

Campaign Disclosure Project

Bringing sunlight to political money in the fifty states

Campaign Finance Disclosure Model Law

Written by
Center for Governmental Studies
in partnership with
California Voter Foundation
UCLA School of Law

Sponsored by a grant from
The Pew Charitable Trusts

www.campaigndisclosure.org

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Campaign Finance Disclosure Model Law is a publication of the Campaign Disclosure Project, which seeks to bring greater transparency and accountability to money in state politics through assessments of state disclosure programs as well as the development of a model state campaign finance disclosure law. The Campaign Disclosure Project is a collaborative effort of the Center for Governmental Studies, the California Voter Foundation, and the UCLA School of Law and is sponsored by a grant from The Pew Charitable Trusts.

The Council on Governmental Ethics Laws (COGEL) is a non-profit international organization comprised of government agencies, organizations, and individuals with responsibilities or interests in laws regulating governmental ethics, elections, lobbying, campaign finance, judicial conduct, and freedom of information. For additional information, please visit the COGEL web site at www.COGEL.org, or contact COGEL at PO Box 417, Locust Grove, VA 22508 (telephone 540-972-3662).

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Introduction

Easily accessible and transparent disclosure of political information lies at the heart of any democracy. Full and open disclosure of campaign finance information is a critical safeguard for preserving that democracy.

Many campaign disclosure laws were written in the 1970s following the Watergate crisis and have not been changed significantly--with one notable exception. A number of jurisdictions now require campaigns to file electronically. This is an important development because mandatory electronic filing and posting of information on the Internet allows citizens everywhere to access campaign disclosure information without the need to go in person to the filing office. Other than adopting electronic filing, most jurisdictions have not updated their laws to take into account changing campaign strategies and the needs of the public.

The Center for Governmental Studies (CGS) is pleased to present this Model Campaign Finance Disclosure Law on behalf of the Campaign Disclosure Project, a partnership of CGS, the California Voter Foundation and UCLA School of Law. The Model Law reflects two years of drafting research by CGS, detailed studies of the 50 states' laws by UCLA School of Law, an analytical grading of existing state campaign finance disclosure programs by the California Voter Foundation, and advice from a Campaign Disclosure Advisory Committee of national experts in campaign finance reform. The Model Law addresses new campaign finance practices such as issue ads, mandatory electronic filing of reports and other practices.

CGS designed this Model Campaign Finance Disclosure Law to be used by legislators, public interest groups, media representatives, citizens and others who are interested in improving the disclosure of campaign finance information at the federal, state or local levels. The Model Law is accompanied by a list of the 10 most important disclosure provisions that should be incorporated into any disclosure law.

No law is perfect; no law is loophole free; all laws can be improved. It is our hope that this Model Law will serve as a guide to those who are seeking to improve campaign finance disclosure laws in their own jurisdictions.

This Model Law draws on a number of sources, but principally from the excellent Council on Governmental Ethics Laws (COGEL) Model Law published in 1995, in the drafting of which CGS participated. Other sources include Model Laws written by CGS staff over the past 20 years, the California Political Reform Act of 1974, the Federal Election Campaign Act and a variety of state and local laws that provide creative solutions to the campaign finance disclosure problems that arise each time new laws are drafted or amended.

We appreciate the comments received from the Campaign Disclosure Advisory Committee, which met in San Diego in early 2004 and whose members were gracious with their time in answering emails and phone calls about specific provisions of the law.

We greatly appreciate the support of The Pew Charitable Trusts which have generously funded the Campaign Disclosure Project. The opinions expressed in this report are those of the authors and do not necessarily reflect the views of The Pew Charitable Trusts.

The Model Law's Ten Most Important Disclosure Provisions

1. **Mandatory Occupation and Employer Information for Contributors [§132.01 (3)(D-E)]**

Over one-half of the states require reporting of the occupations and employers of contributors. (Thirty-two states require occupations to be disclosed, while 27 mandate names of employers.) These disclosures are essential to a healthy campaign reporting program. If only contributor's names and addresses are listed (without occupations and employers), it is difficult to determine which industry, company or group is providing funds to a candidate, committee or ballot measure. Many money-laundering schemes have been unearthed because someone questioned whether persons of limited means could give especially large contributions. Without occupation and employer reporting, it is much more difficult to enforce the disclosure laws and determine if certain groups may be trying to influence the political process.

The Model Law requires occupation and employer reporting when a contribution must be itemized. It is also somewhat unique in that all necessary contributor information needs to be on file before a contribution can be deposited. This guarantees that the campaign committee will make every effort to determine occupation and employer information in a timely manner. Many jurisdictions require a campaign committee to use its best efforts to obtain the information. Some require committees to make only one request for the information, and if the contributor fails to reply, the committee can indicate "information not provided." Such a weak requirement means that many campaigns do not obtain the information for a majority of their contributors. The mandate in the Model Law should result in 100% compliance.

2. **Electioneering Communications (Issue Ad) Reporting [§138]**

The United States Supreme Court, in the recently decided case of *McConnell v. FEC*, 124 S.Ct. 619 (2003) upheld the constitutionality of disclosure of issue ads made right before an election. An "electioneering communication" or "issue ad" does not directly urge people to vote for or against a candidate. The ad usually discusses an issue and states why a candidate should support or oppose that issue. It may say: "Call legislator Smith and urge her to vote yes on this important issue." Only a few states require issue ad disclosures, but more and more states, particularly in judicial races, are finding huge sums of money being spent on

these ads. Without issue ad disclosures, voters will be unable to determine who is financing these ads and how much they are spending on them.

The Model Law requires disclosure of issue ads if they cost more than \$25,000, are made 45 days before an election and identify a candidate running in the election. It mandates disclosure of who is paying for the ad, who is contributing to the group running it, how much was spent, what candidate was mentioned, how much was spent on each candidate mentioned, and on what medium.

3. Mandatory Electronic Filing [§146.01 (3)]

Electronic filing of campaign disclosure reports is the most significant advance in campaign disclosure in 30 years. Campaign disclosure reports have moved from dusty file cabinets accessible only to people in the State Capitol to an electronic medium where anyone in the world can access them. In many cases, electronic filing requirements lead to the availability of more campaign finance information on state web sites. Reporters, public interest groups, voters, and academics now have the opportunity to examine and use the information that candidates and campaign committees file each year. While nearly every state has some type of electronic filing system, less than half (21) of the states actually require that at least some of their candidates and committees file electronically. States with voluntary filing report that only a small percentage of filers file electronically.

The Model Law requires candidates and committees that meet a \$10,000 monetary threshold for contributions or expenditures to file all their reports electronically. Small campaigns that do not use computers should not be mandated to file electronic reports, but almost every campaign that spends over \$10,000 keeps track of its contributions and expenditures using a computer.

4. Subvendor Information [§132.01 (15) (C)]

Nearly every jurisdiction requires candidates and campaign committees to report expenditures, but only 14 mandate that the expenditures be reported when a vendor, such as a campaign consultant, spends money on behalf of the candidate. Thus, a campaign could report expenditures of \$100,000 to consultant Smith, who then spends \$85,000 on TV and radio expenditures, which are not itemized.

The Model Law requires that spending made to consultants, advertising agencies and similar firms, as well as credit card expenses and candidate reimbursements, be itemized by the campaign.

5. Late Contribution Reporting [§134.01]

Almost every jurisdiction requires reporting of contributions before the election. However, nineteen do not mandate reporting of large contributions received after the closing date of the

last pre-election campaign statement filed before the election. Thus, large contributions received in the final days before an election could go unreported until well after the election.

The Model Law requires candidates and campaign committees to file daily special reports itemizing large contributions (\$1,000 or more) received after the closing date of the last pre-election statement. (Jurisdictions that have contribution limits that are lower than \$1,000 should have late reporting that reflect these lower limits.) These reports should be filed electronically.

6. Independent Expenditure and Late Independent Expenditure Reporting [§§104.18 and 136.01]

As more and more jurisdictions adopt laws limiting campaign contributions, groups that are totally independent of the candidates are spending more and more money. These independent expenditure committees are permitted by U.S. Supreme Court decisions to spend unlimited amounts of money. While many jurisdictions (34 states) require independent expenditure committees to file reports, a large number still do not. In addition, late independent expenditures must be tracked in order to determine which groups are making expenditures immediately before the election.

The Model Law requires any group making independent expenditures to file its own campaign reports as a committee at the same time as candidates file their reports. In addition, the Model Law requires that independent expenditures spent in the last few days of the election be reported daily.

7. Reasonable Thresholds for Contributions and Expenditures [§132.01 (3)(D) and (15) (C)]

Most jurisdictions require disclosure of both contributions and expenditures with a threshold of between \$50 and \$200, but one jurisdiction (New Jersey) has a contribution disclosure threshold of \$400. Seven, including New Jersey, require disclosure of all expenditures, even of \$1. More reasonable disclosure thresholds still provide information to the public but they reduce the amount of work for committees. Reasonable threshold amounts should also be considered because some donors make political contributions under the itemized disclosure amount to maintain their privacy.

The Model Law recommends that thresholds for both contribution and expenditure disclosure be \$100. (However, jurisdictions can decide that the threshold could be as low as \$50 or as high as \$200 and be within a range that would provide adequate disclosure.)

8. Searchable Online Databases [§146.01 (10)]

Many jurisdictions offer searchable databases on their web sites. Others scan campaign finance data into a PDF file to allow the public to view the data. Unless the data are put into

a searchable online database, it is very difficult for the public to sort, summarize, or analyze the information in a meaningful way. About half the states provide some searchable information.

The Model Law recommends that all electronic files containing campaign financing information be placed in an online database that allows searches of contributions and expenditures.

9. Annual Summaries [§146.01 (11)]

Thousands of contributions and expenditures are reported each year to agencies throughout the nation. Much of this information is posted on the agencies' websites, but it is so much information that the public is unable to sift through all of it. A few agencies (14) provide summaries of who has filed, how much they have raised and spent, and other summaries of all candidates, committees and independent expenditures committees. When agencies provide these summaries, campaign disclosure has achieved its goal of informing the citizens about how much money is being raised and spent and what the trends are in campaign financing.

The Model Code recommends that all agencies summarize the data they receive to the fullest extent possible.

10. Charitable solicitations disclosed [§142.01]

A few jurisdictions require candidates and officeholders to disclose, on a periodic basis, charitable contributions they have raised. The purpose of this provision is to provide more information about officeholders who may be using their position to solicit funds from persons who are trying to influence the officeholder. Charities are sometimes closely connected to an officeholder, and a contribution to the charity is as appreciated by the officeholder as a contribution to the officeholder directly.

The Model Law recommends that charitable contributions raised by a candidate or officeholder be reported annually by the officeholder.

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CAMPAIGN FINANCE DISCLOSURE

Model Law

§100 Model Campaign Finance Disclosure Act

This shall be known as the Model Campaign Finance Disclosure Act of 2004.

§102 Statement of Intent and Purposes

§102.01 Legislative Findings

The legislature finds and declares the following:

1. Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates
2. The rapidly increasing costs of political campaigns have forced many candidates to raise larger percentages of money from interest groups with a specific financial stake in matters before the state government. This has caused the public perception that votes are being improperly influenced by contributions. This perception is undermining the credibility and integrity of the governmental process.
3. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

- 1 4. High campaign costs are forcing officeholders to spend more time on fundraising
2 and less time on public business. The constant pressure to raise contributions is
3 distracting officeholders from urgent governmental matters.
4
- 5 5. Officeholders are responding to high campaign costs by raising large amounts of
6 money in years in which a general election is not held. This fundraising distracts
7 them from important public matters, encourages contributions that may have a
8 corrupting influence, and gives incumbents an unfair advantage over potential
9 challengers.
10
- 11 6. The integrity of the governmental process, the competitiveness of campaigns, and
12 public confidence in elective officials are diminishing.
13
- 14 7. Disclosure of contribution and expenditures is needed to maintain the integrity of
15 the process.

