.

Committee Type	Contribution Cycle	Contribution Limits
<b>Candidate Committee</b>	<p>Election cycle starts 31 days following a general election for the particular office and ends 30 days following the next general election for that office.</p> <ul style="list-style-type: none"> <li>In most cases county offices are 4 year terms such as Clerk &amp; Recorder, Assessor, Treasurer, Sheriff, Coroner, Surveyor</li> <li>For information regarding terms of office for municipal offices contact your municipal clerk.</li> </ul>	<p><b><i>Municipal/County candidates:</i></b></p> <ul style="list-style-type: none"> <li>Contribution limits may or may not apply to Home Rule municipal or county candidates. Check with the municipality or county to verify if Home Rule Charters or Ordinances apply.</li> <li>Unless Home Rule applies, municipal or county candidates may not accept corporate or labor union contributions.</li> </ul>
<b>Political Party</b> ( <i>state, county, district and local level combined</i> )	Per year (calendar year) - January 1 <sup>st</sup> through December 31 <sup>st</sup> .	<ul style="list-style-type: none"> <li>\$3,175 per year; no more than \$2,650 to the state party from any person (does not include issue committees) other than Small Donor Committee.</li> <li>\$15,900 per year; no more than \$13,250 to the state party from any Small Donor Committee.</li> </ul>
<b>Political Committee</b>	Colorado House of Representatives Elections Cycle (2 years). This applies to state, county and local political committees.	\$525
<b>Small Donor Committee</b>	Per year (calendar year) - January 1 <sup>st</sup> through December 31 <sup>st</sup> . <i>This applies to state, county and local small donor committees</i>	\$50 maximum <b><u>natural persons only</u></b>
<b>Issue Committee</b>	NA	<p><b><i>Municipal/County issue committees:</i></b></p> <p>Please check with the designated election official to see if a Home Rule Charter establishes contribution limits.</p>



## **XVI. Appendix**

- Contact Information
- Article XXVIII, Colorado Constitution (CPF)
- Title 1, Article 45, Fair Campaign Practices Act (FCPA)
- Rules Concerning Campaign and Political Finance
- Registration and Filing Forms – Listed below are links to the Secretary of State’s website for committee registration and campaign finance forms.

### *Electronic Committee Registration Link*

<http://www.sos.state.co.us/cpf/FcpaHomePage.do;jsessionid=0000zgdM52b-3hYLQMEDjgHI8Qa:11mk6e6e1>

### *Campaign Finance Forms Link*

<http://www.elections.colorado.gov/DDefault.aspx?tid=886>

State, County & Municipal Filing Calendars – May be accessed by the following link through the secretary of state’s website.

### *Campaign Finance Reporting Calendars*

<http://www.elections.colorado.gov/DDefault.aspx?tid=856>

## Appendix - Contact Information

### Department of State, Elections:

**Address:** 1700 Broadway, Suite 270, Denver, CO 80290  
**Phone:** 303-894-2200  
**FAX:** 303-869-4861  
**Email:** [sos.elections@sos.state.co.us](mailto:sos.elections@sos.state.co.us)  
**CPF/FCPA Voicemail:** 303-894-2200 ext. 6383

*Campaign and political finance inquiries for the county or municipal level should be directed to the county clerk and recorder or municipal / town clerk. Below is a list of the county clerk and recorder's addresses and phone numbers. Municipal clerk listings may be found in the government pages of your telephone book.*

**ADAMS**

1865 W. 121<sup>st</sup> Ave., Suite 600  
Westminster, CO 80234-2327  
(303) 920-7850

**CROWLEY**

631 Main St., Suite 102  
Ordway, CO 81063  
(719) 267-4643

**GUNNISON**

221 N. Wisconsin St., Suite C  
Gunnison, CO 81230-2433  
(970) 641-1516

**MESA**

P.O. Box 20000  
Grand Junction, CO 81502-5009  
(970) 244-1662

**RIO BLANCO**

P.O. Box 1067  
Meeker, CO 81641-1067  
(970) 878-9460

**ALAMOSA**

P.O. Box 630  
Alamosa, CO 81101-0630  
(719) 589-6681

**CUSTER**

P.O. Box 150  
Westcliffe, CO 81252-0150  
(719) 783-2441

**HINSDALE**

P.O. Box 9  
Lake City, CO 81235-0009  
(970) 944-2228

**MINERAL**

P.O. Box 70  
Creede, CO 81130-0070  
(719) 658-2440

**RIO GRANDE**

P.O. Box 160  
Del Norte, CO 81132-0160  
(719) 657-3334

**ARAPAHOE**

5334 S. Prince St.  
Littleton, CO 80166-0211  
(303) 795-4511

**DELTA**

501 Palmer, Suite 211  
Delta, CO 81416-1764  
(970) 874-2150

**HUERFANO**

401 Main St., Suite 204  
Walsenburg, CO 81089-2085  
(719) 738-2380

**MOFFAT**

221 W. Victory Way,  
Suite 200  
Craig, CO 81625-2716  
(970) 824-9120

**ROUTT**

P.O. Box 773599  
Steamboat Springs, CO 80477-3599  
(970) 870-5558

**ARCHULETA**

P.O. Box 2589  
Pagosa Springs, CO 81147-2589  
(970) 264-8350

**DENVER Election Commission**

3888 East Mexico Ave  
Denver, CO 80210-3813  
(720) 913-8683

**JACKSON**

P.O. Box 337  
Walden, CO 80480-0337  
(970) 723-4334

**MONTEZUMA**

109 W. Main, Room 108  
Cortez, CO 81321-3189  
(970) 565-3728

**SAGUACHE**

P.O. Box 176  
Saguache, CO 81149-0176  
(719) 655-2512

**BACA**

741 Main  
Springfield, CO 81073-1548  
(719) 523-4372

**DOLORES**

P.O. Box 58, Dove Creek, CO 81324-0058  
(970) 677-2381

**JEFFERSON**

100 Jefferson County  
Pkwy, Ste 2560  
Golden, CO 80419-2560  
(303) 271-8111

**MONTROSE**

P.O. Box 1289  
Montrose, CO 81402-1289  
(970) 249-3362

**SAN JUAN**

P.O. Box 466  
Silverton, CO 81433-0466  
(970) 387-5671

**BENT**

P.O. Box 350  
Las Animas, CO 81054-0350  
(719) 456-2009

**DOUGLAS**

P. O. Box 1360  
Castle Rock, CO 80104-1360  
(303) 660-7444

**KIOWA**

P.O. Box 37  
Eads, CO 81036-0037  
(719) 438-5421

**MORGAN**

P.O. Box 1399  
Fort Morgan, CO 80701-1399  
(970) 542-3521

**SAN MIGUEL**

P.O. Box 548  
Telluride, CO 81435-0548  
(970) 728-3954

**BOULDER**

1750 33rd St., Suite 200  
Boulder, CO 80301-2546  
(303) 413-7740

**EAGLE**

P.O.Box 537  
Eagle, CO 81631-0537  
(970) 328-8715

**KIT CARSON**

P.O.Box 249  
Burlington, CO 80807-0249  
(719) 346-8638

**OTERO**

P.O.Box 511  
La Junta, CO 81050-0511  
(719) 383-3204

**SEDGWICK**

315 Cedar St., Suite 220  
Julesburg, CO 80737-0050  
(970) 474-3346

**BROOMFIELD**

One DesCombes Dr.  
Broomfield, CO 80020-2495  
(303) 464-5857

**ELBERT**

P.O.Box 37  
Kiowa, CO 80117-0037  
(303) 621-3116

**LAKE**

P.O.Box 917  
Leadville, CO 80461-0917  
(719) 486-1410

**OURAY**

P.O.Box C  
Ouray, CO 81427-0615  
(970) 325-4961

**SUMMIT**

P.O.Box 1538  
Breckenridge, CO 80424-1538  
(970) 453-3479

**CHAFFEE**

P.O.Box 699  
Salida, CO 81202-0699  
(719) 539-6913

**EL PASO**

P.O.Box 2007  
Colorado Springs, CO 80901-2007  
(719) 575-8683

**LA PLATA**

1060 E. 2<sup>nd</sup> Ave. #134  
Durango, CO 81301  
(970) 382-6297

**PARK**

P.O.Box 220  
Fairplay, CO 80440-0220  
(719) 836-4333

**TELLER**

P.O.Box 1010  
Cripple Creek, CO 80813-1010  
(719) 689-2951

**CHEYENNE**

P.O.Box 567  
Cheyenne Wells, CO 80810-0567  
(719) 767-5685

**FREMONT**

615 Macon Ave., Suite 102  
Canon City, CO 81212-3381  
(719) 276-7330

**LARIMER**

P.O.Box 1547  
Fort Collins, CO 80522-1547  
(970) 498-7820

**PHILLIPS**

221 S. Interoccean Ave.  
Holyoke, CO 80734-1521  
(970) 854-3131

**WASHINGTON**

P.O.Box L  
Akron, CO 80720-0380  
(970) 345-6565

**CLEAR CREEK**

P.O.Box 2000  
Georgetown, CO 80444-2000  
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**PROWERS**

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**COLORADO CONSTITUTION**  
**ARTICLE XXVIII**  
**(Amendment 27)**

Campaign and Political Finance

**Section 1. Purpose and findings.** The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates create the potential for corruption and the appearance of corruption; that large campaign contributions made to influence election outcomes allow wealthy individuals, corporations, and special interest groups to exercise a disproportionate level of influence over the political process; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; that because of the use of early voting in Colorado timely notice of independent expenditures is essential for informing the electorate; that in recent years the advent of significant spending on electioneering communications, as defined herein, has frustrated the purpose of existing campaign finance requirements; that independent research has demonstrated that the vast majority of televised electioneering communications goes beyond issue discussion to express electoral advocacy; that political contributions from corporate treasuries are not an indication of popular support for the corporation's political ideas and can unfairly influence the outcome of Colorado elections; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, providing for full and timely disclosure of campaign contributions, independent expenditures, and funding of electioneering communications, and strong enforcement of campaign finance requirements.

**Source: L. Initiated 2002:** Entire Article added, **L. 2003**, p. 3615. For the effective date of this Article, see the editor's note following the Article heading.

**Section 2. Definitions.** For the purpose of this Article and any statutory provisions pertaining to campaign finance, including provisions pertaining to disclosure:

(1) "Appropriate officer" means the individual with whom a candidate, candidate committee, political committee, small donor committee, or issue committee must file pursuant to section 1-45-109 (1), C.R.S., or any successor section.

(2) "Candidate" means any person who seeks nomination or election to any state or local public office that is to be voted on in this state at any primary election, general election, school district election, special district election, or municipal election. "Candidate" also includes a judge or justice of any court of record who seeks to be retained in office pursuant to the provisions of section 25 of article VI. A person is a candidate for election if the person has publicly announced an intention to seek election to public office or retention of a judicial office and thereafter has received a contribution or made an expenditure in support of the candidacy. A person remains a candidate for purposes of this Article so long as the candidate maintains a registered candidate committee. A person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle, is a candidate for purposes of this article.

(3) "Candidate committee" means a person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee. A candidate shall have only one candidate committee. A candidate committee shall be considered open and active until affirmatively closed by the candidate or by action of the secretary of state.

(4) "Conduit" means a person who transmits contributions from more than one person, directly to a candidate committee. "Conduit" does not include the contributor's immediate family members, the candidate or campaign treasurer of the candidate committee receiving the contribution, a volunteer fund raiser hosting an event for a candidate committee, or a professional fund raiser if the fund raiser is compensated at the usual and customary rate.

(5) (a) "Contribution" means:

(I) The payment, loan, pledge, gift, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, small donor committee, or political party;

(II) Any payment made to a third party for the benefit of any candidate committee, issue committee, political committee, small donor committee, or political party;

(III) The fair market value of any gift or loan of property made to any candidate committee, issue committee, political committee, small donor committee or political party;

(IV) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, retention, recall, or election.

(b) "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, small donor committee, issue committee, or political party; a transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments by a corporation or labor organization for the costs of establishing, administering, and soliciting funds from its own employees or members for a political committee or small donor committee.

(6) "Election cycle" means either:

(a) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the next general election for that office;

(b) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the special legislative election for that office; or

(c) The period of time beginning thirty-one days following the special legislative election for the particular office and ending thirty days following the next general election for that office.

(7) (a) "Electioneering communication" means any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

(I) Unambiguously refers to any candidate; and

(II) Is broadcasted, printed, mailed, delivered, or distributed within thirty days before a primary election or sixty days before a general election; and

(III) Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(b) "Electioneering communication" does not include:

(I) Any news Articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;

(IV) Any communication that refers to any candidate only as part of the popular name of a bill or statute.

(8) (a) "Expenditure" means any purchase, payment, distribution, loan, advance, deposit, or gift of money by any person for the purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question. An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.

(b) "Expenditure" does not include:

(I) Any news Articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Spending by persons, other than political parties, political committees and small donor committees, in the regular course and scope of their business or payments by a membership organization for any communication solely to members and their families;

(IV) Any transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments made by a corporation or labor organization for the costs of establishing, administering, or soliciting funds from its own employees or members for a political committee or small donor committee.

(9) "Independent expenditure" means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate. Expenditures that are controlled by or coordinated with a candidate or candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee.

(10) (a) "Issue committee" means any person, other than a natural person, or any group of two or more persons, including natural persons:

(I) That has a major purpose of supporting or opposing any ballot issue or ballot question; or

(II) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

(b) "Issue committee" does not include political parties, political committees, small donor committees, or candidate committees as otherwise defined in this section.

(c) An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.

(11) "Person" means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons.

(12) (a) "Political committee" means any person, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more candidates.

(b) "Political committee" does not include political parties, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this Article, the following are treated as a single political committee:

(I) All political committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All political committees established, financed, maintained, or controlled by a single labor organization; except that, any political committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the political committee of the state and national unit;

(III) All political committees established, financed, maintained, or controlled by the same political party;

(IV) All political committees established, financed, maintained, or controlled by substantially the same group of persons.

(13) "Political party" means any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. "Political party" includes affiliated party organizations at the state, county, and election district levels, and all such affiliates are considered to be a single entity for the purposes of this Article, except as otherwise provided in section 7.

(14) (a) "Small donor committee" means any political committee that has accepted contributions only from natural persons who each contributed no more than fifty dollars in the aggregate per year. For purposes of this section, dues transferred by a membership organization to a small donor committee sponsored by such organization shall be treated as pro-rata contributions from individual members.

(b) "Small donor committee" does not include political parties, political committees, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this Article, the following are treated as a single small donor committee:

(I) All small donor committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small donor committees established, financed, maintained, or controlled by a single labor organization; except that, any small donor committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the small donor committee of the state and national unit;

(III) All small donor committees established, financed, maintained, or controlled by the same political party;

(IV) All small donor committees established, financed, maintained, or controlled by substantially the same group of persons.

(15) "Unexpended campaign contributions" means the balance of funds on hand in any candidate committee at the end of an election cycle, less the amount of all unpaid monetary obligations incurred prior to the election in furtherance of such candidacy.

**Source: L. Initiated 2002:** Entire Article added, **L. 2003**, p. 3615. For the effective date of this Article, see the editor's note following the Article heading.

**PLEASE NOTE THAT THE CONTRIBUTION LIMITS LISTED IN SECTION 3 HAVE BEEN UPDATED BY CAMPAIGN AND POLITICAL FINANCE RULE 12 AS REQUIRED BY SUBSECTION (13).**

**Section 3. Contribution limits.** (1) Except as described in subsections (2), (3), and (4) of this section, no person, including a political committee, shall make to a candidate committee, and no candidate committee shall accept from any one person, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five hundred dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two hundred dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

(2) No small donor committee shall make to a candidate committee, and no candidate committee shall accept from any one small donor committee, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five thousand dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two thousand dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

(3) (a) No political party shall accept aggregate contributions from any person, other than a small donor committee as described in paragraph (b) of this subsection (3), that exceed three thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twenty-five hundred dollars per year at the state level;

(b) No political party shall accept aggregate contributions from any small donor committee that exceed fifteen thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twelve thousand, five hundred dollars at the state level;



(c) No political party shall accept contributions that are intended, or in any way designated, to be passed through the party to a specific candidate's candidate committee;

(d) In the applicable election cycle, no political party shall contribute to any candidate committee more than twenty percent of the applicable spending limit set forth in section 4 of this Article.

(e) Any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election for purposes of paragraph (d) of this subsection (3);

(4) (a) It shall be unlawful for a corporation or labor organization to make contributions to a candidate committee or a political party, and to make expenditures expressly advocating the election or defeat of a candidate; except that a corporation or labor organization may establish a political committee or small donor committee which may accept contributions or dues from employees, officeholders, shareholders, or members.

(b) The prohibition contained in paragraph (a) of this subsection (4) shall not apply to a corporation that:

(I) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(II) Has no shareholders or other persons with a claim on its assets or income; and

(III) Was not established by and does not accept contributions from business corporations or labor organizations.

