

SB 0573

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LEGISLATIVE COUNCIL
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

SENATE BILL NO. 573

(By Senator BITTNER, ET AL)



PASSED MARCH 10, 1995
In Effect 90 DAYS FROM Passage

ENROLLED

Senate Bill No. 573

(BY SENATORS DITTMAR, WOOTON, WHITE, GRUBB,
OLIVERIO, WAGNER, BOWMAN AND ANDERSON)

[Passed March 10, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections five and six, article one-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said chapter by adding thereto a new article, designated article one-b; to amend and reenact sections five and ten, article two of said chapter; to amend and reenact section eleven-a, article four-a of said chapter; to amend and reenact sections five, five-a, five-b, five-d, six, seven, nine, eleven and twelve, article eight of said chapter; and to further amend said article by adding thereto three new sections, designated sections two-a, four-a and ten, all relating to elections and campaign practices; authorizing the state election commission to promulgate legislative rules for the regulation and control of elections; redefining the authority of the secretary of state to promulgate legislative rules for the administration of elections; requiring the submission and resubmission of rules to the legislative rule-making review committee; providing for the expiration of the force and effect of rules not submitted; codifying the code of fair campaign practices; legislative findings; defining

certain terms; state election commission to issue advisory opinions, distribute information and investigate noncompliance with the code; hearings before the commission; prescribing the contents of the code; filing officers to retain signed forms; when candidate may be released from spending limitations; authority of commission to increase spending limitations by legislative rule; information required on voter registration form; the payment of postage when mailing voter registration form; the color of election ballots; reporting requirements for inaugural committees; providing for the termination of political committees; when reporting requirements applicable to organizations which publish, distribute or disseminate certain information within sixty days of an election; submission of information to commission to determine when reporting required; expanding the methods by which payment for campaign contributions of more than fifty dollars may be made; the filing of financial statements of candidates for legislative offices with the secretary of state; permitting the filing of financial statements by facsimile or other means of electronic transmission; establishing filing date for financial statements based upon postmark or the date of hand delivery or delivery by electronic transmission; prescription and promulgation of form for financial statements by commission; duty to furnish form on computer disc or other magnetic media; providing for the assessment of civil penalties for the late filing or the filing of a grossly incomplete or grossly inaccurate financial statement; duties of secretary of state and county clerks; clarifying purposes for which election expenditures may be made; permitting certain expenditures of excess contributions and requiring the state election commission to promulgate legislative rules with respect thereto; removing the prohibition against solicitation of candidates; authorizing contributions of up to one thousand dollars per calendar year to state executive committees of political parties; adopting technical revisions; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections five and six, article one-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article one-b; that sections five and ten, article two of said chapter be amended and reenacted; that section eleven-a, article four-a of said chapter be amended and reenacted; that sections five, five-a, five-b, five-d, six, seven, nine, eleven and twelve, article eight of said chapter be amended and reenacted; and that said article be further amended by adding thereto three new sections, designated sections two-a, four-a and ten, all to read as follows:

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-5. Powers and duties of commission; legislative rules.

- 1 (a) The commission shall have the power and duty to
2 approve or disapprove applications for approval of any
3 voting machine as provided in section seven, article four
4 of this chapter.
- 5 (b) The commission also shall serve as a body advisory
6 to the secretary of state, and, as such, shall have the
7 following powers and duties:
 - 8 (1) To recommend policies and practices pertaining to
9 the registration of voters and the conduct of elections
10 generally;
 - 11 (2) To review the work of the office of secretary of state
12 pertaining to the duties of that office with respect to
13 elections, and for this purpose to have access at reason-
14 able times to pertinent records, books, papers and
15 documents;
 - 16 (3) To consider and study the election practices of
17 other jurisdictions, with a view to determining the
18 techniques used in eliminating fraud in elections and in
19 simplifying election procedures;
 - 20 (4) To advise or make recommendations to the governor

21 relative to election practices and policy in the state; and

22 (5) To keep minutes of the transactions of each meeting
23 of the commission, which shall be public records and
24 filed with the secretary of state.

25 (c) It shall be the commission's further duty to prepare
26 and distribute in its name, within available appropria-
27 tions and upon the recommendation of the secretary of
28 state, nonpartisan educational material to inform voters
29 of the importance of voting, to encourage voters to vote,
30 to inform voters of election laws and procedures and to
31 inform voters of the effect of any public question,
32 constitutional amendment or bond issue that is to be
33 voted upon by all the voters of the state and that has
34 been authorized to be placed upon the ballot by the
35 Legislature, and manuals to assist county commissions,
36 ballot commissioners, circuit and county clerks and
37 other election officials in the proper performance of their
38 duties in the conduct of elections.

39 (d) The commission shall promulgate such legislative
40 rules, in accordance with the provisions of chapter
41 twenty-nine-a of this code, as may be necessary to
42 standardize and make effective the administration of the
43 provisions of article eight of this chapter and may
44 promulgate such other rules, in accordance with the
45 provisions of chapter twenty-nine-a of this code, relating
46 to the conduct and administration of elections as the
47 commission may determine to be advisable. All rules
48 required or permitted to be promulgated by the commis-
49 sion by the provisions of this section shall be submitted
50 on or before the first day of August, one thousand nine
51 hundred ninety-five, to the Legislature for review by the
52 legislative rule-making review committee and approval
53 by the Legislature.

**§3-1A-6. Powers and duties of secretary of state; exercise of
powers by appointees.**

1 The secretary of state shall be the chief election official

2 of the state. Except for those rules required by the
3 provisions of section five of this article to be promul-
4 gated by the commission, the secretary of state shall
5 have the authority, after consultation with the state
6 election commission, of which he is a member, to make,
7 amend and rescind such orders and to promulgate such
8 legislative rules, in accordance with the provisions of
9 chapter twenty-nine-a of this code, as may be necessary
10 to standardize and make effective the provisions of this
11 chapter. Any rule proposed for promulgation by the
12 secretary of state pursuant to the provisions of this
13 section, and all rules heretofore adopted or in any way
14 represented to govern the administration or enforcement
15 of the provisions of this chapter by the secretary of state,
16 shall be submitted on or before the first day of August,
17 one thousand nine hundred ninety-five, to the Legisla-
18 ture for review by the legislative rule-making review
19 committee and approval by the Legislature. All rules
20 which have not been submitted and approved as afore-
21 said shall be of no further force and effect as of the first
22 day of April, one thousand nine hundred ninety-six. It
23 shall be the duty of all election officials, county commis-
24 sions, clerks of county commissions, clerks of circuit
25 courts, boards of ballot commissioners, election commis-
26 sioners and poll clerks to abide by such orders as may be
27 issued and such legislative rules as may be promulgated
28 by the secretary of state and the commission.

29 The secretary of state also shall have authority to
30 require collection and report of statistical information
31 and to require other reports by county commissions,
32 clerks of county commissions and clerks of circuit courts.

33 It shall be his further duty to advise with election
34 officials; to furnish to the election officials a sufficient
35 number of indexed copies of the current election laws of
36 West Virginia and the administrative orders and rules
37 issued or promulgated thereunder; to investigate the
38 administration of election laws, frauds and irregularities
39 in any registration or election; to report violations of

40 election laws to the appropriate prosecuting officials;
41 and to prepare an annual report.