16 **§102.02** Legislative Intent

17
18 This Act is intended to serve the following purposes:
19

- 20 1. To ensure that individuals and interest groups have a fair and equal opportunity to
21 participate in the elective and government processes.
22
- 23 2. To improve the disclosure of contribution sources in reasonable and effective ways.
24
- 25 3. To help restore public trust in governmental institutions and the electoral process.
26
- 27 4. To cooperate in the standardization of reporting formats among states and other
28 jurisdictions so that interstate as well as intrastate sources of political money can be
29 known.
30
- 31 5. To regulate ads mentioning candidates that are published or broadcast right before
32 the election so that the public knows who is paying for such ads.

33 **§104** Definitions

34
35 The definitions in this section apply throughout this Act.
36

37 **§104.01** “Agency” means the entity responsible for the regulation and
38 enforcement of campaign finance reporting and disclosure activities.

1 **Comment:**

2
3 *This generic term is used throughout the Model Law. The term “agency” should be*
4 *replaced by the term most commonly used to refer to the appropriate entity.*

5
6 **§104.02** “Ballot measure” means an initiative, referendum, recall, or any
7 proposition or measure submitted to voters for their approval, or that is intended to be
8 submitted to a vote at an election, whether or not it qualifies for the ballot.

9
10 **§104.03** “Campaign statement” means an itemized report that is prepared on a
11 form prescribed by the agency and that provides the information required by this chapter
12 and any other information required by regulation of the agency.

13
14 **§104.04** “Candidate” means an individual who seeks nomination or election to
15 elective office. An individual is a candidate when the individual either:

- 16
17 1. Files a statement of candidacy or petition for nomination for office with the agency
18 or appropriate filing officer;
 - 19
20 2. Is nominated for office by:
 - 21
22 A. A party at a primary;
 - 23
24 B. Nominating convention; or
 - 25
26 C. Petition for nomination.
 - 27
28 3. Receives and accepts contributions, makes expenditures, or gives consent to an
29 individual, organization, political party, or political committee to solicit or receive
30 and accept contributions or make expenditures to seek nomination or election to any
31 office at any time, whether or not the office for which the individual will seek
32 nomination or election is known when:
 - 33
34 A. The contribution is received and retained; or
 - 35
36 B. The expenditure is made;
 - 37
38 4. Is an officeholder who is the subject of a recall election;
 - 39
40 5. Has qualified to have write-in votes on his or her behalf counted by election
41 officials; or
 - 42
43 6. Is a judge who is on the ballot for a retention election.
- 44

1 **Comment:**

2
3 *This section is intended to cover all persons who seek office at an election, regardless*
4 *of the type of election by which the office is obtained. For example, a person seeking*
5 *appointment by a political party caucus to fill a vacant office would be a candidate*
6 *under this section. This definition also covers unannounced candidates who are*
7 *accepting contributions or making expenditures in obvious furtherance of a candidacy.*
8 *Write-in candidates who receive contributions or make expenditures will be required*
9 *to file campaign statements.*

10
11 **§104.05** “Candidate committee” means the entity designated by a candidate to:

- 12
13 1. Promote the candidate’s candidacy; and
14
15 2. Serve as the recipient of all contributions and the disbursing officer of all expenditures.

16
17 **§104.06** “Closing date” means the date through which any report or statement
18 filed under this chapter is required to be complete.

19
20 **§104.07** “Committee” includes a candidate committee, controlled committee,
21 legislative caucus committee, party committee, and a political committee.

22
23 **Comment:**

24
25 *A committee is defined not as a physical person, but rather as an artificial one.*

26
27 **§104.08** Contribution

28
29 1. “Contribution” means:

- 30
31 A. A gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance,
32 payment, transfer, gift or other rendering of money, distribution, or deposit of money,
33 services or anything else of value, whether tangible or intangible, unless it is clear from
34 the surrounding circumstances that it is not made for political purposes;
35
36 B. A written contract, promise, or agreement to make a contribution for any purpose
37 described in subsection (A);
38
39 C. An expenditure made by a person or political committee, other than a candidate’s
40 committee, with the cooperation of, or in consultation with, a political committee, a
41 candidate, candidate committee, or candidate’s agent or that is made in concert with, or
42 at the request or suggestion of, a candidate, candidate committee, or candidate’s agent;
43

- 1 D. The payment of compensation to a person other than a candidate or political committee
2 for personal services that are rendered to a candidate or political committee at a rate less
3 than the reasonable and customary charge to the candidate or political committee for
4 those services or without payment of full and adequate consideration;
5
6 E. Funds or anything of value received by a political committee that are transferred from
7 another political committee or other source;
8
9 F. The purchase of tickets for an event such as a meal, reception, rally, and a similar
10 fundraising event;
11
12 G. The candidate's own money used on behalf of that candidate's candidacy; or
13
14 H. The granting of a discount or rebate:
15
16 i. Not extended to the public generally; or
17
18 ii. By a television or radio station not extended equally to all candidates for
19 the same office.
20
21 I. A gift, subscription, loan, guarantee or forgiveness of a loan, conveyance,
22 advance, payment, transfer, gift or other rendering of money, distribution, or
23 deposit of money, services or anything else of value, whether tangible or
24 intangible, received by a party committee.
25

26 **Comment:**

27
28 *This language is intended to cover all contributions made in the normal context of*
29 *promoting or opposing a candidacy. This definition also covers contributions to a*
30 *political party for more general purposes and candidacies that may be suspended in*
31 *mid-campaign.*
32

33 2. Contribution does not include the following:

- 34
35 A. Volunteer personal services.
36
37 B. A payment made by an individual for the individual's own travel expenses if the
38 payment is made voluntarily without an understanding or agreement that the
39 payment will be repaid to the individual.
40
41 C. A payment made by an occupant of a residence or office for costs related to a
42 meeting or fundraising event held in the occupant's residence or office if the costs
43 for the meeting or fundraising event do not exceed five hundred dollars (\$500).
44 However, if the occupant hosts more than one (1) event in an election cycle for

1 the same beneficiary, all subsequent payments that exceed five hundred dollars
2 (\$500) in the aggregate are a contribution.

3

4 D. A loan of money made in the ordinary course of business by a financial
5 institution authorized to transact business in this state at terms and interest rates
6 generally available to a member of the public without regard to that person's
7 status as a public official by the institution.

8

9 E. Nonpartisan voter registration activities.

10

11 F. A communication by a corporation, organization, or association, other than a
12 political party, aimed at its members, owners, stockholders, executive
13 administrative personnel, or their families.

14

15 G. An offer or tender of a contribution if the offer or tender is:

16

17 i. Expressly and unconditionally rejected and returned to the contributor within
18 two (2) days; and

19

20 ii. Is not negotiated, deposited, or used, including as collateral, or is escheated
21 to the state if the contribution is an anonymous contribution.

22

23 **§104.09** 1. "Controlled Committee" means a political committee which, in
24 connection with the making of expenditures:

25

26 A. Is controlled directly or indirectly by a candidate or ballot measure proponent; or

27

28 B. Acts jointly with a candidate, ballot measure proponent or controlled committee.

29

30 2. A candidate controls a political committee if the candidate, the candidate's agent, or
31 any other political committee the candidate controls has a significant influence on
32 the actions or decisions of the political committee.

33

34 **§104.10** "Corporation" means an entity organized in the corporate form under
35 federal law or the laws of this state.

36

37 **§104.11** "Election" means a primary, general, special, runoff, or recall election in
38 which a candidate or ballot measure is on the ballot. The primary and general or special
39 elections are separate elections for purposes of this chapter.

40

1 **§104.12** “Election cycle” means the period beginning the day after the general
2 election, up to and including the following general election, including a primary election,
3 special primary election, and the following special general election.

4
5 **§104.13** “Elective office” means any state, judicial, county, municipal, state or
6 other district, ward, township, or other political subdivision office or any political party
7 office that is filled by a vote. “Elective office” also includes membership on a county
8 central committee of a qualified political party if elected to that position. “Elective
9 office” shall include seeking a leadership position within a legislative body.

10
11 **Comment:**

12
13 *If a legislative official raises money in order to get the votes of colleagues in order to*
14 *be elected to a leadership position, such as Speaker, the official should report the*
15 *funds as if they were campaign contributions. In Florida, elected officials running for*
16 *leadership positions refused to disclose where they got funds to conduct their*
17 *campaigns because the law was not clear.*

18
19 **§104.14** “Elective official” means an individual elected to a state, regional,
20 county, judicial or municipal office, or an individual who is appointed to fill a vacancy
21 in the office, whether or not the individual has yet taken office.

22
23 **§104.15** 1. “Expenditure” means a purchase, payment, distribution, loan,
24 forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of
25 funds between political committees, a promise to make a payment, or a gift of money or
26 anything of value, unless it is clear from the surrounding circumstances that it is not
27 made for political purposes.

28
29 2. Any purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan
30 by a third party, advance, deposit, transfer of funds between political committees, a
31 promise to make a payment, or a gift of money or anything of value, made by a party
32 committee is an expenditure.

33
34 3. An expenditure does not include the following:

35
36 A. A loan of money, made in the ordinary course of business, by a financial
37 institution authorized to transact business in this state on terms available to
38 members of the general public without regard to that person’s status as a public
39 official by the institution.

40
41 B. Nonpartisan voter registration activities.

42

- 1 C. Communication by a corporation, organization, or association, other than a
2 political party, aimed at its members, owners, stockholders, executive
3 administrative personnel, or their families
4
- 5 D. Uncompensated services provided by an individual volunteering the individual's
6 time.
7
- 8 E. A payment made by an occupant of a residence or office for costs related to a
9 meeting or fundraising event held in the occupant's residence or office if the costs
10 for the meeting or fundraising event do not exceed five hundred dollars (\$500).
11 However, if the occupant hosts more than one event per election for the same
12 beneficiary, all subsequent payments that exceed five hundred dollars (\$500) in
13 the aggregate are an expenditure.
14
- 15 F. An offer or tender of an expenditure if the offer or tender is expressly and
16 unconditionally rejected and returned to the person making the expenditure
17 within the time prescribed by this Act.
18
- 19 G. A payment made by an individual for the individual's own travel expenses if the
20 payment is made voluntarily without an understanding or agreement that the
21 payment will be repaid to the individual.
22

23 **§104.16** "Expenditures incurred" means an amount owed to a creditor for purchase
24 of delivered goods or completed services.
25

26 **§104.17** "Immediate family" means an unemancipated child residing in a
27 candidate's household, a spouse of a candidate, or an individual claimed by that
28 candidate or that candidate's spouse as a dependent for federal income tax purposes.
29

30 **§104.18** "Independent expenditure" means an expenditure made by a person to
31 expressly advocate the election or defeat of a clearly identified candidate or the
32 qualification, passage or defeat of a ballot measure, but which is not made to, controlled
33 by, coordinated with, requested by, or made upon consultation with a candidate, political
34 committee, or agent of a candidate or political committee.
35

36 **§104.19** "In-kind" contribution or expenditure means goods or services provided
37 to or by a person at no charge or for less than their fair market value.
38

39 **§104.20** 1. "Intermediary" means an individual who transmits a contribution to a
40 candidate or political committee from another person unless the contribution is from the
41 individual's employer, immediate family, or an association to which the individual
42 belongs.