(5) No political committee shall accept aggregate contributions or pro-rata dues from any person in excess of five hundred dollars per house of representatives election cycle.

(6) No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

(7) No person shall act as a conduit for a contribution to a candidate committee.

(8) Notwithstanding any other section of this Article to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule. The contribution limits described in this section shall not apply to a loan as described in this subsection (8).

(9) All contributions received by a candidate committee, issue committee, political committee, small donor committee, or political party shall be deposited in a financial institution in a separate account whose title shall include the name of the committee or political party. All records pertaining to such accounts shall be maintained by the committee or political party for one-hundred eighty days following any general election in which the committee or party received contributions unless a complaint is filed, in which case they shall be maintained until final disposition of the complaint and any consequent litigation. Such records shall be subject to inspection at any hearing held pursuant to this Article.

(10) No candidate committee, political committee, small donor committee, issue committee, or political party shall accept a contribution, or make an expenditure, in currency or coin exceeding one hundred dollars.

(11) No person shall make a contribution to a candidate committee, issue committee, political committee, small donor committee, or political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee, political committee, small donor committee, or political party, nor shall any person make such reimbursement except as provided in subsection (8) of this section.

(12) No candidate committee, political committee, small donor committee, or political party shall knowingly accept contributions from:

- (a) Any natural person who is not a citizen of the United States;
- (b) A foreign government; or
- (c) Any foreign corporation that does not have the authority to transact business in this state pursuant to Article 115 of title 7, C.R.S., or any successor section.

(13) Each limit on contributions described in subsections (1), (2), (3) (a), (3) (b) and (5) of this section, and subsection (14) of section 2, shall be adjusted by an amount based upon the percentage change over a four year period in the United States bureau of labor statistics consumer price index for Denver- Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S., or any successor section.

**Source: L. Initiated 2002:** Entire article added, L. 2003, p. 3619. For the effective date of this Article, see the editor's note following the Article heading.

**PLEASE NOTE THAT THE VOLUNTARY CAMPAIGN SPENDING LIMITS LISTED IN SECTION 4 HAVE BEEN UPDATED BY CAMPAIGN AND POLITICAL FINANCE RULE 12 AS REQUIRED BY SUBSECTION (7).**

**Section 4. Voluntary campaign spending limits.** (1) Candidates may certify to the secretary of state that the candidate's candidate committee shall not exceed the following spending limits for the applicable election cycle:

- (a) Two and one-half million dollars combined for a candidate for governor and governor and lieutenant governor as joint candidates under 1-1-104, C.R.S., or any successor section;
- (b) Five hundred thousand dollars for a candidate for secretary of state, attorney general, or treasurer;
- (c) Ninety thousand dollars for a candidate for the state senate;
- (d) Sixty-five thousand dollars for a candidate for the state house of representatives, state board of education, regent of the university of Colorado, or district attorney.

(2) Candidates accepting the campaign spending limits set forth above shall also agree that their personal contributions to their own campaign shall be counted as political party contributions and subject to the aggregate limit on such contributions set forth in section 3 of this article.

(3) Each candidate who chooses to accept the applicable voluntary spending limit shall file a statement to that effect with the secretary of state at the time that the candidate files a candidate affidavit as currently set forth in section 1-45-110(1), C.R.S., or any successor section. Acceptance of the applicable voluntary spending limit shall be irrevocable except as set forth in subsection (4) of this section and shall subject the candidate to the penalties set forth in section 10 of this Article for exceeding the limit.

(4) If a candidate accepts the applicable spending limit and another candidate for the same office refuses to accept the spending limit, the accepting candidate shall have ten days in which to withdraw acceptance. The accepting candidate shall have this option of withdrawing acceptance after each additional non-accepting candidate for the same office enters the race.

(5) The applicable contribution limits set forth in section 3 of this Article shall double for any candidate who has accepted the applicable voluntary spending limit if:

(a) Another candidate in the race for the same office has not accepted the voluntary spending limit; and

(b) The non-accepting candidate has raised more than ten percent of the applicable voluntary spending limit.

(6) Only those candidates who have agreed to abide by the applicable voluntary spending limit may advertise their compliance. All other candidates are prohibited from advertising, or in any way implying, their acceptance of voluntary spending limits.

(7) Each spending limit described in subsection (1) of this section shall be adjusted by an amount based upon the percentage change over a four year period in the united states bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with Article 4 of title 24, C.R.S., or any successor section.

**Source: L. Initiated 2002:** Entire Article added, **L. 2003**, p. 3622. For the effective date of this Article, see the editor's note following the Article heading.

**Section 5. Independent expenditures.** (1) Any person making an independent expenditure in excess of one thousand dollars per calendar year shall deliver notice in writing to the secretary of state of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure. The notice shall specifically state the name of the candidate whom the independent expenditure is intended to support or oppose. Each independent expenditure in excess of one-thousand dollars shall require the delivery of a new notice. Any person making an independent expenditure within thirty days of a primary or general election shall deliver such notice within forty-eight hours after obligating funds for such expenditure.

(2) Any person making an independent expenditure in excess of one thousand dollars shall disclose, in the communication produced by the expenditure, the name of the person making the expenditure and the specific statement that the advertisement of material is not authorized by any candidate. Such disclosure shall be prominently featured in the communication.

(3) Expenditures by any person on behalf of a candidate for public office that are coordinated with or controlled by the candidate or the candidate's agent, or political party shall be considered a contribution to the candidate's candidate committee, or the political party, respectively.

(4) This section 5 applies only to independent expenditures made for the purpose of expressly advocating the defeat or election of any candidate.

**Source: L. Initiated 2002:** Entire Article added, **L. 2003**, p. 3623. For the effective date of this Article, see the editor's note following the Article heading.

**Section 6. Electioneering communications.** (1) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall submit reports to the secretary of state in accordance with the schedule currently set forth in 1-45-108 (2), C.R.S., or any successor section. Such reports shall include spending on such electioneering communications, and the name, and address, of any person that contributes more than two hundred and fifty dollars per year to such person described in this section for an electioneering communication. In the case where the person is a natural person, such reports shall also include the occupation and employer of such natural person. The last such report shall be filed thirty days after the applicable election.

(2) Notwithstanding any section to the contrary, it shall be unlawful for a corporation or labor organization to provide funding for an electioneering communication; except that any political committee or small donor committee established by such corporation or labor organization may provide funding for an electioneering communication.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3623. For the effective date of this Article, see the editor's note following the Article heading.

**Section 7. Disclosure.** The disclosure requirements relevant to candidate committees, political committees, issue committees, and political parties, that are currently set forth in section 1-45-108, C.R.S., or any successor section, shall be extended to include small donor committees. The disclosure requirements of section 1-45-108, C.R.S., or any successor section, shall be extended to require disclosure of the occupation and employer of each person who has made a contribution of one hundred dollars or more to a candidate committee, political committee, issue committee, or political party. For purposes of this section and 1-45-108, C.R.S., or any successor section, a political party shall be treated as separate entities at the state, county, district, and local levels.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3624. For the effective date of this Article, see the editor's note following the Article heading.

**Section 8. Filing - where to file - timeliness.** The secretary of state shall promulgate rules relating to filing in accordance with article 4 of title 24, C.R.S., or any successor section. The rules promulgated pursuant to this section shall extend section 1- 45-109, C.R.S., or any successor section to apply to small donor committees.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3624. For the effective date of this Article, see the editor's note following the Article heading.

**Section 9. Duties of the secretary of state - enforcement.** (1) The secretary of state shall:

(a) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this article and make such forms and instructions available to the public, municipal clerks, and county clerk and recorders free of charge;

(b) Promulgate such rules, in accordance with Article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of this Article;

(c) Prepare forms for candidates to declare their voluntary acceptance of the campaign spending limits set forth in section 4 of this Article. Such forms shall include an acknowledgment that the candidate voluntarily accepts the applicable spending limit and that the candidate swears to abide by those spending limits. These forms shall be signed by the candidate under oath, notarized, filed with the secretary of state, and available to the public upon request;

(c) Maintain a filing and indexing system consistent with the purposes of this Article;

(e) Make the reports and statements filed with the secretary of state's office available immediately for public inspection and copying. The secretary of state may charge a reasonable fee for providing copies of reports. No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose;

(f) Refer any complaints filed against any candidate for the office of secretary of state to the attorney general. Any administrative law judge employed pursuant to this section shall be appointed pursuant to part 10 of Article 30 of title 24, C.R.S., or any successor section. Any hearing conducted by an administrative law judge employed pursuant to subsection (2) of this section shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section.

(2) (a) Any person who believes that a violation of section 3, section 4, section 5, section 6, section 7, or section 9 (1) (e), of this Article, or of sections 1-45-108, 1-45-114, 1-45-115, or 1-45-117 C.R.S., or any successor sections, has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The secretary of state shall refer the complaint to an administrative law judge within three days of the filing of the complaint. The administrative law judge shall hold a hearing within fifteen days of the referral of the complaint, and shall render a decision within fifteen days of the hearing. The defendant shall be granted an extension of up to thirty days upon defendant's motion, or longer upon a showing of good cause. If the administrative law judge determines that such violation has occurred, such decision shall include any appropriate order, sanction, or relief authorized by this Article. The decision of the administrative law judge shall be final and subject to review by the court of appeals, pursuant to section 24-4-106 (11), C.R.S., or any successor section. The secretary of state and the administrative law judge are not necessary parties to the review.

The decision maybe enforced by the secretary of state, or, if the secretary of state does not file an enforcement action within thirty days of the decision, in a private cause of action by the person filing the complaint. Any private action brought under this section shall be brought within one year of the date of the violation in state district court. The prevailing party in a private enforcement action shall be entitled to reasonable attorneys fees and costs.

(b) The attorney general shall investigate complaints made against any candidate for the office of secretary of state using the same procedures set forth in paragraph (a) of this subsection (2). Complainant shall have the same private right of action as under paragraph (a) of this subsection (2).

(c) A subpoena issued by an administrative law judge requiring the production of documents by an issue committee shall be limited to documents pertaining to contributions to, or expenditures from, the committee's separate account established pursuant to section 3(9) of this Article to support or oppose a ballot issue or ballot question. A subpoena shall not be limited in this manner where such issue committee fails to form a separate account through which a ballot issue or ballot question is supported or opposed.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3624. For the effective date of this Article, see the editor's note following the Article heading.

**Section 10. Sanctions.** (1) Any person who violates any provision of this Article relating to contribution or voluntary spending limits shall be subject to a civil penalty of at least double and up to five times the amount contributed, received, or spent in violation of the applicable provision of this Article. Candidates shall be personally liable for penalties imposed upon the candidate's committee.

(2) (a) The appropriate officer shall impose a penalty of fifty dollars per day for each day that a statement or other information required to be filed pursuant to section 5, section 6, or section 7 of this Article, or sections 1-45-108, 1-45-109 or 1-45-110, C.R.S., or any successor sections, is not filed by the close of business on the day due. Upon imposition of a penalty pursuant to this subsection (2), the appropriate officer shall send the person upon whom the penalty is being imposed proper notification by certified mail of the imposition of the penalty. If an electronic mail address is on file with the secretary of state, the secretary of state shall also provide such notification by electronic mail. Revenues collected from fees and penalties assessed by the secretary of state or revenues collected in the form of payment of the secretary of state's attorney fees and costs pursuant to this Article shall be deposited in the department of state cash fund created in section 24-21-104 (3), C.R.S., or any successor section.

(b) (I) Any person required to file a report with the secretary of state and upon whom a penalty has been imposed pursuant to this subsection (2) may appeal such penalty by filing a written appeal with the secretary of state no later than thirty days after the date on which notification of the imposition of the penalty was mailed to such person's last known address in accordance with paragraph (a) of this subsection (2). Except as provided in paragraph (c) of this subsection (2), the secretary shall refer the appeal to an administrative law judge. Any hearing conducted by an administrative law judge pursuant to this subsection (2) shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section. The administrative law judge shall set aside or reduce the penalty upon a showing of good cause, and the person filing the appeal shall bear the burden of proof. The decision of the

administrative law judge shall be final and subject to review by the court of appeals pursuant to section 24-4-106 (11), C.R.S., or any successor section.

(II) If the administrative law judge finds that the filing of an appeal brought pursuant to subparagraph (I) of this paragraph (b) was frivolous, groundless, or vexatious, the administrative law judge shall order the person filing the appeal to pay reasonable attorney fees and costs of the secretary of state in connection with such proceeding.

(c) Upon receipt by the secretary of state of an appeal pursuant to paragraph (b) of this subsection (2), the secretary shall set aside or reduce the penalty upon a showing of good cause.

(d) Any unpaid debt owing to the state resulting from a penalty imposed pursuant to this subsection (2) shall be collected by the state in accordance with the requirements of section 24-30-202.4, C.R.S., or any successor section.

(3) Failure to comply with the provisions of this article shall have no effect on the validity of any election.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3626. For the effective date of this Article, see the editor's note following the article heading.

**Section 11. Conflicting provisions declared inapplicable.** Any provisions in the statutes of this state in conflict or inconsistent with this article are hereby declared to be inapplicable to the matters covered and provided for in this Article.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

**Section 12. Repeal of conflicting statutory provisions.** Sections 1-45-103, 1-45-105.3, 1-45-107, 1-45-111, and 1-45-113 are repealed.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

**Section 13. APPLICABILITY AND EFFECTIVE DATE.** The provisions of this article shall take effect on December 6, 2002 and be applicable for all elections thereafter. Legislation may be enacted to facilitate its operations, but in no way limiting or restricting the provisions of this Article or the powers herein granted.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

**Section 14. Severability.** If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

**Source: L. Initiated 2002:** Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

**Colorado Revised Statutes**  
**Title 1, Article 45**  
**ELECTION CAMPAIGN REGULATIONS**  
**Fair Campaign Practices Act**

**Editor's note:** (1) This article was originally enacted in 1974. The substantive provisions of this article were repealed and reenacted by initiative in 1996, causing some addition, relocation, and elimination of sections as well as subject matter. The vote count on the measure at the general election held November 5, 1996, was as follows:

FOR: 928,148  
AGAINST: 482,551

(2) For prior amendments, consult the red book table distributed with the session laws; the 1980 replacement volume and the original volume of C.R.S. 1973 and annual supplements to these volumes prior to 1996; and the comparative table located in the back of the index.

**Cross references:** For public official disclosure law, see part 2 of article 6 of title 24.

**Law reviews:** For article, "Fair Campaign Practices Act: Killing Trees for Good Government", see 26 Colo. Law. 101 (September 1997). For article, "Public Moneys and Ballot Issues Under the Fair Campaign Practices Act", see 34 Colo. Law. 81 (September 2005).

1-45-101.	Short title.	1-45-109.	Filing - where to file - timeliness.
1-45-102.	Legislative declaration.	1-45-110.	Candidate affidavit - disclosure statement.
1-45-103.	Definitions.	1-45-111.	Duties of the secretary of state - enforcement. (Repealed)
1-45-103.7.	Contribution limits - contributions from limited liability companies - definitions.	1-45-111.5.	Duties of the secretary of state - enforcement - sanctions.
1-45-104.	Contribution limits. (Repealed)	1-45-112.	Duties of municipal clerk and county clerk and recorder.
1-45-105.	Voluntary campaign spending limits. (Repealed)	1-45-112.5.	Immunity from liability for fine or penalty.
1-45-105.3.	Contribution limits. (Repealed)	1-45-113.	Sanctions. (Repealed)
1-45-105.5.	Contributions to members of general assembly and governor during consideration of legislation.	1-45-114.	Expenditures - political advertising - rates and charges.
1-45-106.	Unexpended campaign contributions.	1-45-115.	Encouraging withdrawal from campaign prohibited.
1-45-107.	Independent expenditures. (Repealed)	1-45-116.	Home rule counties and municipalities.
1-45-108.	Disclosure.	1-45-117.	State and political subdivisions - limitations on contributions.
1-45-108.5.	Political organizations - disclosure.	1-45-118.	Severability.



**1-45-101. Short title.** This article shall be known and may be cited as the "Fair Campaign Practices Act".

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-101 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

**1-45-102. Legislative declaration.** The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-102 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

**1-45-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Appropriate officer" shall have the same meaning as set forth in section 2 (1) of article XXVIII of the state constitution.

(2) "Candidate" shall have the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution.

(3) "Candidate committee" shall have the same meaning as set forth in section 2 (3) of article XXVIII of the state constitution.

(4) "Candidate committee account" shall mean the account established by a candidate committee with a financial institution pursuant to section 3 (9) of article XXVIII of the state constitution.

(5) "Conduit" shall have the same meaning as set forth in section 2 (4) of article XXVIII of the state constitution.

(6) (a) "Contribution" shall have the same meaning as set forth in section 2 (5) of article XXVIII of the state constitution.

(b) "Contribution" includes, with regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee.

(c) "Contribution" also includes:

(I) Any payment, loan, pledge, gift, advance of money, or guarantee of a loan made to any political organization;

(II) Any payment made to a third party on behalf of and with the knowledge of the political organization; or

(III) The fair market value of any gift or loan of property made to any political organization.