42 The secretary of state shall also have the power to
43 administer oaths and affirmations, issue subpoenas for
44 the attendance of witnesses, issue subpoena duces tecum
45 to compel the production of books, papers, records,
46 registration records and other evidence, and fix the time
47 and place for hearing any matters relating to the admin-
48 istration and enforcement of this chapter, or the rules
49 promulgated by the state election commission or by the
50 secretary of state as the chief election official of the
51 state. In case of disobedience to a subpoena or subpoena
52 duces tecum, he may invoke the aid of any circuit court
53 in requiring the attendance, evidence and testimony of
54 witnesses and the production of papers, books, records,
55 registration records and other evidence.

56 All powers and duties vested in the secretary of state
57 pursuant to the provisions this article may be exercised
58 by appointees of the secretary of state at his discretion,
59 but the secretary of state shall be responsible for their
60 acts.

ARTICLE 1B. FAIR CAMPAIGN PRACTICES.

§3-1B-1. Legislative findings, purpose, declaration and intent.

1 The Legislature hereby finds and declares that every
2 candidate for public office in this state should follow the
3 basic principles of decency, honesty and fairness in the
4 course of their campaign practices.

5 The Legislature hereby further declares that the code
6 of fair campaign practices, as contained in this article, is
7 a standard to which all candidates for public office
8 should aspire and is a guideline for voters to determine
9 fair play in the conduct of campaigns for public office.

10 It is the further goal of the Legislature that every
11 candidate for public office in this state will voluntarily
12 subscribe and adhere to the code of campaign practices.

§3-1B-2. Definitions.

1 For purposes of this article:

2 (a) "Campaign advertising or communication" means
3 a communication authorized by a candidate or a candi-
4 date's committee for the purpose of advocating the
5 nomination, election or defeat of a candidate;

6 (b) "Candidate for public office" means an individual
7 who has filed a pre-candidacy statement pursuant to the
8 provisions of section five-e, article eight of this chapter,
9 has qualified to have his or her name listed on the ballot
10 of any election, or who has declared his or her intention
11 to seek nomination or election through a petition or
12 write-in procedure for any state, regional, county,
13 municipal or district office which is to be filled at an
14 election;

15 (c) "Code" means the code of fair campaign practices
16 as set forth in this article;

17 (d) "Commission" means the state election commission
18 created pursuant to the provisions of article one-a of this
19 chapter; and

20 (e) "Political committee" means all of those persons
21 and entities required to keep accounts and file financial
22 statements pursuant to the provisions of section five,
23 article eight of this chapter.

§3-1B-3. Powers and duties of the commission.

1 In addition to the powers and duties of the commission
2 as prescribed in section five, article one-a of this chap-
3 ter, the commission has:

4 (a) The power to issue advisory opinions on whether an
5 action or proposed action of a subscribing candidate
6 violates the code of fair campaign practices;

7 (b) The duty to prepare and distribute copies of the
8 code of fair campaign practices to voters, circuit clerks,
9 county clerks and other election officials;

10 (c) The duty to receive, investigate and act on com-
11 plaints or other information concerning noncompliance
12 with the code by candidates for public office who
13 subscribe to the code; and

14 (d) The duty to make public the name and identity of
15 candidates subscribing to the code and the findings of
16 compliance or noncompliance with the code upon the
17 conclusion of a hearing conducted pursuant to section
18 four of this article.

§3-1B-4. Hearing; disposition; sanctions.

1 If a majority of the commission determines that there
2 is a reasonable likelihood that a candidate for public
3 office who subscribes to the code of fair campaign
4 practices has violated a provision of the code, then the
5 commission shall inform the candidate in writing and
6 notify the candidate in writing ~~and notify the candidate~~ *OK.*
7 that the candidate has ten days from receipt of the notice
8 to request a hearing. If the candidate requests a hearing,
9 then one shall be scheduled within ten days after such
10 request. Said hearing may be continued only for good
11 cause shown. If a majority of the commission determines,
12 based upon clear and convincing evidence, after a
13 hearing or after a candidate has declined to request a
14 hearing, that such candidate has violated a provision of
15 the code, the commission may issue a public opinion
16 stating the candidate has committed a violation of the
17 code. If the commission does not find by clear and
18 convincing evidence that a subscribing candidate has
19 violated a provision of the code, then the commission
20 shall issue a public statement that the candidate has not
21 violated the code. Said statement shall be issued on the
22 same day of the hearing.

§3-1B-5. Code of fair campaign practices.

1 At the time an individual files his or her pre-candidacy
2 statement, certificate of announcement, nominating
3 petition and other paper evidencing an intention to be a

4 candidate for public office, or when an individual files
5 the statement of organization of a political committee,
6 the circuit clerk, county clerk or secretary of state
7 receiving such filing shall furnish the individual with a
8 form containing the text of the code of fair campaign
9 practices which shall read as follows:

10 **CODE OF FAIR CAMPAIGN PRACTICES**

11 I SHALL CONDUCT this campaign openly and
12 publicly, discussing the issues as I see them, presenting
13 positions and policies with sincerity and frankness, and
14 criticizing without fear or favor the record and policies
15 of candidates or political parties which merit such
16 criticism.

17 I SHALL NOT USE OR PERMIT the use of character
18 defamation, whispering campaigns, libel, slander or
19 scurrilous attacks on any candidate or his or her per-
20 sonal family life.

21 I SHALL CONDEMN the use of campaign advertising
22 or communication of any sort which misrepresents,
23 distorts, or otherwise falsifies the facts regarding any
24 candidate or issue raised in my campaign.

25 I SHALL NOT USE OR PERMIT any appeal to nega-
26 tive prejudice based on race, sex, religion, national
27 origin, physical disability or age.

28 I SHALL NOT USE OR PERMIT any dishonest or
29 unethical practice which tends to corrupt or undermine
30 our system of free elections, or which hampers or pre-
31 vents the full and free expression of the will of the voters
32 including acts intended to hinder, prevent or discourage
33 any eligible person from registering to vote, or from
34 voting, or which is intended to affect voting through the
35 buying of influence or votes.

36 I SHALL NOT COERCE election help or campaign
37 contributions for myself or my committee or for any
38 other candidate or any ballot issue from my employees or

39 from any person under my authority, influence or
40 control.

41 I SHALL IMMEDIATELY AND PUBLICLY REPUDI-
42 ATE support on behalf of or in opposition to any candi-
43 dacy deriving from any individual or group which resorts
44 to the methods and tactics which I condemn. I shall
45 accept responsibility to take firm action against any
46 subordinate or associate who violates any provisions of
47 this code or the laws governing elections.

48 I PERSONALLY SUPPORT a limit on campaign
49 expenditures that when reasonable, sufficient and fairly
50 applied, does not limit or restrict the expression of ideas
51 of the candidate or others on behalf of the candidate, but
52 instead challenges individuals to engage in open dialogue
53 on the issues rather than merely to purchase the exces-
54 sive repetition of images and slogans.