- 1 2. A treasurer or a candidate is not an intermediary for purpose of the political
2 committee that the treasurer or candidate serves.
- 3
- 4 3. A professional fundraiser is not an intermediary if the fundraiser is compensated for
5 fundraising services at the usual and customary rate.
- 6
- 7 4. A volunteer hosting a fundraising event at the individual's home is not an
8 intermediary for purposes of that event.
- 9

10 **§104.21** "Labor organization" means a:

- 11
- 12 1. Labor union;
- 13
- 14 2. Collective bargaining organization;
- 15
- 16 3. Local, state, or national organization to which a labor organization pays membership
17 or per capita fees, based upon its affiliation and membership; or
- 18
- 19 4. Trade or professional association that receives its funds exclusively from
20 membership dues or service fees, whether organized inside or outside the state.
- 21

22 **§104.22** "Late contribution" means any contribution, including a loan, that totals
23 in the aggregate one thousand dollars (\$1,000) or more that is made to or received by a
24 candidate, a controlled committee, or a political committee formed or existing primarily
25 to support or oppose a candidate or ballot measure before the date of the election at
26 which the candidate or ballot measure is to voted on but after the closing date of the last
27 campaign statement required to be filed before the election.

28

29 **§104.23** "Late independent expenditure" means any independent expenditure that
30 totals in the aggregate one thousand dollars (\$1,000) or more and is made for or against
31 any specific candidate or ballot measure involved in an election before the date of the
32 election but after the closing date of the last campaign statement required to be filed
33 before the election by a candidate or political committee participating in such election.

34

35 **§104.24** 1. "Legislative caucus committee" means a political committee
36 controlled by the caucus of each political party of each house of the legislature.

37

38 2. Each party of each house may establish only one such committee.

39

40 3. A legislative caucus committee is not a candidate-controlled committee.

41

42 **§104.25** "Loan" means a transfer of money, property, guarantee, or anything of
43 value in exchange for an obligation, conditional or not, to repay in whole or part.

1 **§104.26** “Party committee” means the generally recognized organization which,
2 according to the bylaws of the political party, is responsible for the daily operation of the
3 party at a state or local level.

4
5 **§104.27** “Person” means an individual, proprietorship, firm, partnership, joint
6 venture, joint stock company, syndicate, business trust, estate, company, corporation,
7 association, club, political committee, organization, federal, state or local
8 governmental entity or agency, or group of persons acting in concert.

9
10 **Comment:**

11
12 *If the jurisdiction permits contributions from non-individuals, it must define “person”*
13 *broadly. Governmental agencies are included in the definition because if such an*
14 *agency is engaging in campaigning, such activity should be reported even though it is*
15 *almost certainly illegal.*

16
17 **§104.28** “Political committee” means a person or a combination of persons who
18 directly or indirectly do any of the following:

- 19
20 1. Receives and accepts contributions aggregating at least five hundred dollars (\$500)
21 in a calendar year;
22
23 2. Makes independent expenditures aggregating at least five hundred dollars (\$500) in a
24 calendar year; or
25
26 3. Makes contributions aggregating at least fifty thousand dollars (\$50,000) in a
27 calendar year to, or at the request of, a candidate or political committee.

28
29 **Comment:**

30
31 *Subsection (3) creates a special status for an individual who makes large*
32 *contributions to certain political committees. Such an individual or entity is required to*
33 *report the making of such contributions, but is not required to file a registration*
34 *statement.*

35
36 **§ 104.29** “Political purpose” means an act done for the purpose of:

- 37
38 1. Influencing the election or nomination for election of any individual to elective
39 office;
40
41 2. Influencing the recall from or retention in office of an individual holding elective
42 office;

1 3. Payment of expenses incurred as a result of a recount at an election;

2
3 4. Influencing a ballot measure vote.

4
5 **§104.30** “Transfer” means the movement or exchange of funds or anything of
6 value between political committees, party committees, or candidate committees.

7
8 **§104.31** “Volunteer” means an individual who provides services free of charge.

9 **§106 Contributions**

10
11 **§106.01** Aggregation of Contributions

12
13 For purposes of contributions, the following apply:

14
15 1. All contributions made by a political committee whose contribution or expenditure
16 activity is financed, maintained, or controlled by a corporation, labor organization,
17 association, political party, or any other person or political committee, including a
18 parent, subsidiary, branch, division, department, or local unit of the corporation,
19 labor organization, association, political party, or any other person, or by a group of
20 such persons are considered made by the same political committee.

21
22 2. Two (2) or more entities are treated as a single entity if the entities:

23
24 A. Share the majority of members on their boards of directors;

25
26 B. Share two (2) or more officers;

27
28 C. Are owned or controlled by the same majority shareholder or shareholders or
29 persons;

30
31 D. Are in a parent-subsidiary relationship; or

32
33 E. Have by-laws so stating.

34
35 3. A candidate committee and a political committee other than a candidate committee
36 are treated as a single committee if the committees both have the candidate or a
37 member of the candidate’s immediate family as an officer.

1 **Comment:**

2
3 *The statute should contain a strict attribution section so that contributions from the*
4 *same source are aggregated. This section states that contributions would be*
5 *aggregated from corporate parents, subsidiaries, and corporations that share the*
6 *same officers, majority of boards of directors, or are owned or controlled by the same*
7 *majority stockholder.*

8
9 *This provision also aggregates contributions made to a candidate committee, such as*
10 *the “John Doe for Governor Committee,” and a candidate-controlled committee, such*
11 *as the “Governor John Doe Good Government Committee.”*

12
13 **§106.02** Attribution and Aggregation of Family Contributions

- 14
15 1. Contributions by a husband and wife are considered separate contributions and not
16 aggregated.
17
18 2. Contributions by unemancipated children under eighteen (18) years of age are
19 considered contributions by their parents and attributed proportionately to each
20 parent. Fifty percent (50%) of the contributions are attributed to each parent or, in
21 the case of a single custodial parent, the total amount is attributed to the parent.
22

23 **Comment:**

24
25 *Contributions by unemancipated children have become a problem in areas with strict*
26 *contribution limits. In Kentucky's 1987 gubernatorial campaign, some “politically*
27 *astute” 13 year-olds contributed as much as \$3,000 each to a candidate. This*
28 *provision eliminates the loophole that could allow parents to use their children as a*
29 *way to circumvent the limits. However, it is possible that this provision will be declared*
30 *unconstitutional because a recent U.S. Supreme Court case (McConnell v. FEC) ruled*
31 *that the government could not prohibit contributions by persons under 18. A less*
32 *prohibitive alternative would be to require the age of the unemancipated children*
33 *making a contribution to be reported. This alternative can alert interested persons to*
34 *situations in which candidates or their contributors feel that it is necessary to resort to*
35 *the collection of such contributions.*

36
37 *The state may also wish to stipulate by administrative rule that the individual signing*
38 *the check is presumed to be the maker of the contribution unless the contribution is*
39 *from a trust. The law on this matter may be different in community property states.*
40

41 **§106.03** Restrictions on Loans

- 42
43 1. A loan is considered a contribution from the maker and the guarantor of the loan.
44
45 2. A loan to a candidate or the candidate committee must be by written agreement.

1 3. The proceeds of a loan made to a candidate:

2
3 A. By a commercial lending institution;

4
5 B. Made in the regular course of business;

6
7 C. On the same terms ordinarily available to members of the public; and

8
9 D. Which is secured or guaranteed;

10
11 are not subject to this Act.

12
13 **Comment:**

14
15 *If a loan is from a commercial lending institution, the loan should not be regarded as a*
16 *campaign contribution if made in the ordinary course of business. But loans from*
17 *friends or non-lending institutions should be treated as if they were contributions.*
18 *Guarantors of loans are very important and should be regulated. Extensions of credit*
19 *can also be very valuable to a candidate. For example, a campaign consulting firm*
20 *may pay certain expenses for a candidate and hope to be repaid after the election.*

21
22 *A candidate may, however, personally qualify for a loan and contribute the funds to*
23 *the campaign. Such a practice would be readily noticed under the reporting*
24 *provisions, and the public would no doubt soon learn of this practice. In addition, the*
25 *candidate, not the committee, would be responsible for repaying the loan, making*
26 *most candidates particularly wary about engaging in the practice. This provision*
27 *should be constitutional, as a candidate may instead choose to make a contribution,*
28 *rather than a loan.*

29
30 **§106.04** Anonymous Contributions

31
32 A person shall not make to a political committee and a political committee shall not
33 accept an anonymous contribution exceeding one hundred dollars (\$100) in a calendar
34 year.

35
36 The recipient of an anonymous contribution of more than one hundred dollars (\$100)
37 shall not keep the contribution, but shall within five (5) days remit the contribution to the
38 General Fund of the state, and report the action to the agency.

39
40 **Comment:**

41
42 *Anonymous contributions must be regulated to ensure that the system works.*
43 *Practicality suggests that tracing small anonymous contributions (such as those*
44 *obtained through “passing the hat” at a fundraising event) is not possible, but a*
45 *reasonable threshold should be established to prevent political committees from*

1 *claiming that they do not know the source of large contributions. Requiring the*
2 *anonymous funds to escheat to the state gives political committees a good incentive*
3 *to discover the identity of the donor.*

4
5 *Regulations should be promulgated that would set forth standards for “good faith”*
6 *transmission of money required to escheat to the state.*

7
8 **§106.05** Contributions on Behalf of Another

9
10 A person shall not make as contribution on behalf of another person, or while acting as
11 the intermediary or agent of another person, without disclosing to the recipient of the
12 contribution both his or her full name, street address, city, state, zip code, occupation,
13 name of employer (if any) or place of business if self-employed, and the same
14 information for each contributor for whom the individual serves as intermediary or
15 agent.

16
17 **Comment:**

18
19 *This section is directed at highlighting the practice of “bundling” of contributions, a*
20 *procedure by which entities have seen fit to increase their influence with elective*
21 *officials. This section severely restricts the ability of entities to bundle individual*
22 *contributions, and attempts to close loopholes that might otherwise permit individuals*
23 *to take up the slack for such entities. Individuals are permitted exemptions for certain*
24 *limited activities, including hosting small fundraising events and presenting the*
25 *candidate with checks collected at the event, and transmitting contributions from their*
26 *employer to a political committee.*

27
28 **§106.06** Cash Contributions

29
30 A person shall not make to a political committee and a political committee shall not
31 accept a contribution of more than one hundred dollars (\$100) in cash.

32
33 A political committee shall not make any contribution in cash.

34
35 **§106.07** Certain Contributions Required to be by Written Instrument

36
37 A person shall not make a contribution of more than one hundred dollars (\$100), other
38 than an in-kind contribution, except by written instrument containing the name of the
39 donor and the name of the payee.

40
41 A political committee shall not make any contribution, other than in-kind, except by
42 written instrument containing the name of the donor and the name of the payee.

1 **Comment:**

2
3 *Cash contributions are hard to audit and difficult to trace. Upper limits should be*
4 *placed upon contributions that are not made by written instrument.*

5
6 **§106.08** Use of Officeholder Funds

7
8 All funds received by an elective officer or candidate (other than funds received from a
9 governmental agency) that are used for officeholder expenses shall be subject to the
10 provisions of this Act.

11
12 **Comment:**

13
14 *The purpose of this section is to disclose contributions to officeholder funds. Such*
15 *funds are often established by incumbents to pay for legitimate expenses that cannot*
16 *be paid for by the government.*

17 **§114 Expenditures**

18
19 **§114.01** When Expenditures Can be Made

- 20
21 1. An expenditure may not be authorized or made by a political committee while there
22 is a vacancy in the office of campaign treasurer.
23
24 2. A candidate may make expenditures on behalf of the candidate's candidacy only
25 through a contribution to the candidate's committee.
26
27 3. An expenditure of more than one hundred dollars (\$100):
28
29 A. May not be made in cash; and
30
31 B. Must be made by written instrument drawn upon the campaign account
32 containing the name of the political committee and the name of the recipient.
33
34 4. An expenditure of more than one hundred dollars (\$100) must be accounted for by a
35 written receipt indicating:
36
37 A. The date of the expenditure;
38
39 B. The amount;
40
41 C. The name and street address, city, state, and zip code of the recipient;
42
43 D. The reason for the expenditure; and

1 E. The form of the expenditure (including cash, credit card, check, or money order).

2
3 **Comment:**

4
5 *The preceding two subsections provide accountability for expenditures. Cash*
6 *expenditures, particularly those occurring shortly before Election Day for the purpose*
7 *of providing “walking around” money, can be a means for evading other provisions of*
8 *the law.*

9
10 5. An expenditure may not be made, other than for overhead or normal operating
11 expenses, by an agent, independent contractor, or advertising agency, on behalf of or
12 for the benefit of a political committee unless the expenditure is reported by the
13 political committee as if the expenditure were made directly by the political
14 committee. The agent, independent contractor, or advertising agency shall make all
15 information required to be reported available to the political committee.