(7) "Corporation" means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this article, "domestic corporation" shall mean a for-profit or nonprofit corporation incorporated under and subject to the laws of this state, and "foreign corporation" shall mean a corporation incorporated under and subject to the laws of another state or foreign country.

(8) "Election cycle" shall have the same meaning as set forth in section 2 (6) of article XXVIII of the state constitution.

(9) "Electioneering communication" shall have the same meaning as set forth in section 2 (7) of article XXVIII of the state constitution.

(10) "Expenditure" shall have the same meaning as set forth in section 2 (8) of article XXVIII of the state constitution.

(11) "Independent expenditure" shall have the same meaning as set forth in section 2 (9) of article XXVIII of the state constitution.

(12) "Issue committee" shall have the same meaning as set forth in section 2 (10) of article XXVIII of the state constitution.

(13) "Person" shall have the same meaning as set forth in section 2 (11) of article XXVIII of the state constitution.

(14) "Political committee" shall have the same meaning as set forth in section 2 (12) of article XXVIII of the state constitution.

(14.5) "Political organization" means a political organization defined in section 527 (e) (1) of the federal "Internal Revenue Code of 1986", as amended, that is engaged in influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and that is exempt, or intends to seek any exemption, from taxation pursuant to section 527 of the internal revenue code. "Political organization" shall not be construed to have the same meaning as "political organization" as defined in section 1-1-104 (24) for purposes of the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(15) "Political party" shall have the same meaning as set forth in section 2 (13) of article XXVIII of the state constitution.

(16) "Small donor committee" shall have the same meaning as set forth in section 2 (14) of article XXVIII of the state constitution.

(16.5) "Spending" means funds expended influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and includes, without limitation, any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything else of value by any political organization, a contract, promise, or agreement to expend funds

made or entered into by any political organization, or any electioneering communication by any political organization.

(17) "Subsidiary" means a business entity having more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(18) "Unexpended campaign contributions" shall have the same meaning as set forth in section 2 (15) of article XXVIII of the state constitution.

**Source:** **Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) added and (8) amended, p. 223, § 1, effective April 10; (1.5) amended and (14) added, p. 954, § 1, effective May 27. **L. 99:** (5) amended, p. 1390, § 12, effective June 4. **L. 2000:** (1.3), (4)(a)(V), and (4.5) added and (4)(a)(III), (10)(b), and (12) amended, pp. 122, 123, §§ 2, 3, effective March 15; (8) amended, p. 1724, § 1, effective June 1. **L. 2002:** (8)(a)(I) amended and (8)(a)(III) added, p. 198, § 1, effective April 3; (1.5) and (2) amended, p. 1576, § 1, effective July 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002. **L. 2003:** Entire section RC&RE, p. 2156, § 1, effective June 3. **L. 2007:** (7) amended, p. 1766, § 1, effective June 1; (6)(c), (14.5), and (16.5) added, pp. 1225, 1224, §§ 2, 1, effective July 1.

**Editor's note:** (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-103 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

#### ANNOTATION

**Annotator's note.** Since § 1-45-103 is similar to § 1-45-103 as it existed prior to its repeal in 2002, relevant cases construing that provision and its predecessors have been included in the annotations to this section.

**It is apparent from the plain language of subsection (2) that a candidate committee may be comprised of one person only and that the candidate acting alone may be a candidate committee.** Thus, a candidate committee who acts alone for the purpose of receiving campaign contributions or making campaign expenditures is a candidate committee subject to the disclosure requirements of this article. Therefore, the expenditures made by a candidate from the candidate's personal funds before certification of his or her committee were either contributions to the ultimately certified candidate committee or expenditures by a separate campaign committee composed of the candidate alone. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002)

(decided under section that was repealed by article XXVIII of the state constitution).

**Court's interpretation of the term "candidate committee" to include expenditures of personal money by the candidate on his or her campaign does not limit the amount of money a candidate could personally spend on his or her campaign in violation of the first amendment.** The act does not specifically address whether a candidate's personal expenditures are contributions. However, in light of *Buckley v. Valeo*, 424 U.S. 1 (1976), the court holds that the definition of "contribution" contained in subsection (4) does not include a candidate's expenditures of personal funds and contributions made by the candidate to his or her own candidate committee. Accordingly, the court rejected candidate's first amendment argument. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002) (decided under section that was repealed by article XXVIII of the state constitution).

**Phrases unconstitutional.** The phrase in subsection (7), "which unambiguously refer to any specific public office or candidate for such office, but does not include expenditures made by persons, other than political parties and political committees, in the regular course and scope of their business and political messages sent solely to their members[.]" is unconstitutional under the first amendment. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

The phrase in subsection (11), "or which unambiguously refers to such candidate[.]" is unconstitutional under the first amendment. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

The court concluded that the unconstitutional phrases were severable and declared subsections (7) and (11) invalid only insofar as they reach beyond that which may constitutionally be regulated. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

**Term "independent expenditure" in subsection (7) permits the regulation of only those expenditures that are used for communications that expressly advocate the election or defeat of a clearly identified candidate.** This standard includes the words and phrases listed in *Buckley v. Valeo*, 424 U.S. 1 (1976), and other substantially similar or synonymous words. This approach remains focused on actual words, as contrasted with images, symbols, or other contextual factors, provides adequate notice in light of due process concerns, and strikes an appropriate balance between trying to preserve the goals of campaign finance reform and protecting political speech. *League of Women Voters v. Davidson*, 23 P.3d 1266 (Colo. App. 2001).

None of the advertisements of so-called educational committee at issue amounted to "express advocacy" as that term is applied in *Buckley* and progeny and, therefore, so-called educational committee was not subject to the requirements of the Fair Campaign Practices Act. *League of Women Voters v. Davidson*, 23 P.3d 1266 (Colo. App. 2001).

**The term "issue" in subsection (8) includes** an initiative that has gone through the title-setting process, but has not been formally certified for the election ballot. To construe the term to include only measures actually placed on the ballot would frustrate the purposes of the Campaign Reform Act by allowing groups to raise and spend money, without limit and without disclosure to the public, to convince electors to sign or not to sign a particular petition, thus significantly influencing its success or failure. *Colo.*

for *Family Values v. Meyer*, 936 P.2d 631 (Colo. App. 1997).

**Telephone opinion poll was not "electioneering" and thus did not constitute an "electioneering communication" within the meaning of subsection (9) of this section and § 6 of article XXVIII of the state constitution.** In giving effect to the intent of the electorate, court gives term "communication" its plain and ordinary meaning. Court relies upon dictionary definitions of "communication" that contemplate imparting a message to, rather than having mere contact with, another party. In reviewing scripts used by telephone opinion pollster, "communication" occurred because "facts, information, thoughts, or opinions" were "imparted, transmitted, interchanged, expressed, or exchanged" by pollster to those it called. Telephone opinion pollster, therefore, communicated information to members of the electorate during its opinion poll. *Harwood v. Senate Majority Fund, LLC*, 141 P.3d 962 (Colo. App. 2006).

Telephone opinion poll, however, did not satisfy meaning of electioneering. Colorado electorate intended article XXVIII to regulate communication that expresses "electorate advocacy" and tends to "influence the outcome of Colorado elections". This conclusion is reinforced by plain and ordinary meaning of term "electioneering". Court relies upon dictionary definitions suggesting that "electioneering" is defined by such activities as taking an active part in an election campaign, campaigning for one's own election, or trying to sway public opinion especially by the use of propaganda and that "campaigning" means influencing the public to support a particular candidate, ticket, or measure. Here, telephone opinion poll did not seek to influence voters or sway public opinion but instead merely asked neutral questions to collect data and measure public opinion. Accordingly, telephone opinion poll did not constitute an "electioneering communication" under subsection (9) of this section and article XXVIII of the state constitution. *Harwood v. Senate Majority Fund, LLC*, 141 P.3d 962 (Colo. App. 2006).

**The term "issue committee" covers only those issue committees that were formed for the purpose of supporting or opposing a ballot initiative.** An association that was formed and operated for purposes other than "accepting contributions or making expenditures to support or oppose any ballot issue or ballot question" does not become an "issue committee" as defined in this section if, at a future point in time, it engages in those activities with regard to a specific ballot issue or ballot question. *Common Sense Alliance v. Davidson*, 995 P.2d 748 (Colo. 2000).

A "political committee" is formed when two or more persons associate themselves with the original purpose of making independent expenditures. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

The term "political committee" in subsection (10) includes a for-profit corporation which makes contributions, contributions in kind, or expenditures to or on behalf of state political campaigns out of its ordinary corporate treasury. Therefore, such corporation is required to file a statement of organization, to report its contributions, contributions in kind, and expenditures, and otherwise to comply with any filing and reporting requirements of the "Campaign Reform Act of 1974". Colo. Common Cause v. Meyer, 758 P.2d 153 (Colo. 1988) (decided prior to 1988 amendment to subsection (10)).

While the stated purposes for the formation of an organization may be one criterion upon which to determine whether it is a "political committee", such purposes are not conclusive. To so hold would permit regulable conduct to escape regulation merely because the stated purposes were misleading, ambiguous, fraudulent, or all three. In addition, such a holding would exalt form over substance and would almost entirely eviscerate the Fair Campaign Practices Act and make a mockery of legitimate attempts at campaign finance reform. League of Women Voters v. Davidson, 23 P.3d 1266 (Colo. App. 2001).

The use of the disjunctive term "or" in subsection (11) renders the definition of "political message" applicable to messages that "unambiguously refer to a candidate", even if such messages do not also "advocate the election or defeat" of that candidate. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

To qualify as a political message under subsection (11), a message need only: (1) Be delivered by telephone, any print or electronic media, or other written material, and (2) either (a) advocate the election or defeat of any candidate or (b) unambiguously refer to such candidate. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

Voter guides that unambiguously refer to specific candidates but do not expressly advocate the election or

defeat of any candidate constitute "political messages" as defined in subsection (11). Therefore, the funds expended to produce and disseminate the voter guides are subject to regulation as "independent expenditures" as the term is defined in subsection (7). Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

Administrative law judge (ALJ) did not err in concluding that definition of "expenditures" did not apply to metropolitan district boards. Respondents had argued that the metropolitan districts qualified as "persons" that could expend payments on behalf of issue committee supporting ballot issue. Even if the definition of "person" could be stretched to cover political subdivisions of the state such as metropolitan districts, respondents failed to explain how the payments at issue were "made with the prior knowledge and consent of an agent" of the issue committee that was not yet formed in order to bring such payments within the definition of "expenditure". Skruch v. Highlands Ranch Metro. Dists., 107 P.3d 1140 (Colo. App. 2004).

ALJ did not err by interpreting "expenditure" to occur when a payment is made and when there is a contractual agreement and the amount is determined. The use of the disjunctive "or" in the definition of "expenditure" indicates that an expenditure is made if either criterion is met after the ballot title is submitted. Skruch v. Highlands Ranch Metro. Dists., 107 P.3d 1140 (Colo. App. 2004).

Order by ALJ assessing penalty against nonprofit association engaging in political advocacy based upon determination by ALJ that association was a political committee is vacated and case remanded. Under controlling precedent, regulation under campaign finance laws should be tied to groups controlled by candidates or which have a "major purpose" of electing candidates. Here, record does not permit a determination of whether major purpose test satisfied as to association. On remand, ALJ instructed to determine whether association's "major purpose" in 2004 was the nomination or election of candidates. Alliance for Colorado's Families v. Gilbert, 172 P.3d 964 (Colo. App. 2007).

**1-45-103.7. Contribution limits - contributions from limited liability companies - definitions.** (1) Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(2) A political committee may receive and accept moneys contributed to such committee by a corporation or labor organization pursuant to subsection (1) of this section for disbursement to a candidate committee or political party without depositing such moneys in an account separate from the account required to be established for the receipt and acceptance of all contributions by all committees or political parties in accordance with section 3 (9) of article XXVIII of the state constitution.

(3) A candidate committee may accept:

(a) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a primary election at any time after the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot; or

(b) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a general election at any time prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot.

(4) A candidate committee may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate who wins the primary election may expend contributions received and accepted for a primary election in the general election.

(5) (a) No limited liability company shall make any contribution to a candidate committee or political party if one or more of the individual members of the limited liability company is:

(I) A corporation;

(II) A labor organization;

(III) A natural person who is not a citizen of the United States;

(IV) A foreign government;

(V) A professional lobbyist, volunteer lobbyist, or the principal of a professional or volunteer lobbyist, and the contribution is prohibited under section 1-45-105.5 (1); or

(VI) Otherwise prohibited by law from making the contribution.

(b) No limited liability company shall make any contribution to a political committee if one or more of the individual members of the limited liability company is:

(I) An entity formed under and subject to the laws of a foreign country;

(II) A natural person who is not a citizen of the United States; or

(III) A foreign government.

(c) Notwithstanding any other provision of this subsection (5), no limited liability company shall make any contribution to a candidate committee or political party if either the limited liability company has elected to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 or any successor provision or the shares of the limited liability company are publicly traded. A contribution by a limited liability company with a single natural person member that does not elect to be

treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 shall be attributed only to the single natural person member.

(d) (I) Any limited liability company that is authorized to make a contribution shall, in writing, affirm to the candidate committee, political committee, or political party to which it has made a contribution, as applicable, that it is authorized to make a contribution, which affirmation shall also state the names and addresses of all of the individual members of the limited liability company. No candidate committee, political committee, or political party shall accept a contribution from a limited liability company unless the written affirmation satisfying the requirements of this paragraph (d) is provided before the contribution is deposited by the candidate committee, political committee, or political party. The candidate committee, political committee, or political party receiving the contribution shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution is received.

(II) Any contribution by a limited liability company, and the aggregate amount of contributions from multiple limited liability companies attributed to a single member of any such company under this subparagraph (II), shall be subject to the limits governing such contributions under section 3 of article XXVIII of the state constitution. A limited liability company that makes any contribution to a candidate committee, political committee, or political party shall, at the time it makes the contribution, provide information to the recipient committee or political party as to the amount of the total contribution attributed to each member of the limited liability company. The attribution shall reflect the capital each member of the limited liability company has invested in the company relative to the total amount of capital invested in the company as of the date the company makes the campaign contribution, and for a single member limited liability company, the contribution shall be attributed to that single member. The limited liability company shall then deduct the amount of the contribution attributed to each of its members from the aggregate contribution limit applicable to multiple limited liability companies under this subparagraph (II) for purposes of ensuring that the aggregate amount of contributions from multiple limited liability companies attributed to a single member does not exceed the contribution limits in section 3 of article XXVIII of the state constitution. Nothing in this subparagraph (II) shall be construed to restrict a natural person from making a contribution in his or her own name to any committee or political party to the extent authorized by law.

(6) No foreign corporation shall be permitted to make any contribution under article XXVIII of the state constitution or this article that a domestic corporation is prohibited from making under article XXVIII of the state constitution or this article.

(7) (a) Any person who believes that a violation of subsection (5) or (6) of this section has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The complaint shall be subject to all applicable procedures specified in section 9 (2) of article XXVIII of the state constitution.

(b) Any person who has violated any of the provisions of paragraph (a), (b), or (c) of subsection (5) or subsection (6) of this section shall be subject to a civil penalty of at least double and up to five times the amount contributed or received in violation of the applicable provision.

(c) Any person who has violated any of the provisions of subparagraph (I) of paragraph (d) of subsection (5) of this section shall be subject to a civil penalty of fifty dollars per day for each day that the

written affirmation regarding the membership of a limited liability company has not been filed with or retained by the candidate committee, political committee, or political party to which a contribution has been made.

(8) As used in this section, "limited liability company" includes any form of domestic entity as defined in section 7-90-102 (13), C.R.S., or foreign entity as defined in section 7-90-102 (23), C.R.S.; except that, as used in this section, "limited liability company" shall not include a domestic corporation, a domestic cooperative, a domestic nonprofit association, a domestic nonprofit corporation, a foreign corporation, a foreign cooperative, a foreign nonprofit association, or a foreign nonprofit corporation, as those terms are defined in section 7-90-102, C.R.S.

**Source:** **L. 2003:** Entire section added, p. 2160, § 6, effective June 3. **L. 2004:** Entire section amended, p. 863, § 1, effective May 21. **L. 2007:** (5), (6), (7), and (8) added, p. 1766, § 2, effective June 1. **L. 2008:** (5)(d)(II) amended, p. 440, § 1, effective April 14.

**Editor's note:** Section 3 of chapter 139, Session Laws of Colorado 2008, provides that the act amending subsection (5)(d)(II) applies to the portion of any election cycle or for the portion of the calendar year remaining after April 14, 2008, and for any election cycle or calendar year commencing after April 14, 2008, whichever is applicable.