55 ACCORDINGLY, IF I AM A CANDIDATE for one of
56 the offices listed below, I will, in conjunction with the
57 committee or committees organized on my behalf, adhere
58 to the following limitations on campaign spending
59 specified for the office I seek:

	<u>PRIMARY</u>	<u>GENERAL</u>
60		
61 Governor	1,000,000	1,000,000
62 Constitutional Officers	150,000	150,000
63 Supreme Court of Appeals	150,000	150,000
64 State Senate	50,000	50,000
65 House of Delegates	25,000	25,000
66 Circuit Judge	50,000	50,000

67 Expenditures which do not exceed the limits desig-
68 nated for the primary election may not be added to the
69 limits for the general election.

70 I SHALL DEFEND AND UPHOLD the right of every
71 qualified voter to full and equal participation in the

72 electoral process.

73 I, the undersigned, a candidate for election to public
 74 office in the State of West Virginia, or the chairperson of
 75 a political committee supporting one or more candidates
 76 for election, hereby voluntarily endorse, subscribe to,
 77 and solemnly pledge myself to conduct this campaign in
 78 accordance with the above principles and practices. I
 79 understand that subscription and adherence to the code
 80 is voluntary.

81	_____	_____
82	Date	Signature
83	_____	_____
84	Candidate for/Committee Name	Address and City

§3-1B-6. Forms.

1 The secretary of state in consultation with the election
 2 commission, shall prescribe the forms containing the text
 3 of the code and shall furnish the forms to the circuit
 4 clerks, county clerks and municipal clerks or recorders
 5 in quantities and at times requested by the clerks.

§3-1B-7. Retention of forms; public inspection.

1 The officer receiving the filing shall accept, at all times
 2 prior to the election, all completed forms evidencing
 3 subscription to the code.

4 Forms filed with the circuit clerk shall be immediately
 5 forwarded to the county clerk. The county clerk, secre-
 6 tary of state and municipal recorder or clerk shall retain
 7 such forms filed with them for public inspection until
 8 one hundred eighty days after the general election.

§3-1B-8. Voluntary subscription to the code.

1 Subscription to and adherence to the provisions of the
 2 code set forth in this article is voluntary and in no event
 3 may any person be required to subscribe to, adhere to or
 4 endorse the code.

§3-1B-9. Release from subscription to the code.

1 In the event that an opponent to a subscribing candi-
2 date exceeds the voluntary campaign spending limita-
3 tions set forth in section five of this article, the subscrib-
4 ing candidate who has not exceeded the spending
5 limitations shall be automatically released from that
6 portion of the code establishing the campaign spending
7 limitations and the commission shall make public the
8 fact of such release.

§3-1B-10. Adjustment of spending limitations.

1 The commission may from time to time increase the
2 voluntary campaign spending limitations established in
3 this article pursuant to legislative rule promulgated
4 pursuant to the provisions of chapter twenty-nine-a of
5 this code.

ARTICLE 2. REGISTRATION OF VOTERS.**§3-2-5. Forms for application for registration; information required and requested; types of application forms; notices.**

1 (a) (1) All state forms for application for voter registra-
2 tion shall be prescribed by the secretary of state and
3 shall conform with the requirements of the "National
4 Voter Registration Act of 1993" (42 U.S.C. 1973gg) and
5 the requirements of the provisions of this article.
6 Separate application forms may be prescribed for voter
7 registration conducted by the clerk of the county com-
8 mission, registration by mail, registration in conjunction
9 with an application for motor vehicle driver's license and
10 registration at designated agencies. These forms may
11 consist of one or more parts, may be combined with other
12 forms for use in registration by designated agencies or in
13 conjunction with driver licensing and may be revised
14 and reissued as required by the secretary of state to
15 provide for the efficient administration of voter registra-
16 tion. After the first day of January, one thousand nine
17 hundred ninety-five, all state forms issued for the

18 purpose of voter registration shall be those prescribed
19 pursuant to the provisions of this article and no form
20 used or issued for voter registration pursuant to laws in
21 effect before that date shall be provided to any person
22 for the purpose of registration.

23 (2) Notwithstanding any provisions of subdivision (1)
24 of this subsection to the contrary, the federal postcard
25 application for voter registration issued pursuant to the
26 "Uniformed and Overseas Citizens Absentee Voting Act
27 of 1986" (42 U.S.C. 1973 et seq.), and the mail voter
28 registration application form prescribed by the Federal
29 Election Commission pursuant to the "National Voter
30 Registration Act of 1993" (42 U.S.C. 1973gg) shall be
31 accepted as a valid form of application for registration
32 pursuant to the provisions of this article.

33 (b) Each application form for registration shall include:

34 (1) A statement specifying the eligibility requirements
35 for registration and an attestation that the applicant
36 meets each eligibility requirement;

37 (2) Any specific notice or notices required for a specific
38 type or use of application by the "National Voter Regis-
39 tration Act of 1993" (42 U.S.C. 1973gg);

40 (3) A notice that a voter may be permitted to vote the
41 partisan primary election ballot of a political party only
42 if the voter has designated that political party on the
43 application for registration, unless the political party has
44 determined otherwise; and

45 (4) Any other instructions or information essential to
46 complete the application process.

47 (c) Each application form shall require that the follow-
48 ing be provided by the applicant, under oath, and any
49 application which does not contain each of the following
50 shall be considered incomplete:

51 (1) The applicant's legal name, including the first
52 name, middle or maiden name, if any, and last name;

53 (2) The month, day and year of the applicant's birth;

54 (3) The applicant's residence address, including the
55 number and street or route and city and county of
56 residence except:

57 (A) In the case of a person eligible to register under the
58 provisions of the "Uniformed and Overseas Citizens
59 Absentee Voting Act", (42 U.S.C. 1973ff), the address at
60 which he or she last resided before leaving the United
61 States or entering the uniformed services, or if a depend-
62 ent child of such a person, the address at which his or
63 her parent last resided; and

64 (B) In the case of a homeless person having no fixed
65 residence address who nevertheless resides and remains
66 regularly within the county, the address of a shelter,
67 assistance center or family member with whom he or she
68 has regular contact or other specific location approved
69 by the clerk of the county commission for the purposes
70 of establishing a voting residence; and

71 (4) The applicant's signature, under penalty of perjury,
72 as provided in section thirty-six of this article, to the
73 attestation of eligibility to register to vote and to the
74 truth of the information given.

75 (d) The applicant shall be requested to provide the
76 following information, but no application shall be
77 rejected for lack of this information:

78 (1) An indication whether the application is for a new
79 registration, change of address, change of name or
80 change of party affiliation;

81 (2) The applicant's choice of political party affiliation,
82 if any, or an indication of no affiliation: *Provided*, That
83 any applicant who does not enter any choice of political
84 party affiliation shall be listed as having no party
85 affiliation on the voting record;

86 (3) The applicant's home mailing address, if different
87 than the residence address;

88 (4) The last four digits of the applicant's social security
89 number;

90 (5) The applicant's telephone number;

91 (6) The address at which the applicant was last regis-
92 tered to vote, if any, for the purpose of canceling or
93 transferring the previous registration;

94 (7) The applicant's gender; and

95 (8) The date the application is signed.