16
17 **Comment:**

18
19 *This provision is intended to ensure that information regarding all important*
20 *expenditures is made public. Lump sum expenditures to “consultants” or “advertising*
21 *agencies” often mask the true purpose of the expenditure.*

22
23 6. An expenditure may not be made that is clearly in excess of the fair market value of
24 services, materials, facilities, or other things of value received in exchange unless it
25 is also disclosed as an in-kind contribution.

26
27 **Comment:**

28
29 *This subsection is intended to prevent a political committee from making an excess*
30 *contribution to a person in exchange for something of minimal value. Such an*
31 *exchange for less than full value may be subterfuge for a candidate or political*
32 *committee rewarding a supporter, buying a person’s support, or otherwise using*
33 *political committee resources in a manner contrary to good public policy.*

34
35 **§114.02** Petty Cash Fund

36
37 1. A campaign treasurer may withdraw from the campaign account not more than five
38 hundred dollars (\$500) to establish or replenish a petty cash fund for the candidate or
39 political committee at any time, but at no time may the fund exceed five hundred
40 dollars (\$500).

41
42 2. An expenditure from the petty cash fund:

43
44 A. May not be made in an amount of more than one hundred dollars (\$100);

1 B. May be made only for office supplies, transportation expenses, and other
2 necessities; and

3
4 C. May not be used for the purchase of time, space, or services from the media.
5

6 **§114.03** Independent Expenditures
7

8 1. A political committee that makes an independent expenditure of five hundred dollars
9 (\$500) or more for a written communication to voters supporting or opposing a
10 candidate shall include the following statement on the communication: “NOTICE
11 TO VOTERS (Required by Law) This advertisement is not authorized or approved
12 by any candidate. It is paid for by (name, street address, city, state and zip code).”
13

14 2. This statement must:

15
16 A. Appear on each page or fold of the written communication in at least ten (10)
17 point type (or in type at least ten percent (10%) of the largest size type used in a
18 written communication directed at more than one voter, such as a billboard or
19 poster, whichever is larger);
20

21 B. Not be subject to the half-tone or screening process; and

22
23 C. Be in a printed or drawn box set apart from any other printed matter; or
24

25 D. Be clearly spoken on any broadcast advertisement.

26 **§116** **Statement of Organization and Designation of**
27 **Candidate Committees**
28

29 **§116.01** Statement of Organization and Designation of Candidate Committees
30

31 1. A candidate, who raises or spends at least five hundred dollars (\$500), shall
32 designate one (1) candidate committee by filing a statement of organization no later
33 than ten (10) days after becoming a candidate.
34

35 2. A candidate shall not designate more than one (1) candidate committee. This does
36 not prohibit a candidate from participating in a political committee established to
37 support a slate of candidates, which includes the candidate, or participating in joint
38 fundraising efforts by candidates when a separate political committee is established
39 for that purpose and all contributions are disbursed to and accounted for on a pro rata
40 basis by the benefiting candidates.
41
42

1 **Comment:**

2
3 *This section imposes an organizational framework upon candidates who raise a*
4 *minimal amount of money for the purpose of identifying those who will be held*
5 *accountable for the financial records of the committee. Most states require candidates*
6 *to form a principal campaign committee, and many states restrict the candidate's*
7 *participation to one committee, with certain exceptions such as slate committees or*
8 *joint fundraising efforts. In almost every circumstance, a candidate will be able to*
9 *provide the information required by this section on the statement of organization.*

10 **§118 Committee Officers**

11
12 **§118.01** General Provisions

- 13
14 1. A candidate shall appoint the treasurer of his or her committee.
15
16 2. A committee treasurer shall accept the appointment, in writing, on the statement of
17 organization.
18
19 3. A treasurer or agent of a candidate's committee shall be a resident of this state.
20
21 4. A deputy treasurer may also be appointed and serve in the treasurer's capacity if the
22 treasurer is unable to perform the treasurer's duties. The designation may be on the
23 statement of organization.

24
25 **Comment:**

26
27 *These provisions are not particularly restrictive; however, they do require that those*
28 *with treasurer responsibilities for candidate committees reside within the state, and*
29 *also that officers must accept their appointments in writing. These two requirements*
30 *should enhance enforcement capabilities. The former makes it easier to obtain*
31 *jurisdiction over the individuals, while the latter gives the agency written proof that*
32 *these officers are aware of their responsibilities and accept them.*

33
34 *Bonding of treasurers was considered, but the potential chilling effect that it might have*
35 *upon grassroots activity and its logistic difficulties would tend to outweigh any*
36 *advantages that it might otherwise offer.*

37
38 **§118.02** Candidate Treasurer Vacancies

- 39
40 1. The candidate may remove a treasurer from office.
41
42 2. When a vacancy occurs in the office of treasurer, the candidate shall:
43

- 1 A. Notify the agency no later than five (5) business days after the vacancy;
- 2
- 3 B. Assume the duties and responsibilities of the vacant office;
- 4
- 5 C. Notify the agency of the appointment of an officer to fill the vacancy; and
- 6
- 7 D. Provide all information required by the statement of organization, for the new
- 8 appointee, no later than five (5) business days after the appointment.
- 9
- 10 3. No contribution or expenditure shall be accepted or made by or on behalf of a
- 11 political committee when there is a vacancy in the office of the treasurer.
- 12
- 13 4. If a candidate dies and there is no living officer, the executor of the candidate's
- 14 estate shall dissolve the committee as soon as is practicable under terms of the
- 15 dissolution procedures provided under this Act and the time limits imposed for
- 16 probating an estate.

17
18 **Comment:**

19
20 *This section establishes the candidate as the individual who must accept*
21 *responsibility when a treasurer's vacancy occurs in his or her committee. Subsection*
22 *(4) designates the candidate's executor as the responsible party for cleaning up*
23 *committee activities in the event the candidate dies and the committee does not have*
24 *other officers.*

25
26
27 **§118.03** Noncandidate Political Committee Treasurer Vacancies

- 28
- 29 1. When a vacancy occurs in a noncandidate political committee's office of treasurer,
- 30 the political committee shall:
 - 31
 - 32 A. Notify the agency no later than five (5) business days after the vacancy;
 - 33
 - 34 B. Designate an individual qualified under this Act to assume the duties and
 - 35 responsibilities of the vacant office no later than five (5) business days after the
 - 36 vacancy;
 - 37
 - 38 C. Notify the agency of the appointment of an officer to fill the vacancy; and
 - 39
 - 40 D. Provide all information required by the statement of organization, for the new
 - 41 appointee, no later than five (5) business days after the appointment.
 - 42
- 43 2. No contribution or expenditure shall be accepted or made by or on behalf of a
- 44 political committee when there is a vacancy in the office of the treasurer.

1 **Comment:**

2
3 *This section outlines procedures and timetables to be met when a treasurer's vacancy*
4 *occurs in a noncandidate political committee.*

5
6 **§118.04** Duties of a Treasurer

- 7
8 1. A political committee treasurer shall maintain and preserve an account of the
9 following:
10
11 A. The total of contributions accepted by the political committee.
12
13 B. The full name, street address, city, state, and zip code, and, in the case of an
14 individual, the occupation and employer, of each person making a contribution of
15 \$ [should range from \$25 to \$100, but less than the amount required to be
16 disclosed on reports] or more, including the date and amount of the contribution.
17
18 C. The total of expenditures made by or on behalf of the political committee.
19
20 D. The full name street address, city, state, and zip code of each person to whom an
21 expenditure is made or more than \$ [should range from \$25 to \$100, and should
22 be consistent with the amount specified in subdivision (B)], including the date,
23 amount, purpose, and beneficiary of the expenditure.
24
25 E. All receipted bills, canceled checks, or other proofs of payment, with an
26 explanation of each, for each expenditure.
27
28 2. No expenditure shall be made by or on behalf of a political committee without the
29 authorization of the treasurer or that of his or her designated agents.
30
31 3. The treasurer shall maintain and preserve all receipted bills and accounts required
32 by the Act for at least four (4) years from the date of the last required report.
33
34 4. The treasurer shall file, in a timely manner, the appropriate reports on the forms
35 prescribed by the agency.
36
37 5. A report submitted to the agency shall be signed by the treasurer, who shall attest to
38 the report's accuracy and veracity.
39
40 6. The treasurer shall file an amended report as required under this Act if the treasurer
41 has knowledge of an error or omission on a filed report of the political committee.
42
43

1 **Comment:**

2

3 *This section establishes the treasurer as the principal officer in charge of financial*
4 *records and transactions. Accurate records ensure more complete disclosure.*
5 *Treasurers should maintain a record keeping system consistent with the reporting*
6 *requirements.*

7

8 *Shown is a range at which complete information is required to be maintained by the*
9 *treasurer. This amount must be lower than what is required to be itemized on the*
10 *actual reports. The lower the amount is, the more disclosure is possible, but*
11 *compliance costs are also higher. Although must states collect a limited amount of*
12 *information on contributions and expenditures beneath a certain threshold, treasurers*
13 *may want to obtain fuller disclosure for any transaction, regardless of the amount, to*
14 *provide accurate reports once the threshold level is met.*

15

16 *The treasurer is in a position to monitor contribution limits and record transactions as*
17 *they occur. The treasurer should, as a rule, obtain the full name and street address,*
18 *city, state and zip code of each person making a contribution of more than \$25,*
19 *including the date and amount of the contribution; and in the case of an individual,*
20 *the person's occupation, and employer (and, if self-employed, the name and place of*
21 *the business).*

22 **§120 Exclusive Campaign Depository and Campaign**
23 **Account**

24

25 **§120.01 Campaign Accounts**

26

27 1. A political committee shall establish an exclusive campaign depository, and if a
28 candidate's committee or a political committee is located in the state, the depository
29 shall be:

30

31 A. In a financial institution that ordinarily conducts business within the state; and

32

33 B. If possible, in an office located within the state that ordinarily conducts business
34 with the general public.

35

36 2. The political committee shall maintain a campaign account in the depository in the
37 name of the political committee. Acronyms shall not be used.

38

39 3. Expenses paid on behalf of a political committee shall be drawn from the campaign
40 account and issued on a check signed by the treasurer or the chair.

41

42 4. All contributions received by the candidate or political committee treasurer, directly
43 or indirectly, shall be deposited by the treasurer, within ten (10) days after receipt in

1 the campaign account. All contributions received by an agent of a political
2 committee shall be provided to the treasurer not later than five (5) days after receipt.

3
4 5. A political committee shall be required to disclose the location of its campaign
5 account.

6
7 6. A contribution of (between \$25 and \$100; an amount consistent with the amount in
8 §118.04 (1)(B)) or more may not be deposited until the political committee receives
9 all the information about the contributor required by 118.04 (1)(B).