#### **1-45-104. Contribution limits. (Repealed)**

**Source:** **Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (13)(a)(II) amended, p. 632, § 2, effective May 6; (13)(c) amended, p. 950, § 1, effective May 27; (14) added, p. 955, § 2, effective May 27. **L. 99:** IP(2) amended, p. 1391, § 13, effective June 4. **L. 2000:** Entire section repealed, p. 129, § 12, effective March 15.

**Editor's note:** Prior to its repeal, this section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-111 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

#### **1-45-105. Voluntary campaign spending limits. (Repealed)**

**Source:** **Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (3) amended, p. 951, § 2, effective May 27. **L. 2000:** Entire section repealed, p. 129, § 12, effective March 15.

**Editor's note:** Prior to its repeal, this section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-112 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

#### **1-45-105.3. Contribution limits. (Repealed)**

**Source:** **L. 2000:** Entire section added with relocations, p. 118, § 1, effective March 15. **L. 2002:** (4)(a.5) added, p. 1929, § 1, effective June 7. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

**Editor's note:** (1) Subsections (7), (8), (9), (10), and (11) were formerly numbered as 1-45-104 (9), (10), (11), (12), and (14) respectively.



(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

#### ANNOTATION

**Court's interpretation of the term "candidate committee" to include expenditures of personal money by the candidate on his or her campaign does not limit the amount of money a candidate could personally spend on his or her campaign in violation of the first amendment.** The act does not specifically address whether a candidate's personal expenditures are contributions. However, in light of *Buckley v. Valeo*, 424 U.S. 1 (1976),

the court holds that the definition of "contribution" does not include a candidate's expenditures of personal funds and contributions made by the candidate to his or her own candidate committee. Accordingly, the court rejected candidate's first amendment argument. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002) (decided under section that was repealed by article XXVIII of the state constitution).

**1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation.** (1) (a) No professional lobbyist, volunteer lobbyist, or principal of a professional lobbyist or volunteer lobbyist shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for:

(I) A member of the general assembly or candidate for the general assembly, when the general assembly is in regular session;

(II) (A) The governor or a candidate for governor when the general assembly is in regular session or when any measure adopted by the general assembly in a regular session is pending before the governor for approval or disapproval; or

(B) The lieutenant governor, the secretary of state, the state treasurer, the attorney general, or a candidate for any of such offices when the general assembly is in regular session.

(b) As used in this subsection (1):

(I) "Principal" means any person that employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist. One does not become a principal, nor may one be considered a principal, merely by belonging to an organization or owning stock in a corporation that employs a lobbyist.

(II) The terms "professional lobbyist" and "volunteer lobbyist" shall have the meanings ascribed to them in section 24-6-301, C.R.S.

(c) (I) Nothing contained in this subsection (1) shall be construed to prohibit lobbyists and their principals from raising money when the general assembly is in regular session or when regular session legislation is pending before the governor, except as specifically prohibited in paragraph (a) of this subsection (1).

(II) Nothing contained in this subsection (1) shall be construed to prohibit a lobbyist or principal of a lobbyist from participating in a fund-raising event of a political party when the general assembly is in

regular session or when regular session legislation is pending before the governor, so long as the purpose of the event is not to raise money for specifically designated members of the general assembly, specifically designated candidates for the general assembly, the governor, or specifically designated candidates for governor.

(III) A payment by a lobbyist or a principal of a lobbyist to a political party to participate in such a fund-raising event shall be reported as a contribution to the political party pursuant to section 1-45-108; except that, if the lobbyist or principal of a lobbyist receives a meal in return for a portion of the payment, only the amount of the payment in excess of the value of the meal shall be considered a contribution to the political party. The political party shall determine the value of the meal received for such payment, which shall approximate the actual value of the meal.

(IV) A gift of a meal described in subparagraph (III) of this paragraph (c) by a lobbyist or a principal of a lobbyist to an incumbent in or a candidate elected to any office described in paragraph (a) of this subsection (1) shall be reported as follows:

(A) The lobbyist shall report the value of the meal in the lobbyist disclosure statement filed pursuant to section 24-6-302, C.R.S.

(B) The incumbent or candidate shall report the value of the meal in the public official disclosure statement filed pursuant to section 24-6-203, C.R.S.

**Source: L. 2000:** Entire section added with relocations, p. 118, § 1, effective March 15.

**Editor's note:** This section was formerly numbered as 1-45-104 (13).

**1-45-106. Unexpended campaign contributions.** (1) (a) (I) Subject to the requirements of section 3 (3) (e) of article XXVIII of the state constitution, unexpended campaign contributions to a candidate committee may be:

(A) Contributed to a political party;

(B) Contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in section 1-45-105.3 (4) (b) and (c), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made;

(C) Donated to a charitable organization recognized by the internal revenue service;

(D) Returned to the contributors, or retained by the committee for use by the candidate in a subsequent campaign.

(II) In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate.

(III) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in this subsection (1), no later than nine years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(b) In addition to any use described in paragraph (a) of this subsection (1), a person elected to a public office may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

(I) Voter registration;

(II) Political issue education, which includes obtaining information from or providing information to the electorate;

(III) Postsecondary educational scholarships;

(IV) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;

(V) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences, and meetings on legislative issues, and telephone and pager expenses.

(2) (Deleted by amendment, L. 2000, p. 123, § 4, effective March 15, 2000.)

(3) Unexpended contributions to an issue committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

(4) This section shall apply to unexpended campaign contributions transferred from a political committee formed prior to January 15, 1997, to a candidate committee registering after January 15, 1997, pursuant to section 1-45-108.

(5) Notwithstanding any other provision of law, any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election in accordance with the requirements of section 3 (3) (e) of article XXVIII of the state constitution.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) amended, p. 955, § 3, effective May 27. **L. 2000:** (1)(a) and (2) amended, p. 123, § 4, effective March 15. **L. 2003:** IP(1)(a)(I) amended and (5) added, p. 2157, § 2, effective June 3.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-109 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

#### ANNOTATION

**Subsection (2) is constitutional.** The state's interest in preventing avoidance of valid contribution limits by use of funds carried over from prior campaigns is both compelling and served by the restriction set forth in subsection (2). This provision is narrowly tailored to accomplish the state's legitimate interest. *Citizens for Responsible Gov't State Political Action Comm. v. Buckley*, 60 F. Supp.2d 1066 (D. Colo. 1999).

**Candidate's disclosure report not required to report unexpended campaign funds at the end of an**

**election cycle as contributions from a political party.** To accomplish the purpose of subsection (5), it is necessary only that a candidate committee report the amount of unexpended campaign funds on hand at the end of an election cycle. To report money already on hand as a fictional, new contribution from an unidentified political party would artificially inflate the amount of funds reportedly available to a candidate committee and would be confusing to those who read the report. *Williams v. Teck*, 113 P.3d 1255 (Colo. App. 2005).

**Candidate committee permitted to use unexpended contributions to pay elected state senator's legal fees.** Although legal fees are not specifically mentioned as permissible expenses under subsection (1)(b)(V), the words "including, but not limited to," indicate that the statute merely illustrates the kinds of expenses that may be regarded as directly related to an elected official's duties.

Here, the legal fees may properly be characterized as directly related to official duties of elected state senator. The senator's duties include filing periodic reports with the secretary of state, and the fees were reasonably necessary to demonstrate that senator and his or her committee had properly performed this duty. *Williams v. Teck*, 113 P.3d 1255 (Colo. App. 2005).

### **1-45-107. Independent expenditures. (Repealed)**

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

**Editor's note:** (1) Prior to its repeal, this section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-110.5 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

**1-45-108. Disclosure.** (1) (a) (I) All candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) In the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(III) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall report to the secretary of state, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making such contribution of two hundred fifty dollars or more is a natural person, the disclosure required by this section shall also include the person's occupation and employer.

(IV) In the case of a limited liability company, the disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.

(b) (Deleted by amendment, L. 2003, p. 2158, § 3, effective June 3, 2003.)

(c) A candidate committee in a special district election shall not be required to file reports under this section until the committee has received contributions or made expenditures exceeding twenty dollars in the aggregate.

(d) For purposes of this section, a political party shall be treated as a separate entity at the state, county, district, and local levels.

(e) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

(2) (a) (I) Except as provided in subsections (2.5), (2.7), and (6) of this section, such reports that are required to be filed with the secretary of state shall be filed:

(A) Quarterly in off-election years no later than the fifteenth calendar day following the end of the applicable quarter;

(B) On the first Monday in July and on each Monday every two weeks thereafter before the primary election;

(C) On the first day of each month beginning the sixth full month before the major election; except that no monthly report shall be required on the first day of the month in which the major election is held;

(D) On the first Monday in September and on each Monday every two weeks thereafter before the major election;

(E) Thirty days after the major election in election years; and

(F) Fourteen days before and thirty days after a special legislative election held in an off-election year.

(II) Such reports that are required to be filed with the county clerk and recorder or with the municipal clerk shall be filed on the twenty-first day and on the Friday before and thirty days after the primary election, where applicable, and the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs.

(III) For purposes of this section, "election year" means every even numbered year for political parties and political committees and each year in which the particular candidate committee's candidate, or issue committee's issue, appears on the ballot; and "major election" means the election that decides an issue committee's issue and the election that elects a person to the public office sought by the candidate committee's candidate.

(IV) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

(c) All reports filed with the secretary of state pursuant to this subsection (2) shall be for the reporting periods established pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(d) A candidate committee for a former officeholder or a person not elected to office that has no change in the balance of funds maintained by such committee, receives no contributions, makes no expenditures, and enters into no obligations during a reporting period shall not be required to file a report under this section for such period.

(e) The reporting period for all reports required to be filed with the county clerk and recorder or with the municipal clerk shall close five calendar days prior to the effective date of filing.

(2.3) Repealed.

(2.5) In addition to any report required to be filed with the secretary of state under this section, all candidate committees, political committees, issue committees, and political parties shall file a report with the secretary of state of any contribution of one thousand dollars or more at any time within thirty days preceding the date of the primary election or general election. This report shall be filed with the secretary of state no later than twenty-four hours after receipt of said contribution.

(2.7) Any candidate or candidate committee supporting any candidate, including an incumbent, in a recall election, shall file reports of contributions and expenditures with the appropriate officer fourteen and seven days before the recall election and thirty days after the recall election.

(3) Except as otherwise provided in subsection (3.5) of this section, all candidate committees, political committees, issue committees, small donor committees, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

- (a) The organization's full name, spelling out any acronyms used therein;
- (b) A natural person authorized to act as a registered agent;
- (c) A street address and telephone number for the principle place of operations;
- (d) All affiliated candidates and committees;
- (e) The purpose or nature of interest of the committee or party;

(f) Any intent of the candidate committee, political committee, issue committee, small donor committee, or political party to electronically file reports required by this article that may be filed electronically on a web site operated and maintained by the secretary of state pursuant to section 1-45-109.

(3.5) Any political committee that has registered with the federal election commission may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of this section, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of this section and, therefore, shall be authorized to accept or make contributions as permitted by law. Any political committee that satisfies the requirements of this subsection (3.5) shall be subject to all other legal requirements pertaining to contributions and disclosure that are applicable to political committees.

(4) For purposes of subsection (3) of this section, a political committee in existence on January 1, 1997, shall register with the secretary of state on or before April 1, 1997, pursuant to the requirements of this act.

(5) The registration and reporting requirements of this section shall not apply to that part of the organizational structure of a political party which is responsible for only the day-to-day operations of such political party at the national level if copies of the reports required to be filed with the Federal Election Commission pursuant to the "Federal Election Commission Act of 1971", as amended, are filed with the secretary of state and include the information required by this section.

(6) Any issue committee whose purpose is the recall of any elected official shall file a committee registration with the appropriate officer within ten business days of receiving its first contribution. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1), (2)(a), and IP(3) amended, p. 223, § 2, effective April 10; (2)(c) added, p. 951, § 3, effective May 27. **L. 99:** (2)(a) amended and (2)(c)(V) and (2)(c)(VI) added, p. 1391, §§ 14, 15, effective June 4. **L. 2000:** (2)(a) and (2)(c) amended and (2)(d), (2.3), and (2.5) added, pp. 124, 125, §§ 5, 6, effective March 15; (1) amended, p. 1725, § 2, effective June 1; (2)(e) added, p. 791, § 2, effective August 2. **L. 2001:** (3)(f) added, p. 808, § 1, effective August 8; (2.3) amended, p. 1111, § 2, effective September 1. **L. 2002:** IP(2)(a)(I) and (6) amended and (2.7) added, p. 198, § 2, effective April 3; (1)(c) added, p. 1640, § 33, effective June 7. **L. 2003:** (1)(a), (1)(b), (2.3)(a), (2.5), IP(3), and (3)(f) amended and (1)(d) added, p. 2158, § 3, effective June 3. **L. 2004:** (1)(e) and (3.5) added and IP(3) amended, p. 864, §§ 2, 3, effective May 21. **L. 2007:** IP(2)(a)(I) amended, p. 2017, § 2, effective June 1; IP(2)(a)(I) and (2)(a)(I)(B) amended, p. 1299, § 2, effective July 1. **L. 2008:** (1)(a)(IV) added, p. 441, § 2, effective April 14.

**Editor's note:** (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-108 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) Subsections (2)(a)(I) and (2)(a)(II) as they existed prior to March 15, 2000, were renumbered on revision as (2)(a)(III) and (2)(a)(IV).

(3) Subsection (2.3)(b) provided for the repeal of subsection (2.3), effective January 1, 2007. (See L. 2001, p. 1111.)

(4) Section 3 of chapter 139, Session Laws of Colorado 2008, provides that the act enacting subsection (1)(a)(IV) applies to the portion of any election cycle or for the portion of the calendar year remaining after April 14, 2008, and for any election cycle or calendar year commencing after April 14, 2008, whichever is applicable.

#### ANNOTATION

**Law reviews.** For article, "Campaign Finance and 527 Organizations: Keeping Big Money in Politics", see 34 Colo. Law. 71 (July 2005).

**Under subsection (1)(a), candidate committees must disclose all expenditures and obligations, even if no contributions are received.** Thus, if a candidate runs without a separate committee and finances the campaign from personal funds, the candidate is a candidate committee and must disclose expenditures and obligations as required by subsection (1)(a). Nothing in subsection

(1)(a) indicates that expenditures must be reported only if drawn on outside contributions. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002).

Here, both candidate and the candidate committee made expenditures under the authority of the candidate. Thus, both the candidate and the committee were candidate committees or the candidate was acting through the formed committee. In either instance, the expenditures were subject to the disclosure requirements of subsection (1)(a). *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002).

**Act is neither unconstitutionally vague nor unconstitutionally overbroad.** As to candidate's vagueness argument, court finds that act provides sufficient notice to persons of ordinary intelligence that expenditures, regardless of the source of the funds, must be reported. As to candidate's arguments that act is unconstitutionally overbroad and inhibits basic first amendment freedoms, court finds that, construed to preserve its constitutionality, the act does not inhibit a candidate's expenditures of personal funds so long as those expenditures are made through a candidate committee and reported in accordance with this section. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002).

**Candidate's disclosure report not required to report unexpended campaign funds at the end of an election cycle as contributions from a political party.** It is necessary only that a candidate committee report the amount of unexpended campaign funds on hand at the end of an election cycle. To report money already on hand as a

fictional, new contribution from an unidentified political party would artificially inflate the amount of funds reportedly available to a candidate committee and would be confusing to those who read the report. *Williams v. Teck*, 113 P.3d 1255 (Colo. App. 2005).

**Order by administrative law judge (ALJ) assessing penalty against nonprofit association engaging in political advocacy based upon determination by ALJ that association was a political committee is vacated and case remanded.** Under controlling precedent, regulation under campaign finance laws should be tied to groups controlled by candidates or which have a "major purpose" of electing candidates. Here, record does not permit a determination of whether major purpose test satisfied as to association. On remand, ALJ instructed to determine whether association's "major purpose" in 2004 was the nomination or election of candidates. *Alliance for Colorado's Families v. Gilbert*, 172 P.3d 964 (Colo. App. 2007).

**1-45-108.5. Political organizations - disclosure.** (1) Any political organization shall report to the appropriate officer in accordance with the requirements of sections 1-45-108 and 1-45-109:

(a) Any contributions it receives, including the name and address of each person who has contributed twenty dollars or more to the political organization in the reporting period, and the occupation and employer of each natural person who has made a contribution of one hundred dollars or more to the political organization; and

(b) Any spending by the political organization that exceeds twenty dollars in any one reporting period.

(2) No political organization shall accept a contribution, or undertake spending, in currency or coin exceeding one hundred dollars.

(3) Nothing in this section shall be construed to:

(a) Require any political organization to make any additional disclosure pursuant to this section to the extent the political organization is already providing disclosure as a committee or political party in a manner that satisfies the requirements of sections 1-45-108 and 1-45-109; or

(b) Authorize the secretary of state to require disclosure of the name of any natural person that is a member of an entity unless the natural person has made a contribution to a political organization in the amount of twenty dollars or more in a reporting period.