96 (e) The secretary of state shall prescribe the printing
97 specifications of each type of voter registration applica-
98 tion and the voter registration application portion of any
99 form which is part of a combined agency form.

100 (f) Application forms prescribed in this section may
101 refer to various public officials by title or official posi-
102 tion, but in no case may the actual name of any office-
103 holder be printed on the voter registration application or
104 on any portion of a combined application form.

105 (g) No later than the first day of July of each odd-
106 numbered year, the secretary of state shall submit the
107 specifications of the voter registration application by
108 mail for statewide bidding for a contract period begin-
109 ning the first day of September of each odd-numbered
110 year and continuing for two calendar years. The suc-
111 cessful bidder shall produce and supply the required
112 mail voter registration forms at the contract price to all
113 purchasers of the form for the period of the contract.

§3-2-10. Application for registration by mail.

1 (a) Any qualified person may apply to register, change,
2 transfer or correct his or her voter registration by mail.
3 Application shall be made on a prescribed form as
4 provided by section five of this article.

5 (b) To the extent possible with funds allocated annu-
6 ally for such purpose, the secretary of state shall make
7 state mail registration forms available for distribution

8 through governmental and private entities and organized
9 voter registration programs. The secretary of state shall
10 make a record of all requests by entities or organizations
11 for ten or more forms with a description of the dates and
12 locations in which the proposed registration drive is to
13 be conducted. The secretary of state may limit the
14 distribution to a reasonable amount per group.

15 (c) The clerk of the county commission shall provide up
16 to four mail registration forms to any resident of the
17 county upon request. To the extent possible with funds
18 allocated annually for the purpose, the clerk of the
19 county commission shall make state mail registration
20 forms available for distribution through organized voter
21 registration programs within the county. The clerk of
22 the county commission shall make a record of all re-
23 quests by entities or organizations for ten or more forms
24 with a description of the dates and locations in which the
25 proposed registration drive is to be conducted. The clerk
26 may limit the distribution to a reasonable amount per
27 group.

28 (d) The applicant shall provide all required informa-
29 tion and only after completing the information, sign the
30 prescribed applicant's oath under penalty of perjury, as
31 provided in section thirty-six of this article. No person
32 may alter or add any entry or make any mark which
33 would alter any material information on the voter
34 registration application after the applicant has signed
35 the oath: *Provided*, That the clerk of the county commis-
36 sion may correct any entry upon the request of the
37 applicant provided the request is properly documented
38 and the correction is dated and initialed by the clerk.

39 (e) Completed applications shall be mailed or delivered
40 to the clerk of the county commission of the county in
41 which the voter resides. If a clerk receives a completed
42 mail application form from a voter whose residence
43 address is located in another county, the clerk shall
44 forward that application within three days to the clerk

45 of the county commission of the county of the applicant's
46 residence.

47 (f) Upon receipt of the application for registration by
48 the appropriate clerk of the county commission, the clerk
49 shall:

50 (1) Attempt to establish whether the residence address
51 given is within the boundaries of an incorporated
52 municipality and, if so, make the proper entry required
53 for municipal residents to be properly identified for
54 municipal voter registration purposes; and

55 (2) Immediately begin the verification process required
56 by the provisions of section sixteen of this article.

57 (g) Any person who registers by mail pursuant to this
58 section shall be required to make his or her first vote in
59 person at the polls or in person at the office of the clerk
60 of the circuit court to vote an absentee ballot in order to
61 make the registration valid: *Provided*, That any person
62 who has applied for an absentee ballot pursuant to the
63 provisions of subdivision (1), subsection (d), section one,
64 article three of this chapter or paragraph (B), subdivision
65 (2) of said subsection or subdivision (3) of said subsection
66 or of subsection (e) of said section shall not have his or
67 her ballot in that election challenged for failure to
68 appear in person or for failure to present identification.

69 (h) Any person required by this section to make his or
70 her first vote in person shall present valid identification
71 and proof of age to the clerks at the poll or at the office
72 of the clerk of the circuit court or the clerk of the county
73 commission of the county in which he or she is registered
74 before casting the first ballot.

75 (i) Any person who submits a state mail voter registra-
76 tion application to the clerk of the county commission in
77 the county in which he or she is currently registered for
78 the purpose of entering a change of address within the
79 county, making a change of party affiliation or recording
80 a change of legal name shall not be required to make his

81 or her first vote in person or to present identification or
82 proof of age.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

**§3-4A-11a. Ballots tabulated electronically; arrangement,
quantity to be printed, ballot stub numbers.**

1 (a) The board of ballot commissioners in counties using
2 ballots upon which votes may be recorded by means of
3 marking with electronically sensible ink or pencil and
4 which marks are tabulated electronically shall cause the
5 ballots to be printed for use in elections.

6 (b) (1) The heading of the ballot, the arrangement of
7 offices in columns, the spaces for marking votes, the
8 printing of offices, instructions and candidates names
9 shall conform as nearly as possible to that prescribed in
10 this chapter for paper ballots, except that the secretary
11 of state may prescribe necessary modifications to accom-
12 modate the tabulating system. Nonpartisan elections for
13 board of education and any question to be voted upon
14 shall be separated from the partisan ballot and sepa-
15 rately headed in display type with a title clearly identi-
16 fying the purpose of the election and such separate
17 section shall constitute a separate ballot wherever a
18 separate ballot is required under the provisions of this
19 chapter.

20 (2) Both the face and the reverse side of the ballot may
21 contain the names of candidates, only if means to ensure
22 the secrecy of the ballot are provided and lines for the
23 signatures of the poll clerks on the ballot are printed on
24 a portion of the ballot which is deposited in the ballot
25 box and upon which marks do not interfere with the
26 proper tabulation of the votes.

27 (3) The arrangement of candidates within each office
28 shall be determined in the same manner as for other
29 electronic voting systems, as prescribed in this chapter.
30 On the general election ballot for all offices, and on the
31 primary election ballot only for those offices to be filled

32 by election, except delegate to national convention, lines
33 for entering write-in votes shall be provided below the
34 names of candidates for each office and the number of
35 lines provided for any office shall equal the number of
36 persons to be elected or three, whichever is fewer. The
37 words "WRITE-IN, IF ANY" shall be printed directly
38 under each line for write-ins. Such lines shall be oppo-
39 site a position to mark the vote.

40 (c) The primary election ballots shall be printed in the
41 color of ink specified by the secretary of state for the
42 various political parties and the general election ballot
43 shall be printed in black ink. All ballots shall be printed
44 on white paper suitable for automatic tabulation and
45 shall contain a perforated stub at the top or bottom of
46 the ballot which shall be numbered sequentially in the
47 same manner as provided in this article for ballots upon
48 which votes are recorded by means of perforating. The
49 number of ballots printed and the packaging of ballots
50 for the precincts shall conform to the requirements for
51 paper ballots as provided in this chapter.

52 (d) In addition to the official ballots, the ballot com-
53 missioners shall provide all other materials and equip-
54 ment necessary to the proper conduct of the election.