10
11 **Comment:**

12
13 *This section requires campaign accounts to be established in a single institution. The*
14 *accounts are to be maintained within the state for a candidate's committee or a*
15 *political committee located in the state to make them easier to access and audit. The*
16 *single depository for a political committee is advisable to eliminate the commingling of*
17 *contributions. However, this restriction may pose problems for candidates, particularly*
18 *statewide candidates. An option would be to allow statewide candidates or political*
19 *committees to establish branch committees designating deputy officers. Additional*
20 *committee addresses and the names and addresses of deputy officers would be*
21 *included on the statement of organization. More than one depository could be*
22 *allowed, in which case the maintenance of a central bookkeeping system should be*
23 *required. This would allow a significant degree of flexibility without reducing the*
24 *ultimate authority of the principal officers.*

25
26 *This section was drafted so that an out-of-state financial institution may not open an*
27 *"office" in another state exclusively devoted to servicing a particular candidate. This*
28 *restriction also prohibits an in-state institution from establishing an office or facility*
29 *exclusively to service a political committee, providing a commercial and political*
30 *advantage to that political committee.*

31
32 *The accounts must also be clearly identifiable as a political committee account. This*
33 *section is intended to limit access to a political committee's funds to the designated*
34 *officers.*

35
36 *Setting a time limit on the deposit of contributions as specified in §120(4) makes it*
37 *impossible for a treasurer to hold checks. Failing to deposit checks within a*
38 *reasonable length of time also makes crosschecking of political committee reports*
39 *difficult.*

40
41 *Included in §120(6) is a provision that forces a treasurer to obtain all necessary*
42 *reporting information from a contributor before depositing the contribution. This should*
43 *ultimately make the completion of reports easier for a treasurer. There should be a*
44 *corresponding requirement on campaign disclosure statements for the listing of all*
45 *contributions received, but not yet deposited, pending the receipt of such information.*

1 **§122 Registration Requirements**

2
3 **§122.01 Candidate Registration**

- 4
- 5 1. A candidate may designate no more than one (1) candidate campaign committee.
- 6
- 7 2. If a candidate receives or spends in excess of five hundred dollars (\$500) the
- 8 candidate must file a statement of organization with the agency no later than ten (10)
- 9 days after such receipts or expenditures.
- 10
- 11 A. If a candidate does not anticipate receiving or expending in excess of five
- 12 hundred dollars (\$500), the candidate is not required to form a committee.
- 13
- 14 B. In lieu of filing a statement of organization, the candidate may file a statement
- 15 indicating that the candidate does not anticipate receiving or expending in excess
- 16 of five hundred dollars (\$500).
- 17
- 18 C. A candidate may withdraw a statement filed under subdivision (B) if
- 19
- 20 i. The candidate anticipates receiving or expending in excess of five
- 21 hundred dollars (\$500); or
- 22
- 23 ii. When the candidate actually receives or expends in excess of five hundred
- 24 dollars (\$500); whichever comes first.
- 25
- 26 D. A candidate who withdraws a statement under subsection (C) must file a
- 27 statement of organization within ten (10) days after the requirement arises.
- 28

29 **Comment:**

30

31 *This section requires the registration of all candidates, but sets a \$500 threshold for*

32 *the filing of a statement of organization. By establishing a threshold for filing, many*

33 *candidates who run small-money campaigns will not be required to file a statement of*

34 *organization and set up a formal committee. Yet because a statement indicating a*

35 *candidate's intention not to spend more than \$500 is required, a means of monitoring*

36 *candidate spending is created, and a candidate is left with the feeling of being*

37 *"watched." The opportunity to withdraw such a statement gives the candidate an*

38 *opportunity to admit commission of an honest mistake, or deal with an unanticipated*

39 *change in circumstances without penalty.*

40

41 *The debate over whether a threshold for filing should be set, and, if so, at what level it*

42 *should be fixed, is one in which arguments for many different points of view may be*

43 *offered. Establishing some type of threshold to eliminate administrative problems for*

44 *both the agency and the candidate is the most popular.*

45

1 **§122.02** Noncandidate Political Committee Registration

2
3 A noncandidate political committee, including an out-of-state political committee, which
4 receives contributions or makes independent expenditures in excess of five hundred
5 dollars (\$500) in any calendar year must file a statement of organization with the agency
6 no later than five (5) days after receiving the contribution or making the expenditure.

7
8 **Comment:**

9
10 *A threshold is established for noncandidate political committees, just as a threshold*
11 *exists for candidate committees. However, unlike candidate committees,*
12 *noncandidate political committees file nothing if they do not cross the threshold. This*
13 *is justified, because normally noncandidate political committees will be making*
14 *contributions that will appear on a candidate committee reports, allowing spending to*
15 *be monitored in that way. The same arguments recommending thresholds for*
16 *candidate committees exist for noncandidate political committees. By setting a*
17 *reasonable threshold, grassroots activities may flourish, and “mom and pop” type*
18 *political committees may operate without being inundated or intimidated by an*
19 *inordinate amount of paperwork.*

20 **§124** Statement of Organization

21
22 **§124.01** Candidate Committee Statement of Organization

- 23
24 1. The statement of organization shall include the following:
- 25
26 A. The full name of the candidate’s committee.
 - 27
28 B. The party affiliation, if any, of the candidate.
 - 29
30 C. The complete mailing street address, city, state, zip code, telephone number, fax
31 number, website address, and email address of the candidate and the candidate’s
32 residence street address, city, state, and zip code, if different from the mailing
33 address.
 - 34
35 D. The date the committee was organized.
 - 36
37 E. The office being sought by the candidate or, in the case of a recall election, the
38 purpose of the committee.
 - 39
40 F. The full name, mailing street address, city, state, zip code, telephone number, fax
41 number, email address, and principal place of business of the treasurer, and, if
42 appointed, a deputy treasurer.

1 G. The full name and street address, city, state and zip code of the depository in
2 which the committee will maintain its campaign account.

3

4 H. Written acceptance of appointment by the treasurer.

5

6 2. The candidate shall notify the agency, in writing, of a change in information
7 previously reported in a statement of organization no later than ten (10) business
8 days after the change, unless a different date for such an amendment is provided
9 elsewhere in this Act.

10

11 3. The statement of organization shall be filed with the agency.

12

13 **§124.02** Noncandidate Political Committee Statement of Organization

14

15 1. The statement of organization shall include the following:

16

17 A. The full name of the political committee, which may not include the name of a
18 candidate.

19

20 B. The complete mailing street address, city, state and zip code, telephone number,
21 fax number, website address and email address of the political committee.

22

23 C. The date the political committee was organized.

24

25 D. The area, scope, or jurisdiction of the political committee.

26

27 E. An indication as to whether the political committee is a political party committee.

28

29 F. The name and street address, city, state, and zip code of a corporation or an
30 organization that sponsors the political committee or is affiliated with the
31 political committee. If the political committee is not sponsored by or affiliated
32 with a corporation or an organization, the political committee must specify the
33 trade, profession, or primary interest of contributors to the political committee.

34

35 G. The full name, street address, city, state, zip code, telephone number, occupation,
36 and principal place of business of the treasurer, and, if appointed, of a deputy
37 treasurer.

38

39 H. An indication of whether the political committee was formed to support or
40 oppose a specific ballot question or questions, and, if so, a brief description of the
41 question.

42

- 1 I. The full name, street address, city, state, zip code, telephone number, occupation,
2 and principal place of business of the custodian of the books and accounts if
3 other than the designated officers.
4
- 5 J. The full name and street address, city, state and zip code of the depository in
6 which the political committee will maintain its campaign account.
7
- 8 K. Written acceptance of appointment by the treasurer.
9
- 10 2. The name of the political committee designated on the statement of organization
11 must incorporate the full name of the sponsoring entity, if any. An acronym or
12 abbreviation may be used in other communications if the acronym or abbreviation is
13 commonly known or clearly recognized by the general public.
14
- 15 3. The political committee shall notify the agency, in writing, of a change in
16 information previously reported in a statement of organization no later than ten (10)
17 business days after the change.
18
- 19 4. The statement of organization shall be filed with the agency.
20

21 **Comment:**

22
23 *This section imposes an organizational framework upon political committees for the*
24 *purpose of identifying those who will be held accountable for the financial records of*
25 *the political committee. The designation of officers, and their acceptance in writing,*
26 *identifies the accountable persons in the political committee. This section is consistent*
27 *with many state laws pertaining to political committee formation and the accountability*
28 *of officers.*

29
30 *The statement of organization is the primary source of information for the agency.*
31 *The statement also serves as the vehicle for the registration of all candidates and*
32 *political committees. This section is drafted as to obtain as much information as*
33 *possible at this initial stage.*

34 **§126 Required Campaign Statements of Contributions and**
35 **Expenditures**

36
37 **§126.01** Periodic Campaign Statements by Candidate and Noncandidate Political
38 Committees

- 39
40 1. Except as provided in subsection (2) and (3), each political committee shall file
41 quarterly campaign statements of contributions and expenditures no later than
42 January 15, April 15, July 15, and October 15, and include all contributions and

1 expenditures made as of December 31, March 31, June 30, and September 30,
2 respectively.

- 3
- 4 2. A candidate committee may file semi-annual rather than quarterly campaign
5 statements in a year in which the office sought is not up for election.
6
- 7 3. A noncandidate political committee may file semi-annual rather than quarterly
8 campaign statements in a year in which the political committee is not participating in
9 an election cycle.
- 10
- 11 4. Semi-annual campaign statements are due July 15 and January 15, and must include
12 all contributions and expenditures made by June 30 and December 31, respectively.
13

14 **Comment:**

15

16 *If a jurisdiction opts for public financing of campaigns, it may wish to call for more
17 frequent campaign statements, which may be justified on the grounds that the public's
18 money is being used.*

19

20 **§126.02** Pre-election Campaign Statements by Candidate and Noncandidate
21 Political Committees

- 22
- 23 1. A political committee shall file a pre-election campaign statement if the political
24 committee supports or opposes a candidate for office in that election cycle, or if the
25 political committee supports or opposes ballot measure in that election.
26
- 27 2. A pre-election campaign statement shall be filed no later than [should range from
28 seven to ten days] before an election. This pre-election campaign statement must
29 include information for all transactions made since the last campaign statement filed
30 through [should range from twelve to fifteen days] before the date the report must be
31 filed.
32

33 **Comment:**

34

35 *An acceptable reporting schedule is, without question, an integral part of a campaign
36 finance law. Assuming that a perfect reporting schedule is impossible to attain when
37 taking into consideration (1) varying primary schedules; (2) varying election schedules
38 within each state with respect to county, municipal, and special elections; (3) public
39 financing for some offices; and (4) varying degrees of political activity across the
40 country. This proposal for quarterly/semi-annual reporting with one pre-election
41 campaign statement is submitted with the hope that it is a sensible compromise
42 between a reporting schedule which would be unduly burdensome for some and not
43 stringent enough for others.*
44

1 *Quarterly reporting for candidate committees during an election year and for*
2 *noncandidate political committees during an election cycle was chosen because (1) a*
3 *political committee would never go longer than three months without filing, and (2) this*
4 *would provide a measure of compatibility with the Federal Election Commission's*
5 *filing schedule.*

6
7 *Semi-annual reporting for candidate committees during a nonelection year and for*
8 *noncandidate political committees during an election cycle in which they are not*
9 *participating was chosen to make it easier for an "inactive committee" while still*
10 *obtaining information from them twice annually.*

11
12 *A pre-election campaign statement is due based upon who or what the political*
13 *committee is supporting or opposing. This allows for reporting by political committees*
14 *that are involved in an election, without requiring reporting by those who have no*
15 *interest in, and perhaps no knowledge of, a particular election.*

16
17 *The inclusion of a post-election campaign statement was considered but not required*
18 *for two reasons. First, varying election cycles may cause overlap of a post-election*
19 *campaign statement with other reporting periods. Eliminating one in place of the*
20 *other for a particular reason would be confusing at best. The same problem may*
21 *arise occasionally with the pre-election campaign statement, but individual election*
22 *jurisdictions should be able to alleviate those problems with minimal confusion or*
23 *undue burden. Finally, requiring quarterly reporting for candidate committees during*
24 *an election year and for noncandidate political committees during an election cycle in*
25 *which they will be participating ensures that regular reporting will be accomplished in*
26 *a timely fashion without specifically requiring the filing of an unnecessary post-*
27 *election campaign statement.*

28 **§128 Filing Locations**

29 **§128.01** Where to File

- 30
31
- 32 1. The location where a political committee must file its campaign statements of
33 contributions and expenditures shall be determined as follows:
34
 - 35 A. A nonfederal statewide, legislative, or statewide judicial candidate committee, a
36 political committee supporting or opposing a ballot measure, and a political
37 committee supporting or opposing such a candidate, shall file with the agency.
38
 - 39 B. A multi-county candidate committee, and a political committee supporting or
40 opposing such a candidate other than for those offices listed in subsection (A),
41 shall file with the designated county official in the county that has the largest
42 population.