**Source: L. 2007:** Entire section added, p. 1225, § 3, effective July 1.

**1-45-109. Filing - where to file - timeliness.** (1) For the purpose of meeting the filing and reporting requirements of this article, candidates for state wide office, the general assembly, district attorney, district court judge, or any office representing more than one county, except candidates for school district director; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; issue committees in support of or in opposition to an issue on the ballot in more than



one county; small donor committees making contributions to such candidates; and persons expending one thousand dollars or more per calendar year on electioneering communications shall file with the secretary of state. Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, an issue committee supporting or opposing a municipal ballot issue, and small donor committees making contributions to such candidates shall file with the municipal clerk. Candidates in special district elections, except candidates for director of the regional transportation district; the candidate committees of such candidates; political committees in support of or in opposition to such candidates; issue committees supporting or opposing a special district ballot issue; and small donor committees making contributions to such candidate shall file with the clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located. All other candidates, candidate committees, issue committees, political committees, and small donor committees shall file with the county clerk and recorder of the county of their residence. However, a report required to be filed with a county clerk and recorder shall be deemed properly filed if filed electronically pursuant to subsection (8) of this section.

(2) (a) Reports required to be filed by this article are timely if received by the appropriate officer not later than the close of business on the due date. Reports may be filed by fax and are timely if received by the appropriate officer not later than the close of business on the due date only if an original of the report is received by the appropriate officer within seven days of the due date.

(b) A person upon whom a penalty has been imposed for failure to file a statement or other information required to be filed pursuant to section 5, 6, or 7 of article XXVIII of the state constitution or section 1-45-108, this section, or section 1-45-110 by the due date may appeal the penalty by filing a written appeal with the appropriate officer no later than thirty days after the date on which notification of the imposition of the penalty was mailed to the person's last-known address. Upon receipt of an appeal pursuant to this paragraph (b), the appropriate officer shall set aside or reduce the penalty upon a showing of good cause.

(3) In addition to any other reporting requirements of this article, every incumbent in public office and every candidate elected to public office is subject to the reporting requirements of section 24-6-203 C.R.S.

(4) (a) All reports required to be filed by this article are public records and shall be open to inspection by the public during regular business hours. A copy of the report shall be kept by the appropriate officer and a copy shall be made available immediately in a file for public inspection.

(b) Any report that is deemed to be incomplete by the appropriate officer shall be accepted on a conditional basis and the committee or party treasurer shall be notified by mail as to any deficiencies found. If an electronic mail address is on file with the secretary of state, the secretary of state may also provide such notification by electronic mail. The committee or party treasurer shall have seven business days from the date of mailing such notice to file an addendum that cures the deficiencies.

(5) (a) The secretary of state shall operate and maintain a web site so as to allow any person who wishes to review reports filed with the secretary of state's office or with a county clerk and recorder pursuant to this article electronic read-only access to such reports free of charge.

(b) All reports required to be filed by this article that are electronically filed pursuant to subsection (6) of this section shall be made available immediately on the web site.

(c) The web site shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to the reporting period, date, name of the person making a contribution or expenditure, candidate, and committee.

(d) At the earliest practicable date, the secretary of state shall develop and implement improvements to the web site's design and structure to improve the public's ability to navigate, search, browse, download, and analyze information. Such improvements shall include but need not be limited to:

(I) Enhanced searching and summary reporting, including additional search fields such as zip code, employer, and vendor, the ability to search across multiple committees and all filers, the ability to filter or limit searches, such as by election cycle or candidate, the inclusion of smart-search features such as "name sounds like" or "name contains", and numerical totaling of amounts shown on search results;

(II) Features that facilitate the ability to download raw data and search results in one or more common formats to enable offline sorting and analyzing;

(III) Detailed, technical instructions for users;

(IV) Information to help users determine the scope of candidates' and committees' reports and campaign data available online, including explanations of which types of reports are available, the period covered by the online data, and which specific reports can be viewed for each campaign committee; and

(V) Resources that give the public comparative context when viewing campaign finance data, such as compilations of the total amounts of money raised and spent by individual candidates, lists of total amounts raised and spent by all statewide and legislative candidates, and compilations of fundraising and spending across candidates and election cycles.

(e) The secretary of state may promulgate rules necessary for the implementation of this subsection (5). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(6) (a) The secretary of state shall establish, operate, and maintain a system that enables electronic filing using the internet of the reports required by this article to be filed with the secretary of state's office or with a county clerk and recorder. The rules for use of the electronic filing system shall be promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(b) In addition to any other method of filing, any person required to file with the secretary of state's office or with a county clerk and recorder may use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article. Where a person uses such electronic filing system to meet the filing requirements of this article, the secretary of state shall acknowledge by electronic means the receipt of such filing.

(7) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(8) (a) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(b) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) Each county clerk and recorder shall use the electronic filing system described in subsection (6) of this section to transmit any report filed with the county clerk and recorder to the secretary of state.

(III) A county clerk and recorder shall transmit any report to be transmitted to the secretary of state pursuant to subparagraph (II) of this paragraph (b) as quickly as practicable. The county clerk and recorder shall convert any report that is not electronically filed into electronic format before transmitting the report to the secretary of state.

(c) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) Any person required to file reports with a county clerk and recorder pursuant to this article may meet the filing requirements by using the electronic filing system described in subsection (6) of this section.

(9) Subsections (1) and (8) of this section shall not be construed to require the secretary of state to review reports electronically filed by persons required to file reports with a county clerk and recorder pursuant to this article or to impose any enforcement duties upon the secretary of state beyond the duties specified in section 9 of article XXVIII of the state constitution.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (4), (5), and (6) amended, p. 125, § 7, effective March 15. **L. 2001:** (1) amended and (7), (8), and (9) added, p. 808, § 2, effective August 8; (6)(b) amended, p. 1111, § 3, effective September 1. **L. 2002:** (1) and (4)(a) amended, p. 1640, § 34, effective June 7. **L. 2003:** (1) and (7)(b) amended, p. 2159, § 4, effective June 3. **L. 2005:** (9) amended, p. 760, § 7, effective June 1. **L. 2007:** (5), (6), (7), (8), and (9) amended, p. 1296, § 1, effective July 1; (2) amended, p. 1983, § 37, effective August 3.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-104 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

#### ANNOTATION

**Administrative law judge (ALJ)** correctly dismissed appellants' agency appeal under § 10 (2)(b)(I) of article XXVIII of the state constitution for lack of subject matter jurisdiction. No question that appellants were required to file reports with secretary of state under subsection (1) of this section once appellant-candidate became a candidate for the general assembly. This does not mean, however, appellants acquired right to appeal penalty to secretary of state. Report at issue was filed not in connection with appellant-candidate's candidacy for the general assembly but solely in connection with position as a county commissioner. Thus, ALJ correctly determined that, for purposes of report and penalty at issue, appellants were

persons required to file appeal with county clerk and recorder, not with secretary of state. *Sullivan v. Bucknam*, 140 P.3d 330 (Colo. App. 2006).

Although appellants could have been required to file a report with the secretary of state in certain circumstances, those circumstances were not present in instant case. Appellants do not qualify as persons required to file with secretary of state under § 10 (2)(b)(I) of article XXVIII of the state constitution for purposes of underlying action merely because they could have been required to so file in other circumstances. *Sullivan v. Bucknam*, 140 P.3d 330 (Colo. App. 2006).

**1-45-110. Candidate affidavit - disclosure statement.** (1) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the appropriate officer within ten days, that the candidate is familiar with the provisions of this article; except that an individual who is a candidate in a special legislative election that filed a candidate affidavit for the preceding general election shall not be required to comply with the provisions of this section, and except that a candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with section 32-1-804.3, C.R.S., if such form or letter contains a statement that the candidate is familiar with the provisions of this article, no later than the date established for certification of the special district's ballot pursuant to section 1-5-203 (3) (a). A candidate in a municipal election may comply with this section by filing a candidate affidavit pursuant to section

31-10-302 (6), C.R.S., if such affidavit contains a statement that the candidate is familiar with the provisions of this article.

(2) (a) Except as provided in paragraph (b) of this subsection, each candidate for the general assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, state board of education, regent of the University of Colorado, and district attorney shall file a statement disclosing the information required by section 24-6-202 (2) with the appropriate officer, on a form approved by the secretary of state, within ten days of filing the affidavit required by subsection (1) of this section.

(b) No candidate listed in paragraph (a) of this subsection shall be required to file another disclosure statement if the candidate had already filed such a statement less than ninety days prior to filing the affidavit required by subsection (1) of this section.

(3) Failure of any person to file the affidavit or disclosure statement required under this section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the appropriate officer has sent a notice to the person by certified mail, return receipt requested, addressed to the person's residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five business days of receipt of the notice.

(4) Any disclosure statement required by subsection (2) of this section shall be amended no more than thirty days after any termination or acquisition of interests as to which disclosure is required.

(5) If a person is defeated as a candidate or withdraws from the candidacy, that person shall not be required to comply with the provisions of this section after the withdrawal or defeat.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 99:** (1) amended, p. 1392, § 16, effective June 4. **L. 2002:** (1) amended, p. 1641, § 35, effective June 7.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-105 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

### **1-45-111. Duties of the secretary of state - enforcement. (Repealed)**

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (1)(a.5) added and (1)(b) and (2) amended, p. 126, § 8, effective March 15; (2)(d) added, p. 1725, § 3, effective June 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however, section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

**Editor's note:** (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-113 and 1-45-114 as said sections existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3597.

**1-45-111.5. Duties of the secretary of state - enforcement - sanctions.** (1) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of this article.

(1.5) (a) Any person who believes that a violation of either the secretary of state's rules concerning campaign and political finance or this article has occurred may file a written complaint with the secretary of state not later than one hundred eighty days after the date of the occurrence of the alleged violation. The complaint shall be subject to all applicable procedures specified in section 9 (2) of article XXVIII of the state constitution.

(b) Any person who commits a violation of either the secretary of state's rules concerning campaign and political finance or this article that is not specifically listed in section 9 (2) (a) of article XXVIII of the state constitution shall be subject to any of the sanctions specified in section 10 of article XXVIII of the state constitution or in this section.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article shall be entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the office of administrative courts that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under the Colorado rules of civil procedure. Notwithstanding any other provision of this subsection (2), no attorney fees may be awarded under this subsection (2) unless the court or administrative law judge, as applicable, has first considered the provisions of section 13-17-102 (5) and (6), C.R.S. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

**Source:** L. 2003: Entire section added, p. 2160, § 6, effective June 3. L. 2005: (2) amended, p. 852, § 4, effective June 1. L. 2008: (1.5) added and (2) amended, p. 349, § 1, effective April 10.

**Editor's note:** Section 4 of chapter 112, Session Laws of Colorado 2008, provides that the act enacting subsection (1.5) and amending subsection (2) applies to the portion of any election cycle or for the portion of the calendar year remaining after April 10, 2008, and for any election cycle or calendar year commencing after April 10, 2008, whichever is applicable.

#### ANNOTATION

**District court did not abuse its discretion by entering preliminary injunction against secretary of state enjoining implementation of administrative rule defining "member" for purposes of constitutional provisions governing small donor committees.** Proposed rule would force labor and other covered organizations to get written permission before using an individual's dues or contributions to fund political campaigns. Plaintiffs demonstrated reasonable probability of success on the merits in challenging secretary's authority to enact proposed rule. Secretary's "definition" of term "member" in proposed rule is much more than an effort to define term.

It can be read effectively to add, modify, and conflict with constitutional provision by imposing new condition not found in text of article XXVIII. Secretary's stated purpose in enacting proposed rule not furthered by "definition" contained in proposed rule. Proposed rule does not further secretary's stated goal of achieving transparency of political contributions. *Sanger v. Dennis*, 148 P.3d 404 (Colo. App. 2006).

**Plaintiffs demonstrated reasonable probability of success on the merits in alleging that administrative rule promulgated by secretary of state violated their constitutional rights to freedom of association as**

**applied to them.** Secretary's immediate enforcement of administrative rule forcing labor and other covered organizations to get written permission before using an individual's dues or contributions to fund political campaigns would have effectively prevented plaintiffs from exercising their first amendment rights in general election. Administrative rule was not narrowly tailored. Rationale

justifying administrative rule was based upon speculation there would be dissenters, thereby impermissibly penalizing constitutional rights of the many for the speculative rights of the few. Accordingly, district court did not abuse its discretion by entering preliminary injunction against implementation of administrative rule. *Sanger v. Dennis*, 148 P.3d 404 (Colo. App. 2006).

**1-45-112. Duties of municipal clerk and county clerk and recorder.** (1) The municipal clerk and county clerk and recorder shall:

- (a) Develop a filing and indexing system for their offices consistent with the purposes of this article;
  - (b) Keep a copy of any report or statement required to be filed by this article for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one year after the candidate leaves office;
  - (c) Make reports and statements filed under this article available to the public for inspection and copying no later than the end of the next business day after the date of filing. No information copied from such reports and statements shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.
  - (d) Upon request by the secretary of state, transmit records and statements filed under this article to the secretary of state;
  - (e) Notify any person under their jurisdiction who has failed to fully comply with the provisions of this article and notify any person if a complaint has been filed with the secretary of state alleging a violation of this article.
  - (f) Repealed.
- (2) The secretary of state shall reimburse the municipal clerk and the county clerk and recorder of each county at the rate of two dollars per candidate per election to help defray the cost of implementing this article.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2008:** (1)(f) repealed, p. 350, § 2, effective April 10.

**Editor's note:** (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-115 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) Section 4 of chapter 112, Session Laws of Colorado 2008, provides that the act repealing subsection (1)(f) applies to the portion of any election cycle or for the portion of the calendar year remaining after April 10, 2008, and for any election cycle or calendar year commencing after April 10, 2008, whichever is applicable.

**1-45-112.5. Immunity from liability for fine or penalty.** (1) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be immune from any liability for a fine or penalty imposed pursuant to section 10 (1) of article XXVIII of the state constitution in any proceeding that is based on an act or omission of such volunteer if:

- (a) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and

(b) The violation was not caused by willful and intentional misconduct by such volunteer.

(2) Subsection (1) of this section shall be administered in a manner that is consistent with section 1 of article XXVIII of the state constitution and with the legislative declaration set forth in section 1-45-102.

**Source:** L. 2003: Entire section added, p. 2160, § 6, effective June 3.

### **1-45-113. Sanctions. (Repealed)**

**Source:** **Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (6) added, p. 633, § 3, effective May 6; (6) added, p. 952, § 4, effective May 27. **L. 2000:** (1), (2), (3), and (4) amended, p. 127, § 9, effective March 15. **L. 2001:** (4) amended, p. 1110, § 1, effective September 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however, section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

**Editor's note:** (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-121 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

**1-45-114. Expenditures - political advertising - rates and charges.** (1) No candidate shall pay to any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space, materials, or services. Any such rate shall not be rebated, directly or indirectly.

(2) Any radio or television station, newspaper, or periodical that charges a candidate committee a lower rate for use of space, materials, or services than the rate such station, newspaper, periodical, or supplier charges another candidate committee for the same public office for comparable use of space, materials, or services shall report the difference in such rate as a contribution to the candidate committee that is charged such lower rate pursuant to section 1-45-108.

(3) Nothing in this article shall be construed to prevent an adjustment in rates related to frequency, volume, production costs, and agency fees if such adjustments are offered consistently to other advertisers.

**Source:** **Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** Entire section amended, p. 128, § 10, effective March 15. **L. 2003:** (2) amended, p. 2160, § 5, effective June 3.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-118 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

**1-45-115. Encouraging withdrawal from campaign prohibited.** No person shall offer or give any candidate or candidate committee any money or any other thing of value for the purpose of encouraging the withdrawal of the candidate's candidacy, nor shall any candidate offer to withdraw a candidacy in return for money or any other thing of value.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-119 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

**1-45-116. Home rule counties and municipalities.** Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112 (2). The requirements of article XXVIII of the state constitution and of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by article XXVIII and this article.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2003:** Entire section amended, p. 2161, § 7, effective June 3.

**Editor's note:** This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-120(1) as said section existed in 1995, the year prior to the repeal and reenactment of this article.

**1-45-117. State and political subdivisions - limitations on contributions.** (1) (a) (I) No agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof shall make any contribution in campaigns involving the nomination, retention, or election of any person to any public office, nor shall any such entity expend any public moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:

(A) State-wide ballot issue that has been submitted for the purpose of having a title designated and fixed pursuant to section 1-40-106 (1) or that has had a title designated and fixed pursuant to that section;

(B) Local ballot issue that has been submitted for the purpose of having a title fixed pursuant to section 31-11-111 or that has had a title fixed pursuant to that section;

(C) Referred measure, as defined in section 1-1-104 (34.5);

(D) Measure for the recall of any officer that has been certified by the appropriate election official for submission to the electors for their approval or rejection.

(II) However, a member or employee of any such agency, department, board, division, bureau, commission, or council may respond to questions about any such issue described in subparagraph (I) of this paragraph (a) if the member, employee, or public entity has not solicited the question. A member or employee of any such agency, department, board, division, bureau, commission, or council who has policy-making responsibilities may expend not more than fifty dollars of public moneys in the form of



letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

(b) (I) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state, or any political subdivision thereof from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on an election ballot in the jurisdiction.