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

**§3-8-2a. Detailed accounts and verified financial statements
for certain inaugural events.**

1 (a) Any inaugural committee soliciting or receiving
2 contributions for the funding of all or any part of an
3 inaugural event for any person elected to any state
4 public office that receives an individual contribution in
5 excess of two hundred fifty dollars for any such event
6 shall file and retain detailed records of any such contri-
7 bution.

8 (b) For purposes of this section:

9 (1) "Inaugural committee" includes any person, organi-
10 zation or group of persons soliciting or receiving contri-

11 butions for the purpose of funding an inaugural event for
12 an elected state official; and

13 (2) "Inaugural event" means any event or events held
14 between the date of the general election for a state
15 public office and a date ninety days after the date of the
16 general election, whether the event is sponsored by the
17 inaugural committee or the state political party commit-
18 tee representing the party of the elected official and for
19 which the elected official is a prominent participant or
20 for which solicitations of contributions include the name
21 of the elected official in prominent display.

22 (c) Any inaugural committee, financial agent or any
23 person or officer acting on behalf of such committee
24 which is subject to the provisions of this section, shall
25 file a verified financial statement with the secretary of
26 state on a form prescribed by the state election commis-
27 sion within forty-five days following the event. The
28 financial statement shall contain information as may be
29 required by the provisions of subsection (a) of this
30 section relating to any contribution in excess of two
31 hundred fifty dollars. The secretary of state shall file
32 and retain such statements as public records.

§3-8-4a. Termination of political committees.

1 (a) A political committee may terminate by filing a
2 written request, in accordance with the provisions of
3 section four of this article, and by stating in the request
4 that it will no longer receive any contributions or make
5 any disbursements and that it has no outstanding debts
6 or obligations. At such time, any excess funds of the
7 committee may be transferred to a political committee
8 established by the same candidate pursuant to the
9 provisions of section four or five-e of this article.

10 (b) The provisions of this section may not be construed
11 to eliminate or limit the authority of the secretary of
12 state, in consultation with the state election commission,
13 to establish procedures for: (1) The determination of

14 insolvency with respect to any political committee; (2)
15 the orderly liquidation of an insolvent political commit-
16 tee and the orderly application of its assets for the
17 reduction of outstanding debts; and (3) the termination
18 of an insolvent political committee after such liquidation
19 and application of assets.

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

1 (a) Every candidate, financial agent, person and
2 association of persons, organization of any kind, includ-
3 ing every corporation, directly or indirectly, supporting
4 a political committee established pursuant to paragraph
5 (C), subdivision (1), subsection (b), section eight of this
6 article or engaging in other activities permitted by said
7 section and also including the treasurer or equivalent
8 officer of such association or organization, advocating or
9 opposing the nomination, election or defeat of any
10 candidate or the passage or defeat of any issue, thing or
11 item to be voted upon, and the treasurer of every politi-
12 cal party committee shall keep detailed accounts of every
13 sum of money or other thing of value received by him,
14 including all loans of money or things of value, and of all
15 expenditures and disbursements made, liabilities in-
16 curred, by such candidate, financial agent, person,
17 association or organization or committee, for political
18 purposes, or by any of the officers or members of such
19 committee, or any person acting under its authority or on
20 its behalf.

21 (b) Every person or association of persons required to
22 keep detailed accounts under this section shall file with
23 the officers hereinafter prescribed a detailed itemized
24 statement, subscribed and sworn to before an officer
25 authorized to administer oaths, according to the follow-
26 ing provisions and times:

27 (1) On the last Saturday in March or within fifteen
28 days thereafter next preceding the primary election day
29 whenever the total of all financial transactions relating

30 to an election exceed five hundred dollars a statement
31 which shall include all financial transactions which have
32 taken place by the date of that statement, subsequent to
33 any previous statement filed within the previous five
34 years under this section, or if no previous statement was
35 filed, all financial transactions made within the preced-
36 ing five years; and

37 (2) Not less than seven nor more than ten days preced-
38 ing each primary or other election, a statement which
39 shall include all financial transactions which have taken
40 place by the date of such statement, subsequent to the
41 previous statement, if any; and

42 (3) Not less than twenty-five nor more than thirty days
43 after each primary or other election, a statement which
44 shall include all financial transactions which have taken
45 place by the date of such statement, subsequent to the
46 previous statement; and

47 (4) On the first day of July, one thousand nine hundred
48 eighty-five, and thereafter on the last Saturday in March
49 or within fifteen days thereafter annually, whenever
50 contributions or expenditures relating to an election
51 exceed five hundred dollars or whenever any loans are
52 outstanding, a statement which shall include all finan-
53 cial transactions which have taken place by the date of
54 such report, subsequent to any previous report.

55 (c) Every person who shall announce as a write-in
56 candidate for any elective office and his financial agent
57 or election organization of any kind shall comply with all
58 of the requirements of this section after public an-
59 nouncement of such person's candidacy has been made.

60 (d) For purposes of this section, the term "financial
61 transactions" includes all contributions or loans received
62 and all repayments of loans or expenditures made to
63 promote the candidacy of any person by any candidate or
64 any organization advocating or opposing the nomination,
65 election or defeat of any candidate or to promote the

66 passage or defeat of any issue, thing or item to be voted
67 on

68 (e)(1) Except as provided in subdivision (2) of this
69 subsection, any person, association, organization,
70 corporation or other legal entity who publishes, distrib-
71 utes or disseminates any scorecard, voter guide or other
72 written analysis of a candidate's position or votes on
73 specific issues within sixty days of an election is pre-
74 sumed to be engaging in such activity for the purpose of
75 advocating or opposing the nomination, election or
76 defeat of any candidate.

77 (2) The provisions of subdivision (1) of this subsection
78 shall not apply to:

79 (A) The publication, distribution or dissemination of
80 such materials in the form of a news release to broadcast
81 or print media;

82 (B) Persons who engage in news or feature reporting
83 activities and editorial comment as working members of
84 the press, radio, or television, and persons who publish,
85 distribute or disseminate such news, features or editorial
86 comment through a newspaper, book, regularly pub-
87 lished periodical, radio station or television station;

88 (C) The members of a nonprofit corporation or other
89 organization who have such membership in accordance
90 with the provisions of the articles of incorporation,
91 bylaws or other instruments creating its form of organi-
92 zation and who have bona fide rights and privileges in
93 the organization such as the right to vote, to elect
94 officers, directors and issues, to hold office or otherwise
95 as ordinarily conferred on members of such organiza-
96 tions who publish, distribute or disseminate materials
97 described in subdivision (1) of this subsection to other
98 such members; or

99 (D) The employees of a church or synagogue which
100 currently holds or is eligible to hold an exemption as a
101 church issued by the internal revenue service under the

102 provisions of §26 U.S.C. 501(c)(3) who publish, distribute
103 or disseminate materials described in subdivision (1) of
104 this subsection within the membership of the church or
105 synagogue or upon the premises of any facility owned or
106 controlled by the church or synagogue: *Provided*, That
107 the exemption from the presumption provided by this
108 paragraph shall not apply to such employees of a church
109 when the church or synagogue otherwise advocates or
110 opposes the nomination, election or defeat of any candi-
111 date or the passage of any issue, thing or item to be voted
112 upon.