1 C. A county candidate committee, and a political committee supporting or opposing
2 such a candidate, shall file with the designated county official.

3
4 D. A municipal candidate committee, and a political committee supporting or
5 opposing such a candidate, shall file with the designated city official.

6
7 E. A noncandidate political committee supporting or opposing a ballot measure
8 within one county shall file with the designated county official.

9
10 **Comment:**

11
12 *This section essentially requires candidates and political committees involved in*
13 *statewide and legislative races to file with the agency. Those involved at the local*
14 *level file locally, with the appropriate county or local official. The decentralized filing*
15 *option was chosen to provide easier access to campaign statements by the public.*
16 *Those interested in state races can access all campaign statements in one location.*
17 *Those interested in local races can find the information at a location closer to home.*
18 *Other considerations were the administrative difficulties, which could result in highly*
19 *populated states if the agency were required to handle all filings. States requiring*
20 *candidates for offices such as local school board to file with their statewide campaign*
21 *finance agency have generally found the experience to be less than ideal.*
22 *Demographic and geographic considerations play a large part in determining the*
23 *feasibility of any particular approach. For example, the chosen approach requires*
24 *legislative candidate committees to file only at the state level. This may not be*
25 *practical in geographically large states where a trip to the agency offices may require*
26 *several hours. Under such circumstances, a state may wish to require legislative*
27 *candidates to file with the county clerk in the largest county in a candidate's district in*
28 *addition to filing with the agency. However, if the state mandates that legislative*
29 *candidates who spend over a certain amount must file electronically with the state,*
30 *there is no longer any need to file copies with the counties.*

31
32 *Another potential modification to this approach may be advisable in states, which*
33 *cover a small area. In these smaller states, instead of requiring local political*
34 *committees to file locally, these political committees could be required to file with the*
35 *agency. The number of filings would not be unwieldy, and access to campaign*
36 *statements by the public would not require a great deal of travel.*

37
38 *Although not specifically addressed in the model, states are encouraged to mandate*
39 *that copies of campaign statements filed locally be forwarded to the agency by county*
40 *filing officers. This provides a degree of centralization to a process that ideally should*
41 *be totally centralized, but is not because of geographic, demographic, and*
42 *administrative considerations. However, by requiring the forwarding of documents, the*
43 *agency may be able to maintain at least a modicum of control and uniformity. The*
44 *forwarding of documents also encourages cooperation and communication between*
45 *the agency and local officials, which is necessary to make a system function*
46 *effectively.*

1 **§130 Filing Options**

2
3 **§130.01 Filing Options**

4
5 If a political committee has accepted one (1) or more contributions, or made one (1) or
6 more expenditures during a reporting period, the political committee shall file a
7 complete campaign statement of contributions and expenditures.

8
9 If a political committee has not accepted any contributions and has made no
10 expenditures during a reporting period, the political committee shall file a statement of
11 inactivity.

12
13 **Comment:**

14
15 *Even if a political committee has had no activity during a reporting period, it is*
16 *important for enforcement purposes that the political committee be required to file*
17 *“something” each reporting period. If no report were required when a political*
18 *committee was inactive, the filing authority would have no way of knowing whether the*
19 *political committee had had no activity or whether it had simply forgotten or otherwise*
20 *neglected to file, making it difficult to cite a delinquent political committee.*

21 **§132 Contents of Campaign Statement**

22
23 **§132.01 Basic Campaign Statement**

- 24
25 1. The basic campaign statement shall include the following information:
- 26
27 A. Committee name, street address, city, state, zip code, phone number, and email
28 address.
- 29
30 B. Type of campaign statement (quarterly, semi-annual, or pre-election).
- 31
32 C. If a pre-election campaign statement, the election date.
- 33
34 2. The form shall include the balance of cash and cash equivalents on hand at the
35 beginning of the reporting period.
- 36
37 3. The form shall include the following information about contributions:
- 38
39 A. The total amount of all contributions received during the reporting period.
- 40
41 B. The total amount of contributions for the year to date.

- 1 C. The total amount of contributions of less than one hundred dollars (\$100) in the
2 aggregate from one (1) source received during the reporting period.
3
- 4 D. The name, street address, city, state, zip code, occupation, and employer (if self-
5 employed, the name and place of business) of each contributor contributing, or
6 intermediary transmitting, a contribution of one hundred dollars (\$100) or more
7 in the aggregate during the reporting period, the date and amount of a
8 contribution, and the year to date. If the contributor is not an individual, the
9 information about occupation and employer is not required. If the contributor is
10 a political committee, the political committee's identification number shall be
11 listed and shall also be included on the check or any other form of transmittal of
12 the contribution.
13
- 14 E. If all of the information is not on file, the political committee shall not deposit
15 the contribution.
16
- 17 4. The form shall include the following information about loans:
18
- 19 A. The total amount of all loans received during the reporting period, and the total
20 amount of loans for the year to date.
21
- 22 B. The total amount of all loans of less than one hundred dollars (\$100) received
23 during the reporting period, and the total amount of loans for the year to date.
24
- 25 C. The date and amount of each loan of one hundred dollars (\$100) or more in
26 aggregate from one (1) source during the reporting period, and:
27
- 28 i. The name and street address, city, state and zip code of the lending
29 institution;
30
- 31 ii. The name, street address, city, state, zip code, occupation, and employer (if
32 self-employed, the name and place of business) of each lender or endorser. If
33 the contributor is not an individual, the information about occupation and
34 employer is not required. If the contributor is a political committee, the
35 political committee's identification number shall be listed. If all of the
36 information is not on file, the political committee shall not accept the loan;
37
- 38 iii. The year-to-date total; and
39
- 40 iv. The terms of the loan, including the interest rate and repayment schedule.
41
- 42 5. Written promises or enforceable pledges to make a contribution shall be reported
43 separately in the same manner as other monetary contributions.

- 1 6. The form shall contain the same information for in-kind contributions as for
2 monetary contributions, and must also include a description of the in-kind
3 contribution.
4
- 5 7. Upon the request of the treasurer, a person making an in-kind contribution shall
6 promptly provide all necessary information to the treasurer, including the value of
7 the contribution.
8
- 9 8. The form shall contain the following information about fundraising:
10
 - 11 A. The date and description of each fundraiser held during the reporting period and
12 the amount raised.
13
 - 14 B. The total amount of proceeds received by the political committee during the
15 reporting period from:
16
 - 17 i. The sales of tickets for each dinner, luncheon, cocktail party, rally, and other
18 fundraising events;
19
 - 20 ii. Mass collections made at such events;
21
 - 22 iii. Sales of items such as political campaign pins, buttons, badges, stickers,
23 flags, emblems, glasses, hats and other wearing apparel, banners, literature,
24 and similar materials during the reporting period; and
25
 - 26 iv. The year-to-date total.
27
 - 28 C. The total amount of proceeds received from fundraising events that are less than
29 one hundred dollars (\$100) in the aggregate from a single source during the
30 reporting period.
31
 - 32 D. The date and amount of a purchase of one hundred dollars (\$100) or more in the
33 aggregate by one (1) person or political committee during the reporting period,
34 and the name, street address, city, state, zip code, occupation, and employer (if
35 self-employed, the name and place of business) of the purchaser, and the year-to-
36 date total. If the purchaser is a political committee, the occupation and employer
37 information is not required. If all of the information is not on file, the political
38 committee shall not deposit the contribution.
39
- 40 9. The form shall contain the following information about other receipts:
41

- 1 A. The total of refunds, rebates, interest, or other receipts not previously identified
2 during the reporting period, number and the year-to-date total.
3
- 4 B. The total amount of other receipts received of less than one hundred dollars
5 (\$100) in the aggregate from one (1) source during the reporting period.
6
- 7 C. The date and amount of each refund, rebate, interest, or other receipt not
8 previously identified of one hundred dollars (\$100) or more in the aggregate
9 from a one (1) source, the name and street address, city, state and zip code of
10 each source, and the year-to-date total.
11
- 12 D. The amount of funds loaned or donated by a corporation or labor organization to
13 its political committee for the establishment and for solicitation costs of the
14 political committee.
15
- 16 10. The form shall contain:
- 17
- 18 A. The aggregate total of contributions, loans, fundraising proceeds, and other
19 receipts during the reporting period, and the year-to-date aggregate total; and
20
- 21 B. Separate totals for in-kind contributions.
22
- 23 11. The form shall contain the following information about expenditures (including
24 transfers and ticket purchases):
25
- 26 A. The total of expenditures made during the reporting period and the year-to-date
27 total, including in-kind expenditures which must be equal to in-kind
28 contributions received.
29
- 30 B. The total of expenditures made during the reporting period of less than one
31 hundred dollars (\$100) in the aggregate to one (1) entity.
32
- 33 C. The amount, date, and a brief description of consideration for which each
34 campaign expenditure was made of one hundred dollars (\$100) or more in the
35 aggregate to one (1) entity during the reporting period, the name and street
36 address, city, state and zip code of the entity to which the expenditure was made,
37 the beneficiary of the expenditure (candidate, ballot measure, or committee, if
38 applicable), and the year-to-date total. Disbursements to consultants, advertising
39 agencies, and similar firms; credit card expenses; and candidate reimbursements
40 shall be itemized to permit a reasonable person to determine the ultimate
41 intended recipient of the expenditure and its purpose.
42
- 43 12. The form shall contain the following information about independent expenditures:

- 1 A. The total of independent expenditures made during the reporting period and the
2 year-to-date total.
- 3
- 4 B. The total of independent expenditures made during the reporting period of less
5 than one hundred dollars (\$100) in the aggregate to one (1) entity.
- 6
- 7 C. The amount and date of each independent expenditure of one hundred dollars
8 (\$100) or more in the aggregate during the reporting period, and the name and
9 street address, city, state and zip code of the entity, the beneficiary and purpose
10 of the expenditure, and the year-to-date total.

11

12 13. The form shall contain the following information about loans made:

13

- 14 A. The total value of loans made to others during the reporting period and the year-
15 to-date total.
- 16
- 17 B. The amount and date of each loan made of one hundred dollars (\$100) or more
18 in the aggregate to one (1) entity during the reporting period, the name and street
19 address, city, state and zip code of the recipient of the loan, the terms of the loan
20 (repayment schedule and interest rate), the purpose, and the year-to-date total.

21

22 14. The form shall contain the following information about the unpaid loan balance:

23

- 24 A. The total balance of loans owed by the political committee.
- 25
- 26 B. The total balance of loans of less than one hundred dollars (\$100) in the
27 aggregate owed by the political committee to one (1) entity.
- 28
- 29 C. The balance of loans owed by the political committee, itemized by name and
30 street address, city, state and zip code, and the date of the loan if one hundred
31 dollars (\$100) or more is owed to one (1) entity.
- 32
- 33 D. The total balance of loans owed to the political committee.
- 34
- 35 E. The total balance of loans of less than one hundred dollars (\$100) in the
36 aggregate owed to the political committee by one (1) entity.
- 37
- 38 F. The balance of loans owed to the political committee, itemized by name and
39 street address, city, state and zip code, and date of the loan, if one hundred
40 dollars (\$100) or more is owed by one (1) entity.