(II) Nothing in this subsection (1) shall be construed to prevent an elected official from expressing a personal opinion on any issue.

(III) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from:

(A) Passing a resolution or taking a position of advocacy on any issue described in subparagraph (I) of paragraph (a) of this subsection (1); or

(B) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such agency, department, board, division, bureau, or council of the state or any political subdivision thereof is regularly provided to the public.

(C) Nothing in this subsection (1) shall be construed as prohibiting a member or an employee of an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subparagraph (I) of paragraph (a) of this subsection (1).

(2) The provisions of subsection (1) of this section shall not apply to:

(a) An official residence furnished or paid for by the state or a political subdivision;

(b) Security officers who are required to accompany a candidate or the candidate's family;

(c) Publicly owned motor vehicles provided for the use of the chief executive of the state or a political subdivision;

(d) Publicly owned aircraft provided for the use of the chief executive of the state or of a political subdivision or the executive's family for security purposes; except that, if such use is, in whole or in part, for campaign purposes, the expenses relating to the campaign shall be reported and reimbursed pursuant to subsection (3) of this section.

(3) If any candidate who is also an incumbent inadvertently or unavoidably makes any expenditure which involves campaign expenses and official expenses, such expenditures shall be deemed a campaign expense only, unless the candidate, not more than ten working days after the such expenditure, files with the appropriate officer such information as the secretary of state may by rule require in order to differentiate between campaign expenses and official expenses. Such information shall be set forth on a form provided by the appropriate officer. In the event that public moneys have been expended for campaign expenses and for official expenses, the candidate shall reimburse the state or political subdivision for the amount of money spent on campaign expenses.

(4) Any violation of this section shall be subject to the provisions of sections 9 (2) and 10 (1) of article XXVIII of the state constitution or any appropriate order or relief, including an order directing the person making a contribution or expenditure in violation of this section to reimburse the fund of the state or political subdivision, as applicable, from which such moneys were diverted for the amount of the contribution or expenditure, injunctive relief, or a restraining order to enjoin the continuance of the violation.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2002:** (4) added, p. 280, § 1, effective August 7. **L. 2008:** (4) amended, p. 350, § 3, effective April 10.

**Editor's note:** (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-116 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) Section 4 of chapter 112, Session Laws of Colorado 2008, provides that the act amending subsection (4) applies to the portion of any election cycle or for the portion of the calendar year remaining after April 10, 2008, and for any election cycle or calendar year commencing after April 10, 2008, whichever is applicable.

#### ANNOTATION

**Annotator's note.** Since § 1-45-117 is similar to § 1-45-116 as it existed prior to the 1997 repeal and reenactment of this article, relevant cases construing that provision have been included in the annotations to this section.

**The purpose of this section** is to prohibit the state government and its officials from spending public funds to influence the outcome of campaigns for political office or ballot issues. *Colo. Common Cause v. Coffman*, 85 P.3d 551 (Colo. App. 2003), *aff'd*, 102 P.3d 999 (Colo. 2004).

**This section must be strictly construed.** It is an established principle that statutes regarding the use of public funds to influence the outcome of elections are strictly construed. *Coffman v. Colo. Common Cause*, 102 P.3d 999 (Colo. 2004).

**Moneys in fund administered by the Colorado compensation insurance authority that consisted primarily of premiums paid into the fund by employers** constituted "public moneys" for purposes of this section. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

**While the term "public moneys" is not defined**, the all-inclusive language "from any source" indicates that the general assembly intended an expansive definition of the phrase. Thus, the term "public moneys" may not be construed to refer only to sums realized from the imposition of taxes. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

Although moneys collected by the political subdivision were not derived from state-imposed sales, use, property, or income taxes, those moneys may be spent by the political subdivision only for authorized public purposes. The general assembly has in essence declared that the expenditure of moneys in the fund for purposes prohibited by this section are not authorized expenditures for public purposes. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

**This section prohibits the use of "public moneys from any source," not the use of "public funds".** The general assembly thus selected a phrase not previously construed in seeking to limit the expenditure of funds by various governmental entities for certain purposes. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

**This section tends to promote public confidence in government** by prohibiting the use of moneys authorized for expenditure by political subdivisions for specified public purposes to advance the personal viewpoint of one group over another. A political subdivision's use of moneys that were authorized for expenditure for the benefit of an insured to oppose the passage of an amendment proposed by an insured is the type of conduct the general assembly intended to prohibit by the enactment of this section. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

**What is of "official concern" to school district board of education** is to be determined by reference to the official powers and duties delegated by the general

assembly in the school laws. *Mountain States Legal Found. v. Denver Sch. Dist. No. 1*, 459 F. Supp. 357 (D. Colo. 1978).

A matter of official concern is one which at the very least involves questions which come before the officials for an official decision. *Campbell v. Joint Dist. 28-J*, 704 F.2d 501 (10th Cir. 1983).

**Proposed constitutional amendment not of official concern.** A proposed amendment to the state constitution on a general election ballot is not a matter of official concern. *Campbell v. Joint Dist. 28-J*, 704 F.2d 501 (10th Cir. 1983).

**Not determined solely by board.** The characterization of a campaign issue as being of "official concern" is not a judgment which can be made solely by the board of education; such an interpretation of this section would give unlimited discretion to the school board to use school funds and school facilities whenever it suited the personal preference of the majority of the members. *Mountain States Legal Found. v. Denver Sch. Dist. No. 1*, 459 F. Supp. 357 (D. Colo. 1978).

**This section allows an employee with policy-making responsibility to expend public funds up to the \$50 limit** in expressing an opinion about a pending ballot issue. *Regents of the Univ. of Colo. v. Meyer*, 899 P.2d 316 (Colo. App. 1995).

**Paid staff time is a contribution in kind for purposes of this section.** Time spent by the state treasurer's staff during work hours on a non-volunteer basis preparing and disseminating press releases expressing the state treasurer's opposition to a statewide ballot issue therefore violated this section to the extent that the value of that time exceeded \$50. *Coffman v. Colo. Common Cause*, 102 P.3d 999 (Colo. 2004).

**State treasurer's press conference and press releases opposing a statewide ballot issue violated this section.** The press releases were not balanced factual summaries of the ballot issue and were not resolutions because they were not formal expressions of a voting body. The state treasurer expended more than \$50 in preparing the press releases and was not permitted to expend more than that to take a position of advocacy. *Colo. Common Cause v. Coffman*, 85 P.3d 551 (Colo. App. 2003), *aff'd*, 102 P.3d 999 (Colo. 2004).

**Public school payroll deduction system for teachers' union dues, a portion of which was given by the union to a political action committee**, did not constitute a "contribution in kind" because it did not support a specific "issue" or "candidate" that the political action committee supported or opposed during the time that

the district made the payroll deductions. *Mountain States v. Secretary of State*, 946 P.2d 586 (Colo. App. 1997) (decided under law in effect prior to 1997 amendment).

**Brochure mailed by metropolitan districts explaining proposed improvements violated this section.** The brochure, when read in its entirety, did not present arguments for and against the issue. In fact, it took a position exclusively in favor of the issue, presented no contrary arguments, and expressly advocated the passage of the bond initiative that was titled only days after the mailing of the brochure. Thus, it urged voters to vote for the initiative. *Skruch v. Highlands Ranch Metro. Dists.*, 107 P.3d 1140 (Colo. App. 2004).

Although brochure did not mention ballot initiative by name, administrative law judge appropriately concluded that the language of this section does not require that level of specificity. The section prohibits "the urging of electors to vote a certain way." *Skruch v. Highlands Ranch Metro. Dists.*, 107 P.3d 1140 (Colo. App. 2004).

**1-45-118. Severability.** If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

# COLORADO SECRETARY OF STATE

## RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE

As Amended September 12, 2008

### TABLE OF CONTENTS

<b>Rule</b>	<b>Page</b>
1. Definitions.....	86
2. Committee Registration .....	89
3. Responsibilities of Candidate Committees, Issue Committees, Political Committees, Small Donor Committees and Political Parties .....	91
4. Disclosure – Contributions and Expenditures.....	93
5. Filing Dates and Reporting Periods .....	101
6. Violations and Complaints.....	103
7. Applicability of Constitutional and Statutory Provisions to Local Offices and Home Rule Elections.....	104
8. Candidate Affidavits from Special District Director Candidates.....	104
9. Electioneering Communications .....	105
10. Recall Elections for State Office.....	106
11. Electronic Filing.....	107
12. Inflationary Adjustments to Contribution and Voluntary Spending Limits.....	108
13. Personal Financial Disclosures [C.R.S. 1-45-110, C.R.S. 24-6-202, Colorado Constitution Article XXVIII, Section 10 (2)] .....	110

# SECRETARY OF STATE

## [8 CCR 1505-6]

### RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE

#### 1. Definitions

- 1.1 “Business Activities”. For the purposes of Article XXVIII, Section 3(4)(b)(I) and Rule 4.12 of these rules:
- a. “Business activities” means any commercial activity involving the sale or exchange of goods or services, whether or not for profit, and any activity conducted for the production of revenue, other than the solicitation of voluntary donations.
  - b. “Cannot engage in business activities,” means that the articles of incorporation and by-laws, either expressly or implicitly, prohibits the corporation from engaging in any business activities.
- 1.2 “Contribution in support of the candidacy” shall include all contributions given directly or indirectly for a specific public office, including those to a person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle. [Article XXVIII, Section 2(2)]
- 1.3 “Contribution”.
- a. “Contribution” does not include an endorsement of a candidate or an issue by any person.
  - b. The exception stated in section 2(5)(b) of the State Constitution that “‘Contribution’ does not include services provided without compensation by individuals volunteering their time”, applies only to services provided solely on the basis of time (such as legal advice, bookkeeping, computer consulting and programming, web mastering, etc.). The exception may include time-based services volunteered by an individual as a member of any firm, association, or other business entity, including a corporation, if such individual receives no direct or indirect compensation for the time volunteered. If a tangible product is produced as a result of such services, “contribution” includes the reasonable value of the materials involved, unless such value is negligible.

- 1.4 “Corporation”, as used in Article XXVIII, shall have the same meaning as set forth in section 1-45-103(7), C.R.S.
- 1.5 “Foreign Corporation”, as used in Article XXVIII, Section 3(12)(c), means a corporation organized under the laws of another country. The term does not apply to a corporation organized under the laws of another state.
- 1.6 “Issue”, as used in Article XXVIII of the Colorado Constitution and Article 45 of Title 1, C.R.S., shall mean a “ballot issue” or “ballot question” as such terms are defined in section 1-1-104(2.3) and (2.7), C.R.S. For the purposes Article XXVIII, section 2(10) of the Colorado Constitution, a matter shall be considered an “issue” at the earliest of the following:
- a. It has had a title designated and fixed in accordance with law;
  - b. It has been referred to the voters by a governing board or the general assembly;
  - c. In the case of a citizen referendum petition, it has been submitted for format approval in accordance with law;
  - d. A petition has been circulated and signed by at least one person; except that, where a matter becomes an “issue” upon such signing, a person or persons opposing such issue shall not be considered an “issue committee” until one such person knows or has reason to know of the circulation; or
  - e. A signed petition has been submitted to the appropriate election official in accordance with law.
- 1.7 “Issue committee”
- a. “Issue committee” does not include a married couple.
  - b. A person or group of persons is an issue committee only if it meets both of the conditions in Article XXVIII, Section 2(10)(a)(I) and 2(10)(a)(II).
- 1.8 “Person”.
- a. A “natural person” is a human being.
  - b. For the purpose of Article XXVIII, Section 7, “person” shall mean any natural person.

- 1.9 “Per year” means “per calendar year”.
- 1.10 “Political Committee” does not include a married couple.
- 1.11 “Public office” means any office voted for in this state at any election. “Public office” does not include the office of president or vice president of the United States, the office of senator or representative in the Congress of the United States, or any office in a political party.
- 1.12 “Publicly announced an intention to seek election to public office or retention of a judicial office” means that a person has made a statement signifying an interest in the office by means of a speech, advertisement, or other communication reported or appearing in public media or in any place accessible to the public. Such statement includes a stated intention to explore the possibility of seeking an office. The registration of a candidate committee shall also constitute a public announcement of an intention to seek election or retention. [Article XXVIII, Section 2 (2)]
- 1.13 A registered agent or a committee or party treasurer for the purposes of Title 1, Article 45, shall be an individual or candidate designated to receive mailings and to address concerns and/or questions regarding the candidate committee, the political committee, the small donor committee, the issue committee, or the political party. [1-45-108(3)(b) and 1-45-109(4)(b)]
- 1.14 “Signature”, for purposes of any report filed electronically with the secretary of state, means the committee’s identification number, and “signing”, means the electronic transmission of the committee’s identification number to the secretary of state with the report being filed.
- 1.15 A “member”, as used in Article XXVIII, Sections 2(5)(b), 2(8)(b)(IV), and 2(14)(a) only, is a person who:
- a. Pays membership dues; and
  - b. At least annually gives the membership organization specific written permission to transfer dues to a political committee or small donor committee. [This paragraph b. expires effective May 10, 2007.]



## **2. Committee Registration**

- 2.1 When a committee registration form is received by the appropriate filing officer, an identification number will be assigned and a letter of acknowledgement will be sent by the appropriate filing officer to the registered agent on file informing him/her of the identification number. The registered agent for any issue committee, political committee, small donor committee, or political party shall sign the committee's registration form and all disclosure reports. [1-45-108(3) through (6)]
- 2.2 A candidate may serve as the candidate committee's registered agent or appoint someone to be the registered agent. The candidate and the registered agent shall sign the candidate committee registration form, and only the registered agent or the candidate may sign the contribution and expenditure report. [1-45-108(3)(b)]
- 2.3 A registered agent resigning from a political committee, issue committee, small donor committee, or political party shall file a letter of resignation with the appropriate filing officer and the committee or party via certified mail. The letter of resignation to the appropriate filing officer shall include the certified mail receipt number sent to the committee or party and the contact information for the committee or party. In accordance with Rule 3.1, the committee or party shall file an amended committee registration form within five days of such change. [1-45-108(3)(b)]
- 2.4 The purpose or nature of interest of the committee or party shall be included. A candidate committee shall identify the specific elective office sought upon registration. A political committee or small donor committee shall identify the types of candidates being supported or opposed, such as party affiliation or public policy position, and if known, the specific candidates being supported or opposed.
- 2.5 An issue committee may support or oppose more than one issue without having to open numerous campaign accounts and file numerous committee registration forms if the following conditions are met: the specific issues are included on the committee registration form at such time as an issue meets the provisions of Rule 1.6; no generic phraseology may be used once such an issue is known (i.e.: Support or oppose issues affecting the basic rights of cattle); and the registration form states whether the committee will be supporting or opposing said issues. [Article XXVIII, Section 2(10)(a)(I) and (2)(10)(a)(II)]
- 2.6 Issue committees shall not contribute to political parties, political committees or candidate committees. An issue committee shall not contribute to, or accept contributions from, other issue committees that do not support or oppose issues supported or opposed by the issue committee making the contribution. [Article XXVIII, Section 2(10)(b)]

- 2.7 Political committees shall not contribute to issue committees. In addition, political committees shall not contribute to, or accept contributions from, other political committees that do not support or oppose candidates supported or opposed by the political committee making the contribution. [Article XXVIII, Section 2(12)(a)]
- 2.8 A political committee that is subject to reporting pursuant to both section 1-45-108, C.R.S., and the “Federal Election Commission Act of 1971” may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of section 1-45-108, C.R.S., the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of section 1-45-108, C.R.S. The political committee shall not be required to file disclosure reports if copies of the reports required to be filed with the Federal Election Commission (FEC) pursuant to the “Federal Election Commission Act of 1971”, as amended, are filed with the appropriate officer or are electronically available in the office of the appropriate officer and if such reports include the information required by section 1-45-108, C.R.S. Pursuant to the requirement of section 1-45-108 (3.5) that such committees are subject to “all other legal requirements”, committees filing reports with the FEC in accordance with this Rule are subject to the following:
- a. Itemization of all contributions and expenditures of twenty dollars (\$20) or more on reports filed with the FEC.
  - b. The occupation and employer of any person who has made a contribution of one hundred dollars or more must be disclosed on reports filed with the FEC.
  - c. Only contributions received by the committee that are within contribution limits established by Colorado Law shall be used to support or oppose state or local candidates in Colorado.
  - d. The committee shall deposit funds into a separate account in accordance with Article XXVIII, section 3(9) and Rule 4.18 and may, but shall not be required to, segregate funds intended to support or oppose state or local candidates in Colorado.
- 2.9 A corporation or labor organization may establish both a political committee and a small donor committee. Each committee is subject to the individual contribution and expenditure limits for that committee. [Article XXVIII, Section 2(14)(b)]

- 2.10 In accordance with the procedures set out in the “State Administrative Procedure Act” (Article 4 of Title 24, Colorado Revised Statutes), the secretary of state may close an inactive committee after two years of non-reporting. A committee shall be deemed inactive for the purpose of this rule after such committee has failed to file any reports with the appropriate filing officer for two consecutive years. [Article XXVIII, Section 2(3), and C.R.S. 24-4-105]
- 2.10.1 A county clerk and recorder or municipal clerk designated as a committee’s appropriate filing officer pursuant to section 1-45-109, C.R.S., may request the secretary of state to close a committee pursuant to this Rule. Such request shall be submitted in writing and contain a statement from the county clerk and recorder or municipal clerk that no disclosure reports have been received for at least two years either manually or electronically from such committee, and any other information that is relevant.
- 2.11 The “appropriate filing officer” for a political committee whose purpose is to support or oppose school board candidates or an issue committee whose purpose is to support or oppose a ballot issue, question, or measure for a school district not wholly contained within a single county shall be the county clerk and recorder of the county where the school district administrative offices are located.
- 3. Responsibilities of Candidate Committees, Issue Committees, Political Committees, Small Donor Committees and Political Parties**
- 3.1 Whenever any of the information disclosed on the committee registration form changes, the change must be reported within five days by filing an amended committee registration form with the appropriate filing officer. When filing an amendment to the committee registration form, a new form should be completed that includes any updated information. The form must be signed by the registered agent, and, if for a candidate committee, the candidate must also sign the form. [1-45-108(3)]
- 3.2 Any political committee that has registered with the Federal Election Commission, and filed a copy of the registration filed with the Federal Election Commission with the appropriate officer, may terminate its active status with the appropriate officer if the committee submits a letter of termination. A termination letter may be filed at any time.
- 3.3 A candidate committee that changes elective office sought shall terminate the existing candidate committee and register a new candidate committee not later than ten days after such change. If the new elective office is for a state candidate, then all contributions received shall be subject to contribution limits and restrictions set forth in Article XXVIII, Section 3 for the new office.