113 (f) No scorecard, voter guide or other written analysis
114 of a candidate's position or votes on specific issues shall
115 be published, distributed or disseminated within sixty
116 days of an election unless it shall state thereon the name
117 of the person, association, organization, corporation or
118 other legal entity authorizing its publication, distribu-
119 tion or dissemination.

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

1 (a) Each financial statement required by the provisions
2 of this article shall contain the following information:

3 (1) The first name, middle initial, if any, and last name,
4 residence and mailing address and telephone number of
5 each candidate, financial agent, treasurer or person and
6 the full name, address and telephone number of each
7 association, organization or committee filing a financial
8 statement.

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

12 (3) The first name, middle initial, if any, and the last
13 name in the case of an individual, and the full name of
14 each firm, association or committee, and the amount of
15 such contribution of such individual, firm, association or
16 committee, and, if the aggregate of the sum or sums
17 contributed by any one such individual, firm, association

18 or committee exceeds two hundred fifty dollars, there
19 shall also be reported the residence and mailing address
20 and, in the case of an individual, the major business
21 affiliation and occupation. A contribution totaling more
22 than fifty dollars of currency of the United States or
23 currency of any foreign country by any one contributor
24 is prohibited and a violation of this provision is subject
25 to section five-d of this article.

26 (4) The total amount of contributions received during
27 the period covered by the financial statement.

28 (5) The first name, middle initial, if any, and the last
29 name, residence and mailing address of any individual or
30 the full name and mailing address of each firm, associa-
31 tion or committee making or cosigning a loan and the
32 amount of any loan received, the date and terms of the
33 loan, including interest and repayment schedule, along
34 with a copy of the loan agreement.

35 (6) The first name, middle initial, if any, and the last
36 name, residence and mailing address of any individual or
37 the full name and mailing address of each firm, associa-
38 tion or committee having previously made or cosigned a
39 loan for which payment is made or a balance is outstand-
40 ing at the end of the period, together with the amount of
41 repayment on the loan made during the period and the
42 balance at the end of the period.

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

45 (8) The first name, middle initial, if any, and the last
46 name, residence and mailing address of any individual,
47 or the full name and mailing address of each firm,
48 association or committee to whom each expenditure was
49 made or liability incurred, together with the amount and
50 purpose of each expenditure or liability incurred and the
51 date of each transaction.

52 (9) The total expenditure for the nomination, election
53 or defeat of a candidate or any person or organization

54 advocating or opposing the nomination, election or
55 defeat of any candidate, or the passage or defeat of any
56 issue, thing or item to be voted upon, in whose behalf an
57 expenditure was made or a contribution was given for
58 the primary or other election.

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

61 (b) Any unexpended balance at the time of making the
62 financial statements herein provided for shall be prop-
63 erly accounted for in that financial statement and shall
64 appear as a balance in the next following financial
65 statement.

66 (c) Each financial statement required by this section
67 shall contain a separate section setting forth the follow-
68 ing information for each fund-raising event held during
69 the period covered by the financial statement:

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

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

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

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

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

78 (d) When any lump sum payment is made to any
79 advertising agency or other disbursing person who does
80 not file a report of detailed accounts and verified finan-
81 cial statements as required in this section, such lump
82 sum expenditures shall be accounted for in the same
83 manner as provided for herein.

84 (e) Any contribution or expenditure made by or on
85 behalf of a candidate for public office, to any other
86 candidate or committee for a candidate for any public
87 office in the same election shall be accounted for in

88 accordance with the provisions of this section.

89 (f) No person, firm, association or committee may make
90 any contribution except from their own funds, unless
91 such person, firm, association or committee discloses in
92 writing to the person required to report under this
93 section the first name, middle initial, if any, and the last
94 name in the case of an individual, or the full name in
95 case of a firm, association or committee, residence and
96 mailing address and the major business affiliation and
97 occupation of the person, firm, association or committee
98 which furnished the funds to such contributor. All such
99 disclosures shall be included in the statement required
100 by this section.

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

105 (h) No contribution may be made, directly or indi-
106 rectly, in a fictitious name, anonymously or by one
107 person through an agent, relative or other person so as to
108 conceal the identity of the source of the contribution or
109 in any other manner so as to effect concealment of the
110 contributor's identity.

111 (i) No person, firm, association or committee may
112 accept any contribution for the purpose of influencing
113 the nomination, election or defeat of a candidate or for
114 the passage or defeat of any issue or thing to be voted
115 upon unless the identity of the donor and the amount of
116 the contribution is known and reported.

117 (j) When any candidate, organization, committee or
118 person receives any anonymous contribution which
119 cannot be returned because the donor cannot be identi-
120 fied, that contribution shall be donated to the general
121 revenue fund of the state. Any anonymous contribution
122 shall be recorded as such on the candidate's financial
123 statement, but may not be expended for election ex-

124 penses. At the time of filing, the financial statement
125 shall include a statement of distribution of anonymous
126 contributions, which total amount shall equal the total
127 of all anonymous contributions received during the
128 period.

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

133 (1) If the portion of dues or assessments designated for
134 political purposes equals twenty-five dollars or less per
135 member over the course of a calendar year, the total
136 amount raised for political purposes through member-
137 ship dues or assessments during the period is reported by
138 showing the amount required to be paid by each member
139 and the number of members.

140 (2) If the total payroll deduction for political purposes
141 of each participating member equals twenty-five dollars
142 or less over the course of a calendar or fiscal year, as
143 specified by the organization, the organization shall
144 report the total amount received for political purposes
145 through such payroll deductions during the reporting
146 period and, to the maximum extent possible, the amount
147 of each yearly payroll deduction contribution level and
148 the number of members contributing at each such
149 specified level. The membership organization shall
150 maintain records of the name and yearly payroll deduc-
151 tion amounts of each participating member.

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

160 (l) For purposes of this section:

161 (1) "Political purposes" means advocating or opposing
162 the nomination, election or defeat of one or more candi-
163 dates, supporting the retirement of the debt of a candi-
164 date or activities of an established political party or an
165 organization which has declared itself a political party,
166 supporting the administration or activities of a political
167 committee or advocating or opposing the passage of a
168 ballot issue.

169 (2) "Membership organization" means a group that
170 grants bona fide rights and privileges, such as the right
171 to vote, to elect officers or directors and the ability to
172 hold office, to its members and which uses a majority of
173 its membership dues for purposes other than political
174 purposes. This term shall not include organizations that
175 grant membership upon receiving a contribution.

176 (3) "Fund-raising event" means an event such as a
177 dinner, reception, testimonial, cocktail party, auction or
178 similar affair through which contributions are solicited
179 or received by such means as the purchase of a ticket,
180 payment of an attendance fee or by the purchase of
181 goods or services.