41

42 15. The form shall contain the following information about expenditures incurred

1 (accrued expenditures):
2

- 3 A. The total amount of all expenditures incurred. An expenditure incurred shall be
4 reported on each report filed after the date of receipt of goods or services until
5 payment is made to the vendor. A payment shall be listed as an expenditure
6 when the payment is made.
7
- 8 B. The total amount of expenditures incurred of less than one hundred dollars
9 (\$100) in the aggregate owed to one (1) entity.
10
- 11 C. The amount, date, and a brief description of consideration for which each
12 campaign expenditure was incurred of one hundred dollars (\$100) or more in the
13 aggregate to one (1) entity during the reporting period, the name and street
14 address, city, state and zip code of the creditor to which the expenditure was
15 made, the beneficiary of the expenditure, and the year-to-date total.
16 Disbursements to consultants, advertising agencies, and similar firms; credit card
17 expenses; and candidate reimbursements shall be itemized to permit a reasonable
18 person to determine the ultimate intended recipient of the expenditure and its
19 purpose.
20
- 21 16. The form shall state the cash balance on hand as of the close of the reporting
22 period.
23
- 24 17. The form shall include a certification under penalty of perjury by the treasurer.
25
- 26 18. The agency shall make every effort to develop codes that can be used instead of
27 descriptions of expenditures. If such codes are promulgated, filers should use the
28 codes if at all possible.
29

30 **Comment:**

31
32 *To fully detail report content requirements, this section must be both lengthy and*
33 *detailed. Following are the points that may be unique and need additional explanation*
34 *or justification.*
35

36 *Thresholds have been established for itemization. A blanket itemization threshold of*
37 *\$100 is suggested. This is a relatively low threshold, but considering that during an*
38 *election year, this threshold applies for a period that cannot exceed three months, it is*
39 *not unreasonably low. Year-to-date totals such as required by the Federal Election*
40 *Commission are included. Each report is self-contained; therefore no repeat*
41 *itemization is necessary. Only the cumulative totals need be carried forward.*
42 *Also required is reporting of pledges. Based upon this information, it may be possible*
43 *to anticipate a committee's level of spending. Despite increased reporting*
44 *requirements, a committee may actually have greater success in the collection of*
45 *pledges if the pledge becomes a public record. The provision may, however, prove*

1 *burdensome to committees that rely heavily upon pledges made annually but paid*
2 *through monthly installments.*

3
4 *Explicit information about reimbursements and expenditures made to advertising*
5 *agencies, consulting firms, and credit card companies is required. Under these*
6 *provisions, such expenditures must be broken down as to whom, and for what*
7 *purpose, the expenditure was made. This will eliminate the large expenditures made*
8 *to one of these entities without itemization or accountability. It will be much easier for*
9 *everyone if the agency develops a code that can be used in place of a description of*
10 *an expenditure.*

11
12 *Provisions for reporting loan balances existing from both loans made to the*
13 *committees as well as loans made by the committee have been included. Reporting of*
14 *expenditures incurred--unpaid bills--is also included. These provisions were deemed*
15 *necessary to monitor loan and debt activities.*

16 **§132.02** Statement of Inactivity

17
18 A statement of inactivity shall include the following information:

- 19
20 1. The political committee's name and street address, city, state and zip code.
21
22 2. The type of report (quarterly, semi-annual, or pre-election).
23
24 3. A statement by the treasurer verifying that a contribution was not received and an
25 expenditure was not made during the reporting period. Interest earned is not a
26 contribution.

27 **Comment:**

28
29
30 *The statement of inactivity is provided so that a political committee that has received*
31 *no contributions and has made no expenditures during a reporting period may attest*
32 *to that fact on a simple one-page form. The form could be modified somewhat by*
33 *adding the requirement that the current fund balance be included. This would provide*
34 *an indication as to whether the political committee had indeed been inactive.*

35 **§134** Reports of Late Contributions

36 **§134.01** Late Contribution Reports

37
38
39 A contribution of one thousand (\$1,000) or more in the aggregate received from one (1)
40 source after the closing date for the pre-election reporting period shall be reported to the
41 agency or the designated local official on the appropriate form within twenty-four (24)
42 hours of receipt by electronic filing, hand delivery, facsimile transmission, telegram or

1 express delivery service. The recipient of the late contribution shall report his or her full
2 name and street address, city, state and zip code, and the date and the amount of the late
3 contribution. The recipient shall also report the full name of the contributor, his or her
4 street address, city, state, zip code, occupation, and the name of his or her employer, or if
5 self-employed, the name of the business. This contribution shall also be included on the
6 next report filed by the political committee.

7
8 **Comment:**

9
10 *Regulation in the area of last minute contributions is essential to prevent late*
11 *contributions from flowing into campaigns after the standard pre-election reporting*
12 *period deadline, and thereby allowing those critical contributions to go unreported*
13 *until after the election. The 24-hour deadline, which has been gaining popularity*
14 *among the states, was established to impress upon political committees the*
15 *importance of this provision. To comply, political committees will be unable to use*
16 *normal mail delivery, but will have to avail themselves of a quicker means of delivery*
17 *such as filing electronically or using a fax machine. Jurisdictions may want to have a*
18 *lower threshold than \$1,000 for late contributions.*

19 **§136 Reports of Late Independent Expenditures**

20
21 **§136.01** Late Independent Expenditure Reports

22
23 A political committee that makes an independent expenditure of one thousand dollars
24 (\$1,000) or more after the closing date of the pre-election reporting period shall report
25 the expenditure to the agency or the designated local official within twenty-four (24)
26 hours of making the expenditure by electronic filing, hand delivery, facsimile
27 transmission, telegram, or express delivery service. The expenditure shall be itemized by
28 name, street address, city, state, and zip code, purpose, the candidate or ballot measure
29 supported or opposed, and the amount of the expenditure. This information shall be
30 included on the next report filed by the political committee.

31
32 **Comment:**

33
34 *The making of last minute independent expenditures is another means pouring money*
35 *into a campaign after the pre-election reporting period deadline has passed. Requiring*
36 *late large expenditures to be reported prior to the election will bring information*
37 *regarding massive advertising campaigns and other late large expenditures before the*
38 *public. If the independent expenditures involve negative campaigning, at least the*
39 *targeted candidate and the public will be able to determine the source prior to the*
40 *election.*

1 **§138 Communications Identifying Candidates**

2
3 **§138.01 Reports of Communications Identifying Candidates**

- 4 1. Any person who makes a payment or promise of payment totaling twenty-five
5 thousand dollars (\$25,000) or more for a communication that clearly identifies a
6 candidate, but does not expressly advocate the election or defeat of the candidate,
7 and that is disseminated, broadcast, or otherwise published within forty-five (45)
8 days of an election, shall file an online statement with the agency disclosing the
9 name of such person and street address, city, state and zip code, along with the
10 recipient's name, street address, city, state and zip code, description of the payment,
11 and the amount if one hundred dollars (\$100) or more, the name of the candidate
12 mentioned, and how much was spent on each candidate mentioned. The report shall
13 be filed within twenty-four (24) hours of making the payment or promise to make the
14 payment.
- 15
- 16 2. Except as provided in subdivision (1), if any person has received a payment or a
17 promise of payment from other persons totaling one hundred dollars (\$100) or more
18 for the purpose of making a communication described in subdivision (1), the person
19 receiving the payments shall disclose on the report the name, street address, city,
20 state, zip code, occupation and employer, and date and amount received from each
21 person who has made a payment of one hundred dollars (\$100) or more.
- 22
- 23 3. A person who receives or is promised a payment that is otherwise reportable under
24 subdivision (1) is not required to report the payment if the person is in the business
25 of providing goods or services and receives or is promised the payment for the
26 purpose of providing those goods or services.

27
28 **Comment:**

29
30 *So-called issue ads are becoming more and more prevalent in several states. If issue*
31 *ads are not disclosed, the whole campaign disclosure system could be undermined.*
32 *A few states and the federal government have adopted issue ad requirements.*

33 **§140 Government Contractor Reports**

34
35 **§140.01 Reports of Contributions from Government Contractors**

- 36
- 37 1. A person who has been awarded a sole source contract from a government entity of
38 twenty-five thousand dollars (\$25,000) or more in the aggregate during the preceding
39 calendar year shall file a report with the agency. The report must:
- 40

- 1 A. Include an itemized list of the contributions made to a party committee or
2 candidates for state, county, or municipal office by the contract recipient, a
3 principal associated with the contract recipient, including a subcontractor or
4 consultant, a spouse of a principal, or a political committee sponsored by the
5 person; and
6
7 B. Be filed no later than fifteen (15) days after the signing of the contract.
8
9 2. A government entity that awards a sole source contract of twenty-five thousand
10 dollars (\$25,000) or more in the aggregate shall, no later than five (5) days after the
11 date of the contract award, notify the agency of the name and street address, city,
12 state and zip code of the recipient, the amount of the award, and a description of the
13 nature of the contract.

14
15 **Comment:**

16
17 *Jurisdictions that perceive problems with the methods used in the award of*
18 *government contracts may wish to avail themselves of this section.*

19 **§142 Disclosure of Charitable Fundraising**

20
21 **§142.01 Reports of Charitable Fundraising**

22
23 Any public official who raises money for a charitable organization shall report all such
24 contributions of one thousand (\$1,000) or more in the same form as the official reports
25 campaign contributions. The report shall be filed annually reflecting calendar year
26 activity no later than January 31 of each year.

27
28 **Comment:**

29
30 *Officials often solicit funds for charitable organizations such as inauguration*
31 *committees or recognized charities or universities. If funds are given at the request of*
32 *an official, it should be disclosed at least annually.*

33 **§144 Notification of Filing Obligation by Agency**

34
35 **§144 .01 Agency Notification of Filing Obligation by Agency**

- 36
37 1. The agency or designated local filing officer shall send by email a notice of
38 obligation to file and appropriate forms for filing the necessary report or statement
39 no less than thirty (30) days before each filing date for which a political committee is
40 required to file the statement or report. The agency or designated local official shall
41 notify each registered political committee no less than thirty (30) days before each
42 filing date for a monthly, quarterly, or semi-annual report. The agency shall send a

1 notice of obligation to file a pre-election report to a political committee if
2 information provided on the statement of organization indicates probable
3 involvement in a particular election.

4
5 2. A political committee is not relieved of its reporting responsibilities if:

6
7 A. The agency or appropriate local official fails to send, a notice or form; or

8
9 B. The political committee does not receive a notice or form.

10
11 **Comment:**

12
13 *To achieve greater compliance, political committees should be notified when their*
14 *reports are due. Forms should be sent at the same time to ensure that the political*
15 *committees have the necessary forms on hand. Though the cost may be greater for*
16 *the agency, the notice of obligation to file will encourage timely filing and reduce the*
17 *agency's follow-up burden.*

18
19 *A section is also included requiring a political committee to file the required reports*
20 *even if the political committee did not receive the required notification. This*
21 *emphasizes the point that the political committee has a responsibility to know the law,*
22 *and the excuse of lack of knowledge will not be acceptable.*

23
24 *The obligation to notify is split between the agency and the local official. This is*
25 *because many political committees file with the local officials and the local officials are*
26 *in a better position than the agency to know what types of elections are being held at*
27 *what times. However, problems may arise from this decentralized notification*
28 *procedure. There may be duplication between the agency and the local official. There*
29 *is also a greater chance that partisan politics may play a role locally where certain*
30 *political committee may "inadvertently" not receive notification.*

31 **§146 Report Filing Requirements; Electronic Filing**

32
33 **§146.01** Report Filing Requirements

34
35 1. Reports shall be filed in a format specified by the agency.

36
37 2. Except for a report submitted under subdivision (3), a report filed must be typed or
38 printed in black ink on forms supplied by the agency, or on legible direct
39 reproductions of the forms.