- 3.4 A committee may terminate if the following conditions are met: the candidate or committee no longer intends to receive contributions or make expenditures; a zero balance is achieved by having no cash on hand and no outstanding debts or obligations; and the candidate or committee files a termination statement of contributions and expenditures. A termination statement may be filed at any time. [Article XXVIII, Section 2(3) and 1-45-106]
- 3.5 A political committee may change status to a small donor committee without terminating the political committee if the political committee has never accepted contributions over the amount of \$50 per natural person per year.
- 3.6 Unexpended campaign contributions to a candidate committee may be contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in Article XXVIII, Section 3(3)(e), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made.
- 3.7 Unexpended campaign contributions to local candidate committees may not be contributed to a state candidate committee.
- 3.8 Multi-purpose issue committees – termination of status. In the case of an issue committee whose purposes are not limited to supporting or opposing ballot issues or ballot questions (a “multi-purpose issue committee”), such multi-purpose issue committee may terminate its status as an issue committee by filing a termination statement of contributions and expenditures with the appropriate filing officer. In accordance with Rule 3.4, a termination statement may be filed at any time if the following conditions are met:
- a. the multi-purpose issue committee no longer has a major purpose of supporting or opposing any ballot issue or ballot question and no longer intends to accept or make contributions or expenditures to support or oppose a ballot issue or ballot question; and
  - b. the committee's separate account maintained in accordance with Article XXVIII, section 3(9) has achieved a zero balance by having no cash on hand and no outstanding debts or obligations.
- 3.9 Contributions Where the Identity of the Contributor is Unknown.
- a. Contributions received by a candidate committee, political committee, political party committee, or small donor committee, of any amount, where the identity of the contributor is unknown, shall not be retained. Such contributions must,

within thirty (30) days, be donated to any charitable organization recognized by the Internal Revenue Service, or transmitted to the State Treasurer for deposit into the unclaimed property fund or such other fund as the State Treasurer may direct.

- b. Contributions received by an issue committee in excess of twenty dollars (\$20) where the identity of the contributor is unknown, shall not be retained. Such contributions must, within thirty (30) days, be donated to any charitable organization recognized by the Internal Revenue Service, or transmitted to the State Treasurer for deposit into the unclaimed property fund or such other fund as the State Treasurer may direct.

3.10 Disposition of debt in anticipation of committee termination

- a. Notwithstanding any negative balance for a prior election cycle, all contributions received by a candidate committee in the current election cycle shall be subject to the limits on contributions for the current election cycle and shall be reported as contributions for the current election cycle.
- b. Any financial obligations incurred by a candidate committee in an election cycle that are not paid within a commercially reasonable period of time, not to exceed six (6) months after the close of that election cycle, shall be treated as “contributions” from the service provider or vendor extending credit.

**4. Disclosure – Contributions and Expenditures**

- 4.1 All committees must keep a record of all contributions. All contributions received of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other receipts and contributions under \$20 may be reported in total as non-itemized contributions for the reporting period. [1-45-108(1)]
- 4.2 When manually filing an amended report of contributions and expenditures, a new form shall be completed that includes the cover page of the report of contributions and expenditures, the detailed summary page, and any updated schedules listing only the amended information. [C.R.S. 1-45-109(4)(b)]

4.3 Contributions – when counted.

- a. A contribution is considered made or received as of the date that it is accepted by the committee or party. In the case of a contribution by check or credit card, the date accepted is the date that the contribution is deposited into the committee's or party's account.
- b. However, for purposes of section 1-45-105.5, concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is considered made or promised when possession of the check is transferred to any person not under the control of the issuer.

4.4 All committees must keep a record of all expenditures. All expenditures made of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other expenditures under \$20 during a reporting period may be reported in total as non-itemized expenditures. [1-45-108(1)]

4.5 Loans received by a committee or party

- a. All loans received by a committee or party must be reported continuously until repaid. [Article XXVIII, Section 3(8)]
- b. Notwithstanding Article XXVIII, Section 3(8), a candidate may make a loan to his or her candidate committee. Such loan shall be at no interest. In accordance with the definition of "contribution" in Article XXVIII, section 2(5), the amount of the loan is a contribution from the candidate to the committee, but the interest-free use of such loan by the committee is not a contribution to the committee.
- c. Any repayment of a loan shall be considered a returned contribution, except that interest repaid for a loan made pursuant to Article XXVIII, Section 3(8) shall be reported as an expenditure by the candidate committee.
- d. A loan made by a candidate to the candidate's own committee may be forgiven by the candidate. The amount of unpaid debt forgiven by the candidate shall remain a contribution and shall not be considered a returned contribution.
- e. Loans made from a financial institution to a candidate committee pursuant to Article XXVIII, Section 3(8) shall not be forgiven.

- 4.6 Contributions by candidate – voluntary spending limits - loans.
- a. Contributions to a candidate’s own committee by a candidate who does not accept voluntary spending limits shall not be subject to the contribution limits of Article XXVIII, Section 3.
  - b. Contributions to a candidate’s own committee by a candidate who does accept voluntary spending limits shall be counted toward the limit on political party contributions set forth in Article XXVIII, Section 3(3)(d), and Section 4(2).
  - c. Candidates who have accepted voluntary spending limits may make loans to his or her candidate committee whose aggregate total may exceed the allowable limit established in Article XXVIII, Section 3 and Section 4(2) so long as the unpaid balance of any loans does not exceed the allowable limit at any time.
- 4.7 Candidate committees may share expenditures for costs of brochures, offices, office equipment, etc. if each candidate committee pays for its proportionate cost of the expense. If one candidate committee pays the entire cost, the reimbursement by the other candidate committee(s) shall be made within thirty (30) days. Such reimbursement is not a “contribution” from one committee to the other; it shall be reported as an expenditure by the reimbursing committee and as a returned expenditure by the reimbursed committee. If sharing expenditures results in a price discount based on volume or quantity, such discount shall not be considered a “contribution”.
- 4.8 Any contributions received in excess of contribution limits shall be returned to the contributor within thirty (30) days.
- 4.9 Disclosure of Occupation and Employer
- 4.9.1 The requirement to disclose the occupation and employer of a contributor in Article XXVIII, Section 7 of the Colorado Constitution and section 1-45-108, C.R.S., applies to any one-time contribution of \$100 or more, and not to aggregate contributions totaling \$100 or more.
  - 4.9.2 If occupation and employer information as required by Article XXVIII, Section 7 is not provided, and the committee is unable to gather the information within 30 days after receipt of the contribution, the contribution shall be returned to the contributor no later than the 31st day after receipt.

- 4.10 The following rules relate to Article XXVIII, Section 3(3)(e), concerning the counting and reporting of unexpended campaign contributions retained for use in a subsequent election cycle.
- a. A candidate committee shall not list such retained amounts expressly on disclosure reports as “contributions from a political party” or as contributions from any specific political party.
  - b. If the amount retained is less than the limit on contributions from a political party specified in Section 3(3)(d), then the total of all political party contributions to the candidate committee during the subsequent election cycle shall not exceed the difference between the amount retained and the limit on political party contributions. At such time as the total amount of all political party contributions to the candidate committee during the subsequent election cycle equals or exceeds the difference between the retained amount and the limit on political party contributions, then any subsequent or additional contribution by a political party to the candidate committee during the subsequent election cycle shall constitute a violation of Section 3(3)(d).
- 4.11 For purposes of complying with the requirement of Article XXVIII, Section 5, that a notice of independent expenditure include “a detailed description of the use of such independent expenditure”, such notice is sufficient if it includes an identification of the payee of the expenditure, the medium used for the communication, the date or dates for broadcast, delivery, or publication of the communication, and either the complete written text or transcript of the communication produced by the expenditure or a summary of the major points contained within the communication.
- 4.12 Article XXVIII, Section 6(2), concerning the prohibition against funding by corporations and labor organizations for electioneering communications, shall not apply to any corporation that:
- a. Was formed for the purpose of promoting political ideas and cannot engage in business activities;
  - b. Has no shareholders with a claim on its assets or other income; and
  - c. Was not established by, and does not accept contributions from business corporations or labor organizations.



- 4.13 A candidate who does not accept contributions but who expends money for campaign purposes shall not be required to form a candidate committee, but shall file disclosure reports for the reporting periods during which expenditures are made, in accordance with sections 1-45-108 and 1-45-109.
- 4.14 Membership dues transferred to small donor committees and political committees
- a. Membership organizations transferring a portion of a member's dues to a small donor committee or political committee shall provide the respective committee with the member's name, address, amount of dues transferred, and the date of the dues transfer.
  - b. Each small donor committee and political committee shall keep records of all contributions received in the form of membership dues transferred by a membership organization to the committee. Such records shall include each contributing member's name, address, and amount of the dues transferred. [C.R.S. 1-45-108(1)(a)(I)]
  - c. Each small donor committee and political committee shall itemize and report the name and address of each person who has contributed \$20 or more in a reporting period, including but not limited to contributions received in the form of membership dues transferred by a membership organization to the committee. [Article XXVIII, Section 2(14)(a); C.R.S. 1-45-108(1)(a)]
  - d. On each disclosure report, the candidate or registered agent of a candidate committee, political party committee, political committee, small donor committee, or issue committee shall certify and declare, under penalty of perjury, that to the best of his or her knowledge or belief all contributions received in a reporting period, including contributions received in the form of membership dues transferred by a membership organization, are from permissible sources. [Article XXVIII, Section 3.]
- 4.15 Multi-purpose issue committees. In the case of an issue committee whose purposes are not limited to supporting or opposing ballot issues or ballot questions (a "multi-purpose issue committee"):
- a. Such multi-purpose issue committee shall report only those contributions accepted, expenditures made, and obligations entered into for the purpose of supporting or opposing ballot issues or ballot questions. A multi-purpose issue committee shall not be required to report donations, membership dues, or any other receipts except to the extent they are designated or intended to be used for the purpose of supporting or opposing one or more ballot issues or ballot questions.

- b. Contributions accepted for the purpose of supporting or opposing ballot issues or ballot questions shall be deposited in an account separate from other funds of the issue committee in accordance with Article XXVIII, Section 3(9). If the issue committee accepts contributions relating to more than one ballot issue or ballot question, such contributions may be deposited in a separate account for each ballot issue or ballot question.
  - c. If a multi-purpose issue committee receives general, non-earmarked donations, membership dues, or other payments, and later chooses to allocate some or all of such non-earmarked contributions to support or oppose a ballot issue or ballot question, then it must transfer the funds into a separate campaign account maintained in accordance with Article XXVIII, Section 3(9) and report the transfer as a contribution from the committee itself.
- 4.16 Until terminated in accordance with these rules, a committee shall file a disclosure report for every reporting period, even if the committee has no activity (expenditures or contributions) to report during the reporting period
- 4.17 The unexpended balance shall be reported as the ending balance throughout the election cycle. Unexpended balances from the final report filed thirty days after the applicable election shall be reported as the beginning balance in the next election cycle.
- 4.18 In accordance with Article XXVIII, section 3(9) of the Colorado Constitution, the requirement that committee funds be deposited into “a financial institution” shall not mean that all committee funds must be deposited into one single bank, credit union, or other commercial financial institution.
- 4.19 Investment of funds
- 4.19.1 A candidate committee, issue committee, political committee, small donor committee, or political party may invest the committee’s funds in any type of account or instrument of a government regulated financial institution.
  - 4.19.2 Any change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees is not a contribution or an expenditure and shall not be subject to contribution limits, but shall be disclosed as miscellaneous income or expense on any disclosure report for which the interest, dividend, or service fee was received or charged.

- 4.20 Political organizations. In the case of political organizations as defined in section 1-45-103(14.5), C.R.S.:
- 4.20.1 Pursuant to 1-45-108.5, C.R.S., political organizations shall only report contributions and expenditures for the purpose of “influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office.”
- 4.20.2 Political organizations shall file according to the filing schedules set forth in section 1-45-108(2), C.R.S.
- a. For the purposes of this Rule, “off-election year” for a political organization shall mean every odd numbered year.
- b. For the purposes of this Rule, “major election” shall mean an election held in November of an even numbered year.
- 4.20.3 Political organizations shall not be required to file disclosure reports for reporting periods when no contributions were received and spending was less than twenty dollars (\$20).
- 4.20.4 Political organizations shall file all applicable disclosure reports required by section 1-45-103(14.5), C.R.S., with the appropriate filing officer. For the purposes of this rule, the appropriate filing officer shall be the same for political organizations as for political committees as outlined in section 1-45-109, C.R.S. [1-45-108.5]
- 4.21 Disclosure of contributions by Limited Liability Companies (LLCs). [1-45-103.7(5), (6), (7), and (8)]
- 4.21.1 The written affirmation provided by an LLC in accordance with section 1-45-103.7, C.R.S., shall include the names and addresses of the LLC’s members and describe how the contribution is to be attributed to the LLC’s members.
- 4.21.2 The affirmation shall include the occupation and employer of any member to whom a contribution of one hundred dollars (\$100) or more is attributed.
- 4.21.3 A committee that receives a contribution from an LLC shall report as separate contributions the amount attributed to each member. For such contribution, the contributor shall be identified by the name of the member, together with the name of the LLC.

- 4.21.4 Any contributions received by a committee from an LLC that does not comply with the affirmation requirements set forth in section 1-45-103.7, C.R.S., and this Rule 4.21 shall be returned to the contributor within thirty (30) days.
- 4.21.5 Notwithstanding the provisions of Rule 4.1, each contribution received from an LLC shall be listed individually on disclosure reports, regardless of the dollar amount. Disclosure shall include the name and address of the LLC.
- 4.21.6 Pursuant to section 1-45-103.7(5)(d)(II), C.R.S., any contribution from an LLC that is attributed to its individual member(s) shall be subject to the contribution limits established in section 3 of Article XXVIII of the Colorado Constitution, as adjusted by Rule 12, for the LLC and for the individual member(s) that the contribution is attributed to.
- 4.21.6.1 Notwithstanding the amounts attributed to each individual member of an LLC, no LLC shall be permitted to make a contribution that exceeds the limit for a “person” established in section 3 of Article XXVIII of the Colorado Constitution, as adjusted by Rule 12.
- 4.22 In accordance with Article XXVIII, sections 2(8), 2(9), and 3(4)(a) of the Colorado Constitution, corporations or labor organizations shall not make expenditures, including independent expenditures, that expressly advocate the election or defeat of a candidate.
- 4.23 Redaction of Personal Sensitive Information from Disclosure Reports
- 4.23.1 Any person who believes their safety or the safety of an immediate family member may be in jeopardy as a result of information disclosed on any campaign finance report filed with the Secretary of State pursuant to Title 1, Article 45, C.R.S., may apply to the Secretary of State to redact sensitive personal information from the online versions of such report(s). The Secretary of State, upon a showing of good cause, may redact the minimum amount of sensitive information necessary to protect the safety of such person or his or her immediate family. If the Secretary of State redacts sensitive information disclosed on a campaign finance report, the original unredacted report shall remain a public record pursuant to Title 24, Article 72, C.R.S.
- 4.23.2 Applications for redaction of sensitive information shall be submitted in writing and shall include the requestor’s name, the identified entry(s) of concern, a justification for the application, and the committee to whom the contribution(s) was made or expenditure(s) received.