182 (m) Notwithstanding the provisions of section five of
183 this article or of the provisions of this section to the
184 contrary, an alternative reporting procedure may be
185 followed by a political party executive committee or a
186 political action committee representing a political party
187 in filing financial reports for fund-raising events if the
188 total profit does not exceed five thousand dollars per
189 year. A political party executive committee or a political
190 action committee representing a political party may
191 report gross receipts for the sale of food, beverages,
192 services, novelty items, raffle tickets or memorabilia,
193 except that any receipt of more than fifty dollars from an
194 individual or organization shall be reported as a contri-
195 bution. A political party executive committee or a
196 political action committee representing a political party

197 using this alternative method of reporting shall report:
198 (i) The name of the committee; (ii) the type of fund-
199 raising activity undertaken; (iii) the location where the
200 activity occurred; (iv) the date of the fund raiser; (v) the
201 name of any individual who contributed more than fifty
202 dollars worth of items to be sold; (vi) the name and
203 amount received from any person or organization
204 purchasing more than fifty dollars worth of food, beverages,
205 services, novelty items, raffle tickets or memorabilia;
206 (vii) the gross receipts of the fund raiser; and (viii)
207 the date, amount, purpose and name and address of each
208 person or organization from whom items with a fair
209 market value of more than fifty dollars were purchased
210 for resale.

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

1 (a) The sworn financial statements provided for in this
2 article shall be filed, by or on behalf of candidates, with
3 the secretary of state for legislative offices and for state
4 and other offices to be nominated or elected by the
5 voters of a political division greater than a county and
6 with the clerk of the county commission by all other
7 candidates for offices to be nominated or elected.

8 (b) The statements may be filed by mail, in person or
9 by facsimile or other electronic means of transmission.

10 (c) For purposes of this article, the filing date of a
11 financial statement shall, in the case of mailing, be the
12 date of the postmark of the United States postal service
13 and in the case of hand delivery or delivery by facsimile
14 or other electronic means of transmission, the date
15 delivered to the office of the secretary of state or to the
16 office of the clerk of the county commission, in accordance
17 with the provisions of subsection (a) of this
18 section, during regular business hours of such office.

§3-8-5d. Offenses and penalties.

1 (a) Any person who makes or receives a contribution of

2 currency of the United States or currency of any foreign
3 country of more than fifty dollars in value is guilty of a
4 misdemeanor, and, upon conviction, shall be fined a sum
5 equal to three times the amount of the contribution.

6 (b) Notwithstanding any provision of section twenty-
7 four, article nine of this chapter to the contrary, a
8 criminal prosecution or civil action for a violation of this
9 article may be commenced within five years after the
10 violation occurred.

11 (c) No person required to report under this article shall
12 be found in violation of this article if any person, firm,
13 association or committee making a contribution has
14 provided false information to such person: *Provided,*
15 That any person, firm, association or committee who
16 provides false information to a person required to report
17 under this article is guilty of a misdemeanor and subject
18 to the penalties provided in section twenty-three, article
19 nine of this chapter.

§3-8-6. Financial statement forms; filing; disposition.

1 Blank forms for all financial statements required under
2 this article shall be provided by the state election
3 commission. The content of the forms shall be as pre-
4 scribed by legislative rule promulgated in accordance
5 with the provisions of chapter twenty-nine-a of this
6 code. Pending legislative approval of such legislative
7 rule, the state election commission may by emergency
8 rule prescribe the contents of the forms. Copies thereof,
9 together with a copy of this article, shall be furnished
10 through the county clerk or otherwise, as the secretary of
11 state may deem expedient, to all treasurers of political
12 committees, to all political financial agents and to all
13 candidates for nomination or election to any office, upon
14 the filing of a petition or announcement for nomination,
15 and to all other persons required by law to file such
16 statements who shall apply therefor. The form shall also
17 be furnished, at a nominal cost, on computer disc or
18 magnetic media. All statements filed in accordance with

19 the provisions of this article shall be received, endorsed
20 and filed by the secretary of state and county clerks and
21 shall be preserved for five years, after which time they
22 may be destroyed, if not required to be further preserved
23 by the order of any court.

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

1 (a) Any candidate, financial agent or treasurer of a
2 political party committee, who fails to file a sworn,
3 itemized statement within the time limitations specified
4 in this article, or who willfully files a grossly incomplete
5 or grossly inaccurate statement, shall be guilty of a
6 misdemeanor, and, upon conviction thereof, shall be
7 fined not less than five hundred dollars, or imprisoned in
8 the county jail for not more than one year, or both, in the
9 discretion of the court. Forty days after any such
10 primary or other election, the secretary of state, or
11 county clerk, as the case may be, shall give notice of any
12 failure to file such sworn statement or the filing of any
13 grossly incomplete or grossly inaccurate statement by
14 any candidate, financial agent or treasurer of political
15 party committee and forward copies of any grossly
16 incomplete or grossly inaccurate statement, to the
17 prosecuting attorney of the county where such candi-
18 date, agent or treasurer resides.

19 (b) (1) Any candidate, financial agent or treasurer of a
20 political party committee who fails to file a sworn,
21 itemized statement as provided in this article, or who
22 files a grossly incomplete or grossly inaccurate state-
23 ment, may be assessed a civil penalty by the secretary of
24 state of twenty-five dollars a day for each day after the
25 due date the statement is delinquent, grossly incomplete
26 or grossly inaccurate. Forty days after any such primary
27 or other election the county clerk shall give notice to the
28 secretary of state of any failure to file such sworn
29 statement or the filing of any grossly incomplete or
30 grossly inaccurate statement by any candidate, financial

31 agent or treasurer of a political party committee and
32 forward copies of such delinquent, incomplete or inaccu-
33 rate statements to the secretary of state.

34 (2) A civil penalty assessed pursuant to the provisions
35 of this section shall be payable to the state of West
36 Virginia and is collectable in any manner authorized by
37 law for the collection of debts.

38 (3) The secretary of state may negotiate and enter into
39 settlement agreements for the payment of civil penalties
40 assessed as a result of the filing of a delinquent, grossly
41 incomplete or inaccurate statement.

42 (4) The secretary of state and county clerk may review
43 and audit any sworn statement required to be filed
44 pursuant to the provisions of this article. The state
45 election commission shall propose legislative rule for
46 promulgation, in accordance with the provisions of
47 chapter twenty-nine-a of this code, to establish proce-
48 dures for the assessment of civil penalties as provided in
49 this section.

50 (c) No candidate nominated at a primary election, who
51 has failed to file a sworn statement, as required by the
52 provisions of this article, shall have his name placed on
53 the official ballot for the ensuing election, unless there
54 has been filed by or on behalf of such candidate, or by
55 his financial agent, if any, the financial statement
56 relating to nominations required by this article. It is
57 unlawful to issue a commission or certificate of election,
58 or to administer the oath of office, to any person elected
59 to any public office who has failed to file a sworn
60 statement as required by the provisions of this article,
61 and no such person may enter upon the duties of his
62 office until he has filed such statement, nor may he
63 receive any salary or emolument for any period prior to
64 the filing of such statement.

**§3-8-9. Lawful and unlawful election expenses; public opin-
ion polls and limiting their purposes; limita-**

tion upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.