40
41 3. Each candidate, political committee (other than a political committee defined in
42 104.28(3) or ballot measure committee that expended ten thousand dollars (\$10,000)
43 or more in the preceding year or expects to expend ten thousand dollars (\$10,000) or

- 1 more in the current year shall file all contribution reports and expenditure reports by
2 the electronic format approved or provided by the agency. The agency may make
3 exceptions on a case-by-case basis if a political committee lacks the technological
4 ability to file reports using the electronic format approved or provided by the agency.
5 The electronic alternative shall be either:
6
- 7 A. A system provided free-of-charge by the agency;
 - 8
 - 9 B. Software that creates electronic files that conform to the format provided by the
10 agency; or
 - 11
 - 12 C. Any other electronic filing application provided or approved by the agency.
 - 13
- 14 4. Expenditures made to pay outstanding debts carried forward from a previous
15 election or surplus funds disposed of according to state rules shall not be counted
16 in determining the threshold for mandatory electronic filing.
- 17
- 18 5. If a statement is filed electronically with the agency, then the statement need not be
19 filed with any other agency.
- 20
- 21 6. If the statement is filed electronically, no paper copy need be filed.
- 22
- 23 7. All data filed electronically shall be made available on the Internet to the public
24 free of charge and as soon as possible, but no later than two (2) days after receipt.
25 All late contributions and late independent expenditures shall be made available on
26 the Internet within twenty-four (24) hours of receipt.
- 27
- 28 8. The agency shall maintain all data filed online for ten (10) years after the date it is
29 filed, and then archive the information in a secure format so that it is available to
30 the public.
- 31
- 32 9. The agency shall provide on its web site a list of statements that have been filed
33 electronically and also a list of campaign statements that have been filed by paper.
34 The agency shall ensure that all paper documents are placed on its web site within
35 a reasonable period of time. The agency shall also ensure that both amendments
36 and the original statements are available for inspection.
- 37
- 38 10. The agency shall provide the electronically filed campaign statements in a database
39 that can be searched and provides itemized contribution and expenditure records.
40 Searchable contributions databases should provide the ability to search by a
41 contributor's name, contributor's occupation, contributor's employer, contributor's
42 zip code, the date of the contribution, and contribution amount; similar types of
43 information should also be searchable for expenditures (i.e., payee name,

1 expenditure amount, type of payment and the amount paid). These examples are a
2 minimum set of criteria.

- 3
4 11. The agency shall prepare summaries of campaign statements on its web site so that
5 the public can readily access information about contributions and expenditures of
6 all campaigns in the jurisdiction.

7
8 **Comment:**

9
10 *Increasing computerization requires that agencies adjust rigid standards. Agencies*
11 *should require electronic reports to satisfy filing requirements if they meet certain*
12 *conditions. While this may initially pose some problems for the agency, by exercising*
13 *appropriate discretion over format, the process should work.*

14
15 *Electronic filing is a much better alternative to paper filing. In order for electronic filing*
16 *to succeed, it must be made mandatory at a threshold that would capture a large*
17 *percentage of filers. In exchange for electronic filing, campaigns should be relieved of*
18 *the burden of filing paper and from having to file in more than one place. All political*
19 *committees, other than "major donor" committees, must file electronically if they meet*
20 *the threshold.*

21
22 *Agencies have special obligations to make electronically filed campaign statements*
23 *available to the public in a format that can be easily used by reporters, other*
24 *campaigns, and interested citizens. The agency should put all the electronically filed*
25 *information on a database that can be accessed by the public. In addition, the agency*
26 *should compile summaries and reports of the data, at least after each election, so*
27 *that the public does not have to prepare its own summaries from the data on file.*

28
29 *Ultimately, building search engine functionality should address the demands from the*
30 *public, candidates, and government agencies.*

31 **§148 Online Disclosure of Large Contributions**

32
33 **§148.01** Online Disclosure of Large Contributions

34
35 In addition to any other reports to be filed, a candidate for elective office or a political
36 committee primarily formed to support or oppose a ballot measure that is required to file
37 electronically by Section 146 shall file online or electronically with the agency a report
38 disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received at
39 any time. These reports shall disclose the same information required by Section 134 and
40 shall be filed within two (2) business days of receipt of the contribution.

1 **Comment:**

2
3 *California now requires campaigns that are required to file electronically to report*
4 *large contributions online within a short period of time of receiving these contributions.*
5 *These reports have been tracked by the media, opponents, and public interest*
6 *organizations.*

7 **§150 Dissolution Procedures**

8
9 **§150.01** Dissolution Procedures

- 10
11 1. A candidate committee may not dissolve until after:
- 12
13 A. A primary election or convention in which the candidate is defeated; or
- 14
15 B. The general election in which the candidate is a candidate by:
- 16
17 i. Inclusion on the ballot, or
- 18
19 ii. Seeking election as a qualified write-in candidate.
- 20
21 2. A party committee may dissolve only after the party itself dissolves.
- 22
23 3. A political committee other than a party or candidate committee may dissolve only
- 24 after it determines that it will not accept contributions or make expenditures.
- 25
26 4. A final report may be filed at the time, or before a scheduled filing is due. The form
- 27 must:
- 28
29 A. Be marked “final;” and
- 30
31 B. Include a list of the material assets worth one hundred dollars (\$100) or more,
- 32 and detail their disposition.
- 33
34 5. If a political committee owes or is owed money, the political committee may
- 35 dissolve, but shall report the status of the debts quarterly on the same schedule as
- 36 active political committees until all debts are resolved. Methods of resolution shall
- 37 also be detailed.
- 38
39 6. Political committee assets must be disposed of according to this Act before
- 40 dissolution.
- 41
42
43

1 **Comment:**

2
3 *Provisions must be made for the dissolution of a political committee. A political*
4 *committee that wishes to dissolve must meet certain requirements. The Act requires*
5 *political committees to dispose of all surplus funds and political committee assets*
6 *prior to dissolution. However, a political committee is not required to dissolve.*

7
8 *Some states require the dissolution of a candidate or special purpose political*
9 *committee after an election. The advantage is that it provides a means to discourage*
10 *the compilation of massive war chests by certain candidates, particularly legislative*
11 *leaders and entrenched incumbents. Forced dissolution may also strengthen political*
12 *parties, because it is assumed that large amounts of money would escheat to the*
13 *parties from dissolving political committees. However, a candidate or other political*
14 *committee forced to dissolve may simply dissolve and reactivate for another vague*
15 *purpose simply to keep the political committee active. The more open-ended proposal*
16 *is preferred, since the purpose is not to limit activity, but to account for it to as great*
17 *an extent as possible.*

18
19 *The law allows a political committee to dissolve with outstanding debts (loans that the*
20 *political committee has not repaid and unpaid bills) and funds owed to it as the result*
21 *of a loan made. However, these must be reported quarterly until some resolution has*
22 *been reached.*

23
24 *As an alternative, political committees could be forced to remain active and continue*
25 *filing until all indebtedness is resolved. As long as regular reporting of political*
26 *committee indebtedness is required, either option would accomplish the goal of*
27 *disclosure. However, the original proposal, by requiring liquidation of all assets, may*
28 *be of some assistance in the area of debt resolution.*

29
30 *In conclusion, the requirement that a political committee dispose of its material assets*
31 *is an area rarely addressed in current law. As the political committee system*
32 *becomes more sophisticated, the tools to operate the system become more*
33 *sophisticated and expensive. Large political committees need computers and*
34 *software. Other things such as political committee-owned cars -- or even planes may*
35 *also exist. Because of the increasing value of political committee assets, this must be*
36 *addressed, not merely reported, but the disposition of assets must be controlled.*

37 **§152 Public Access to Reports**

38
39 **§152.01** Public Access to Reports

- 40
41 1. A report shall be made available for public inspection at the office of the agency and
42 the office of the designated local official no later than one (1) business day after
43 receipt.
44

- 1 2. The agency or the designated local official shall not require the viewer to provide
2 any information or identification as a condition of viewing a report or reports.
3
- 4 3. The agency or the designated local official shall ensure that the reports are available
5 for copying or purchase at a reasonable cost, which shall not exceed ten cents (\$.10)
6 per page, plus cost of postage if mailed. In addition, the filing officer may charge a
7 retrieval fee not to exceed five dollars (\$5) per request for copies of reports and
8 statements that are five (5) or more years old. A request for more than one report or
9 statement at the same time shall be considered a single request.
10
- 11 4. No fee or charge shall be collected by any officer for the filing of any report or
12 statement or for the forms upon which reports or statements are to be prepared.

13 **§154 Retention of Documents**

14 **§154.01** Retention of Documents

- 15 1. All campaign statements of persons holding office, candidates for such offices,
16 political committees supporting such persons, and political committees supporting or
17 opposing ballot measures shall be retained by filing officers indefinitely.
18
- 19 2. After an original campaign statement has been on file for at least two years, the
20 officer with whom it is filed may comply with this section by retaining a copy on
21 microfilm or other space-saving materials available for public inspection instead of
22 the original statement. Upon request, the officer shall provide copies of such
23 statements pursuant to Section 152.
24
25

26 **Comment:**

27 *Without provisions for access to reports, there is little value of the disclosure law.*
28 *Simple and convenient access to reports should be provided to any interested person.*
29 *While some jurisdictions require production of identification as a prerequisite to*
30 *viewing reports and payment of actual copying costs, the preferred view is that these*
31 *actions should be avoided so as to promote public access.*
32

33 *Some jurisdictions prefer to require identification of individuals seeking access to*
34 *campaign records, and specification of the files they wish to peruse. Such a*
35 *procedure is justified in these jurisdictions by a perceived need to ensure that files are*
36 *not tampered with, but this is not appropriate since it discourages citizens from using*
37 *campaign finance data.*
38

39 *Most states provide for the disclosure of all public records, including campaign*
40 *finance reports under general freedom of information statutes.*
41
42
43

Credits

The Campaign Disclosure Project and COGEL thank the following individuals and organizations for their assistance with the Model Campaign Finance Disclosure Law:

The Pew Charitable Trusts

Kathleen A. Welch, Program Officer (current)

Sean P. Treglia, Program Officer (former)

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David Jefferson, Computer Scientist, Lawrence Livermore National Laboratory

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Lawrence Noble, Executive Director and General Counsel, Center for Responsive Politics

Norman Ornstein, Resident Scholar, American Enterprise Institute

Trevor Potter, General Counsel, Campaign and Media Legal Center

Samantha Sanchez, Co-Director, National Institute on Money in State Politics

Michael Schudson, Professor of Communications, University of California at San Diego

Honorable Rebecca Vigil-Giron, Secretary of State, New Mexico

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Nicole Gordon, New York City Campaign Finance Board

Albert Lenge, Connecticut Elections Enforcement Commission

Paul Ryan, Center for Governmental Studies

Campaign Disclosure Project

Bringing sunlight to political money in the fifty states

The Center for Governmental Studies designed this Campaign Finance Disclosure Model Law to be used by legislators, public interest groups, media representatives, citizens and others who are interested in improving the disclosure of campaign finance information at the federal, state and local levels. The Model Law is accompanied by a list of the 10 most important disclosure provisions that should be incorporated into any disclosure law. The Model Law addresses new campaign finance issues posed by issue ads, mandatory electronic filing of reports and other practices.

The *Campaign Disclosure Project* is designed to bring greater transparency and accountability to the role of money in state campaigns. For over thirty years, states have experimented with campaign disclosure, creating fifty sets of laws, regulations and procedures to monitor and control the transfer of political money. Disclosure under these systems is more important than ever.

The *Campaign Disclosure Project* is a partnership of the Center for Governmental Studies, the California Voter Foundation and UCLA School of Law and is sponsored by a grant from The Pew Charitable Trusts. The Campaign Disclosure Project is assisted by a bipartisan Advisory Board composed of leading scholars, practitioners, journalists, elected officials and other experts representing a broad spectrum of views on campaign disclosure.

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