## **5. Filing Dates and Reporting Periods**

- 5.1 Quarterly reporting periods close on the last day of the month. The report shall be filed on or before April 15th, July 15th, October 15th and January 15th - following each calendar quarter. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108(2)(a)]
- 5.2 Monthly reporting periods close five calendar days prior to the last day of the month. The report shall be filed on or before the first calendar day of the following month. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. When the filing deadline for a monthly report approximates the filing deadline for a biweekly report, no separate monthly report shall be filed, and the biweekly report shall serve as the monthly report. [1-45-108(2)(a) and (c)]
- 5.3 The reporting period for biweekly reports required by section 1-45-108(2)(a)(I)(B) and (D) closes on the Wednesday preceding the due date. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108(2)(a)]
- 5.4 The post-election reporting period closes on the last day of the calendar month in which the election was held. The report shall be filed on or before the 30th day following the election. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108(2)(a)]
- 5.5 Reports filed manually. All disclosure reports filed manually with the secretary of state pursuant to section 1-45-108 C.R.S., shall be filed using the provided form, or if the report is filed in another permitted format, it shall be type written and the font size shall be no less than 12 point.
- 5.6 Reports filed electronically.
  - a. Reports filed electronically are due on the same date as manually filed reports and are due no later than close of business pursuant to section 1-45-109(2), C.R.S. Close of business for the purpose of electronic filing shall mean 11:59 p.m.
  - c. If the electronic filing system is unavailable for filing for a total of more than one hour after 4:00 p.m. on the due date for filing a report, the secretary of state may extend the due date for an additional day for electronically filed reports. [1-45-108(2.3), 1-45-109(6)]

- 5.7 The reporting period for any quarterly, monthly, or biweekly report begins on the first day following the last day of the reporting period for the previous report filed with the secretary of state. [1-45-108(2)(c)]
- 5.8 Special district elections.
- a. For reports relating to special district elections that are required to be filed with the county clerk and recorder, reports shall be required only on the 21st day prior to, and on the Friday prior to, and on the 30th day after the date of the regular election.
  - b. Reports relating to special district elections that are required to be filed with the secretary of state shall be subject to quarterly, monthly, and biweekly reporting as provided in section 1-45-108(2)(a)(I) if the major elections for such special district occur on the date of the general election. If the major elections for such special district occur at any other time, then reports shall be required only on the 21st day prior to, on the Friday prior to, and on the 30th day after the date of the regular election.
- 5.9 The reporting period for any report that is required to be filed with the county clerk and recorder shall close five calendar days prior to the date that the report is due.
- 5.10 For purposes of section 1-45-108(2)(d), which exempts a candidate committee for a former officeholder or person not elected to office from reporting if there is no change in the balance of funds maintained by such committee and if certain other conditions are met, a change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees does not subject such candidate committee to the reporting requirements of section 1-45-108, C.R.S., except that such candidate committee shall file an annual report for each calendar year. State candidate committees shall file such report not later than January 15th of the following year, and county and municipal candidate committees shall file such report in accordance with section 1-45-108(2)(a)(II), C.R.S. Candidate committees that choose this option must notify, in writing, the appropriate filing officer of their intent. [1-45-108(2)(c) and (2)(d)]
- 5.11 County political party organizations shall file required reports pursuant to section 1-45-108 (2)(a)(II) with the county clerk and recorder for their jurisdiction. State political party organizations shall file required reports pursuant to section 1-45-108 with the secretary of state.

- 5.12 Once a committee has declared its committee status as active or inactive in a particular year, the committee shall follow the appropriate filing schedule for the remainder of that calendar year, except that an inactive committee may change its status to active at any time.

## **6. Violations and Complaints**

- 6.1 If the appropriate officer, as defined in Section 2(1) of Article XXVIII, discovers a possible violation of Article XXVIII or Title 1, Article 45, and no complaint alleging such violation has been filed with the secretary of state pursuant to Article XXVIII, Section 9(2)(a), then the appropriate officer shall:
- a. Provide the person believed to have committed the violation with written notice of the facts or conduct that constitute the possible violation, and
  - b. Allow seven business days to correct the violation or to submit written statements explaining the reasons that support a conclusion that a violation was not committed.
- 6.2 If, within the time allotted pursuant to Rule 6.1, the person fails to correct the violation or to offer a satisfactory explanation, then the appropriate officer may file a complaint pursuant to Article XXVIII, Section 9(2)(a).
- 6.3 A written complaint filed with the secretary of state pursuant to Article XXVIII, Section 9(2) (a) shall include the following: the name, address, and signature of the complainant (if the complainant is represented by counsel, such counsel's name, address, and signature shall be included along with the name, address, and signature of the complainant); the name and address of each respondent alleged to have committed a violation; and the particulars of the violation. A complaint may be submitted by fax or electronic mail if a signed original is received by the secretary of state no later than five calendar days thereafter. If the complaint is complete, the secretary of state shall promptly transmit the complaint to the Division of Administrative Hearings in the Department of Personnel and Administration for the consideration by an administrative law judge, which will notify the respondents of the filing of the complaint and which will issue all other appropriate notices to the parties. [Article XXVIII, Section 9(2)(a)]
- 6.4 Repealed.

**7. Applicability of Constitutional and Statutory Provisions to Local Offices and Home Rule Elections**

- 7.1 The requirements of Article XXVIII of the State Constitution and of Article 45 of Title 1, Colorado Revised Statutes, shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.
- 7.2 The provisions of Section 3(4) of Article XXVIII of the State Constitution relating to contributions and expenditures of corporations and labor unions apply to elections to every state and local public office, except local public offices in home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.
- 7.3 The provisions of section 1-45-105.5, relating to a prohibition on lobbyist contributions to members of the General Assembly during legislative sessions, apply to members of the General Assembly who are candidates for any state or local office, including any office in home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.
- 7.4 A political party, as defined in Section 2(13) of Article XXVIII of the State Constitution, at the level of a home rule county or home rule municipality that has adopted a charter, ordinance, or resolution that addresses any of the matters covered by Article XXVIII or Title 1, Article 45, may establish a separate account that is used solely for contributions made to the party, and expenditures made by the party, for the purpose of supporting the party's county or municipal candidates for offices within the county or municipality. Contributions to and expenditures from such account shall not be included for purposes of any limitations or reporting contained in Article XXVIII or Title 1, Article 45.

**8. Candidate Affidavits from Special District Director Candidates**

- 8.1 The special district designated election official or, as applicable, the presiding officer or the secretary of the board of directors, under section 32-1-804.3(5), C.R.S., shall provide to the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located, the self-nomination and acceptance forms and letters, and affidavits of intent to be a write-in candidate no later than the date established for certification of the special district's ballot pursuant to section 1-5-203(3)(a), C.R.S.
- 8.2 If a candidate for a special district office fails to file a candidate affidavit, or the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate does not contain the statement required by section 1-45-110(1), C.R.S., the



county clerk and recorder shall mail the special district a copy of the notification to the candidate regarding pending disqualification sent pursuant to section 1-45-110(3).

- 8.3 The clerk and recorder's receipt of the self-nomination and acceptance form or letter or the affidavit of intent to be a write-in candidate shall be deemed to be filed by the candidate; provided, however, that nothing in this rule shall be deemed or construed to impose any duty on a designated election official, presiding officer, or secretary to file any document on behalf of any candidate or to relieve any candidate of any obligation to file any document required by the fair campaign practices act, article XXVIII, or other law.
- 8.4 If the special district candidate affidavit, the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate contains a statement substantially stating, "I shall not, in my campaign for this office, receive contributions or make expenditures exceeding twenty dollars (\$20) in the aggregate, however, if I do so, I shall thereafter file all disclosure reports required under the fair campaign practices act," then no filing of disclosure reports is required unless and until the twenty dollar (\$20) threshold has been met. [Article XXVIII, Section 2(2) and 1-45-108(1)]

## **9. Electioneering Communications**

- 9.1 All entities must keep a record of all contributions received for electioneering communications. All contributions received, including non-monetary contributions, of two hundred and fifty dollars or more, during a reporting period shall be listed individually on the electioneering report. [Article XXVIII, Sec. 6(1)]
- 9.2 All entities must keep a record of all expenditures and spending made for electioneering communications. All expenditures and spending of one thousand dollars or more per calendar year including name, address and method of communication, shall be listed individually on the electioneering report. [Article XXVIII, Sec. 6(1)]
- 9.3 The name of the candidate(s) unambiguously referred to in the electioneering communication shall be included in the electioneering report. [Article XXVIII, Sec. 2(7)(I)]
- 9.4 Pursuant to the decisions of the Colorado Court of Appeals in the case of Harwood v. Senate Majority Fund, LLC, 141 P.3d 962 (2006), and of the United States Supreme Court in the case of FEC v. Wisconsin Right to Life, 127 S. Ct. 2652 (2007), a communication shall be deemed an electioneering communication only if it is susceptible to no reasonable interpretation other than as an appeal to vote for or against a specific candidate. In making this determination, (1) there can be no free-ranging intent-and-effect test; (2) there generally should be no discovery or inquiry into contextual factors;

(3) discussion of issues cannot be banned merely because the issues might be relevant to an election; (4) in a debatable case, the tie is resolved in favor of not deeming a matter to be an electioneering communication.

**9.5 Submission of Electioneering Communication Disclosure Reports**

9.5.1 Candidate committees, political committees, political party committees, small donor committees, and political organizations shall not be required to file electioneering communication reports separate from the committee's regularly filed disclosure reports so long as any expenditure or spending subject to section 6, Article XXVIII of the Colorado Constitution and rule 9.4 is identified as an electioneering communication. The disclosure of such expenditures or spending on a regularly filed report shall include the name of the candidate referred to in the electioneering communication.

**10. Recall Elections for State Office**

- 10.1 The election cycle for a recall election shall be from the date the recall petition is approved for circulation by the appropriate officer through thirty days following date of the recall election.
- 10.2 The reporting period for committees participating in the recall election shall close five calendar days prior to the date that the report is due.
- 10.3 The incumbent in a recall election is not a candidate for the successor election according to C.R.S. 1-12-117; therefore, the incumbent may open an issue committee to oppose the recall.
- 10.4 The aggregate contribution limits specified for a general election in section 3 of article XXVIII shall apply to the recall election with respect to each successor candidate.
- 10.5 Any issue committee whose purpose is to support or oppose the recall of any elected official shall follow the filing calendar established in section 1-45-108 (6), C.R.S.
- 10.6 Any political committee supporting or opposing any candidate, in a recall election, shall follow the filing calendar established in section 1-45-108 (2.7), C.R.S.

**11. Electronic Filing.**

- 11.1 All disclosure reports filed with the secretary of state pursuant to Article XXVIII of the Colorado Constitution and Article 45 of Title 1 of the Colorado Revised Statutes shall be filed electronically. Reports required to be filed electronically with the secretary of state under this rule that are presented for manual filing shall not be accepted. This Rule shall not apply to personal financial disclosure reports required by section 1-45-110, C.R.S.,
- 11.2 In accordance with section 24-21-111, C.R.S., reports are not required to be filed electronically in any of the following circumstances:
- 11.2.1 An individual report contains fewer than thirty (30) entries.
- 11.2.2 The secretary of state has granted an exception to the electronic filing requirement after written application based on hardship or other good cause shown. All applications for an exception shall include a brief statement of the hardship or good cause for which the exception is sought. Applications must be received by the secretary of state at least fifteen (15) calendar days prior to the first applicable filing deadline in the election cycle, unless the exception is based on emergency circumstances arising after such deadline, in which case the nature of the emergency shall be described in the application. The filing of an application for exception based on emergency circumstances does not delay any reporting deadlines, however, if a penalty is imposed for failure to file a report on the date due, the penalty may be set aside or reduced in accordance with section 10(2) of Article XXVIII. The Secretary of State shall review and respond in writing to all applications for an exception within three (3) business days.
- 11.2.3 The report is filed using the secretary of state's Electronic Data Interface (EDI) upon approval of the secretary of state.
- 11.3 For the purposes of this rule 11, "electronic filing" is defined as the filing of reports required by Article XXVIII of the Colorado Constitution and Article 45 of Title 1 of the Colorado Revised Statutes utilizing the internet system created by the secretary of state pursuant to section 1-45-109(6), C.R.S.
- 11.4 For the purposes of this rule 11, "entry" is defined as any contribution, expenditure, returned contribution, returned expenditure, loan, loan repayment, or in connection with a political organization, spending.

## **12. Inflationary Adjustments to Contribution and Voluntary Spending Limits**

### **12.1 Calculation of adjustments.**

12.1.1 In accordance with sections 3(13) and 4(7) of Article XXVIII of the Colorado Constitution, limits on contributions set forth in section 2(14) and subsections (1), (2), (3), and (5) of section 3, and the voluntary limits on spending set forth in section 4(1), are adjusted in the first quarter of 2007 and shall be adjusted every four years thereafter, based on the percentage change in the consumer price index for the Denver-Boulder-Greeley area, over the four year period immediately preceding the adjustment.

12.1.2 In determining the adjusted amount, the percentage change in the consumer price index is rounded to the nearest whole percentage point. In accordance with sections 3(13) and 4(7), Article XXVIII of the Colorado Constitution, the adjusted limits are rounded to the nearest, lowest twenty-five dollars (\$25).

12.2 There is no adjustment to the contribution limits on individual donations to small donor committees outlined in section 2(14), Article XXVIII of the Colorado Constitution.

12.3 The aggregate limits on contributions from any person for a primary or a general election, described in section 3(1), Article XXVIII of the Colorado Constitution, are adjusted as follows:

a. Five hundred twenty-five dollars (\$525) to any one:

- (I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;
- (II) Secretary of state, state treasurer, or attorney general candidate committee.

b. There is no adjustment to the limits on contributions to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or any district attorney candidate committee.

- 12.4 The aggregate limits on contributions from a small donor committee for a primary or a general election, described in section 3(2), Article XXVIII of the Colorado Constitution, are adjusted as follows:
- a. Five thousand three hundred dollars (\$5,300) to any one:
    - (I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;
    - (II) Secretary of state, state treasurer, or attorney general candidate committee; and
  - b. Two thousand one hundred, twenty-five dollars (\$2,125) to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or any district attorney candidate committee.
- 12.5 The aggregate limits on contributions from any person to a political party, described in section 3(3)(a), Article XXVIII of the Colorado Constitution, are adjusted as follows:
- a. Three thousand one hundred seventy-five dollars (\$3,175) per year at the state, county, district, and local level combined; and
  - b. Of such, no more than two thousand six hundred fifty dollars (\$2,650) at the state level.
- 12.6 The aggregate limits on contributions from a small donor committee to a political party, described in section 3(3)(b), Article XXVIII of the Colorado Constitution, are adjusted as follows:
- a. Fifteen thousand nine hundred dollars (\$15,900) per year at the state, county, district, and local level combined; and
  - b. Of such, no more than thirteen thousand two hundred fifty dollars (\$13,250) at the state level.
- 12.7 The aggregate limits on pro-rata contributions or dues made to political committees, described in section 3(5), Article XXVIII of the Colorado Constitution, are adjusted to five hundred twenty-five dollars (\$525) per house of representatives election cycle.
- 12.8 The voluntary spending limits for a candidate described in section 4(1), Article XXVIII of the Colorado Constitution are adjusted as follows:

- a. The spending limit for governor, and governor and lieutenant governor as joint candidates under 1-1-104, C.R.S., or any successor section shall be adjusted to two million six hundred fifty thousand dollars (\$2,650,000).
- b. The spending limit for a candidate for secretary of state, attorney general, or treasurer shall be adjusted to five hundred thirty thousand dollars (\$530,000).
- c. The spending limit for a candidate for state senate shall be adjusted to ninety five thousand four hundred dollars (\$95,400).
- d. The spending limit for a candidate for state house of representatives, state board of education, regent of the university of Colorado or district attorney shall be adjusted to sixty eight thousand, nine hundred dollars (\$68,900).

**13. Personal Financial Disclosures [C.R.S. 1-45-110, C.R.S. 24-6-202, Colorado Constitution Article XXVIII, Section 10 (2)]**

- 13.1 In accordance with the disclosure requirements set forth in section 1-45-110 (2)(a) and (b), C.R.S., a candidate shall not be required to file a disclosure statement if the candidate filed either a complete or amended disclosure statement less than ninety days prior to filing a candidate affidavit.
- 13.2 If a candidate affidavit is filed ninety days or more after filing a disclosure statement, an amended disclosure statement shall satisfy the disclosure requirements.
- 13.3 If a candidate withdraws from candidacy by submitting appropriate documentation before filing the disclosure statement required in section 1-45-110 (2)(a), C.R.S., such candidate shall not be required to file a disclosure statement, but any fines that the candidate accrued, for failure to file a disclosure statement prior to withdrawing shall remain in effect.