- 1 (a) No candidate, financial agent or treasurer of a
2 political party committee shall pay, give or lend, either
3 directly or indirectly, any money or other thing of value
4 for any election expenses, except for the following
5 purposes:
 - 6 (1) For rent, maintenance and furnishing of offices to
7 be used as political headquarters and for the payment of
8 necessary clerks, stenographers, typists, janitors and
9 messengers actually employed therein;
 - 10 (2) In the case of a candidate who does not maintain a
11 headquarters, for reasonable office expenses, including,
12 but not limited to, filing cabinets and other office
13 equipment and furnishing, computers, computer hard-
14 ware and software, scanners, typewriters, calculators,
15 audio visual equipment, or the rental of the use of the
16 same, and for the payment of necessary clerks, stenogra-
17 phers and typists, actually employed;
 - 18 (3) For printing and distributing books, pamphlets,
19 circulars and other printed matter and radio and televi-
20 sion broadcasting and painting, printing and posting
21 signs, banners and other advertisements, all relating to
22 political issues and candidates;
 - 23 (4) For renting and decorating halls for public meetings
24 and political conventions, for advertising public meet-
25 ings and for the payment of traveling expenses of
26 speakers and musicians at such meetings;
 - 27 (5) For the necessary traveling and hotel expenses of
28 candidates, political agents and committees, and for
29 stationery, postage, telegrams, telephone, express,
30 freight and public messenger service;
 - 31 (6) For preparing, circulating and filing petitions for
32 nomination of candidates;

33 (7) For examining the lists of registered voters, secur-
34 ing copies thereof, investigating the right to vote of the
35 persons listed therein and conducting proceedings to
36 prevent unlawful registration or voting;

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

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

43 (10) For conducting public opinion poll or polls. For
44 the purpose of this section, the phrase "conducting of
45 public opinion poll or polls" shall mean and be limited to
46 the gathering, collection, collation and evaluation of
47 information reflecting public opinion, needs and prefer-
48 ences as to any candidate, group of candidates, party,
49 issue or issues. No such poll shall be deceptively de-
50 signed or intentionally conducted in a manner calculated
51 to advocate the election or defeat of any candidate or
52 group of candidates or calculated to influence any
53 person or persons so polled to vote for or against any
54 candidate, group of candidates, proposition or other
55 matter to be voted on by the public at any election:
56 *Provided*, That nothing herein shall prevent the use of
57 the results of any such poll or polls to further, promote
58 or enhance the election of any candidate or group of
59 candidates or the approval or defeat of any proposition
60 or other matter to be voted on by the public at any
61 election;

62 (11) For legitimate advertising agency services, includ-
63 ing commissions, in connection with any campaign
64 activity for which payment is authorized by subdivisions
65 (3), (4), (5), (6), (7), (9) and (10) of this subsection;

66 (12) For the purchase of memorials, flowers or citations
67 by political party executive committees or political
68 action committees representing a political party; and

69 (13) For the purchase of nominal noncash expressions
70 of appreciation following the close of the polls of an
71 election or within thirty days thereafter.

72 (b) Every liability incurred and payment made shall be
73 at a rate and for a total amount which is proper and
74 reasonable and fairly commensurate with the services
75 rendered.

76 (c) Every advertising agency subject to the provisions
77 of this article shall file, in the manner and form required
78 by section five-a of this article, the financial statements
79 required by section five of this article at the times
80 required therein and include therein, in itemized detail,
81 all receipts from and expenditures made on behalf of a
82 candidate, financial agent or treasurer of a political
83 party committee.

84 (d) Any candidate may designate a financial agent by
85 a writing duly subscribed by him which shall be in such
86 form and filed in accordance with the provisions of
87 section four of this article.

§3-8-10. Use of certain contributions.

1 Amounts received by a candidate as contributions that
2 are in excess of any amount necessary to defray his or
3 her expenditures may be used by the candidate to defray
4 any ordinary and necessary expenses incurred in connec-
5 tion with his or her duties as a holder of public office,
6 may be contributed to any charitable organization, or
7 may be transferred, without limitation, to any national,
8 state or local committee of any political party.

9 The state election commission shall promulgate
10 legislative rules, in accordance with the provisions of
11 chapter twenty-nine-a of this code, to establish guide-
12 lines for the administration of this section.

§3-8-11. Specific acts forbidden; penalties.

1 (a) Any person who shall, directly or indirectly, by
2 himself, or by any other person on his behalf, make use

3 of, or threaten to make use of, any force, violence or
4 restraint, or inflict, or threaten to inflict, any damage,
5 harm or loss, upon or against any person, or by any other
6 means attempt to intimidate or exert any undue influ-
7 ence, in order to induce such person to vote or refrain
8 from voting, or on account of such person having voted
9 or refrained from voting, at any election, or who shall, by
10 abduction, duress or any fraudulent device or contriv-
11 ance, impede or prevent the free exercise of the suffrage
12 by any elector, or shall thereby compel, induce or prevail
13 upon any elector either to vote or refrain from voting for
14 or against any particular candidate or measure; or

15 (b) Any person who, being an employer, or acting for or
16 on behalf of any employer, shall give any notice or
17 information to his employees, containing any threat,
18 either express or implied, intended or calculated to
19 influence the political view or actions of the workmen or
20 employees; or

21 (c) Any person who shall, knowingly, make or publish,
22 or cause to be made or published, any false statement in
23 regard to any candidate, which statement is intended or
24 tends to affect any voting at any election whatever; or

25 (d) Any person who shall pay any owner, publisher,
26 editor or employee or any newspaper or other periodical,
27 to advocate or oppose editorially, any candidate for
28 nomination or election, or any political party, or any
29 measure to be submitted to the vote of the people; or any
30 owner, publisher, editor or employee, who shall solicit or
31 accept such payment:

32 Is guilty of a misdemeanor, and, on conviction thereof,
33 shall be fined not more than ten thousand dollars, or
34 confined in jail for not more than one year, or, in the
35 discretion of the court, shall be subject to both such fine
36 and imprisonment.

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

contributions; intimidation and coercion of employees; promise of employment or other benefits; limitations on contributions; public contractors; penalty.

1 (a) No person shall publish, issue or circulate, or cause
2 to be published, issued or circulated, any anonymous
3 letter, circular, placard or other publication tending to
4 influence voting at any election.

5 (b) No owner, publisher, editor or employee of a
6 newspaper or other periodical shall insert, either in its
7 advertising or reading columns, any matter, paid for or
8 to be paid for, which tends to influence the voting at any
9 election, unless directly designating it as a paid adver-
10 tisement and stating the name of the person authorizing
11 its publication and the candidate in whose behalf it is
12 published.

13 (c) No person shall, in any room or building occupied
14 for the discharge of official duties by any officer or
15 employee of the state or a political subdivision thereof,
16 solicit orally or by written communication delivered
17 therein, or in any other manner, any contribution of
18 money or other thing of value for any party or political
19 purpose, from any postmaster or any other officer or
20 employee of the federal government, or officer or em-
21 ployee of the state, or a political subdivision thereof. No
22 officer, agent, clerk or employee of the federal govern-
23 ment, or of this state, or any political subdivision there-
24 of, who may have charge or control of any building,
25 office or room, occupied for any official purpose, shall
26 knowingly permit any person to enter the same for the
27 purpose of therein soliciting or receiving any political
28 assessments from, or delivering or giving written solici-
29 tations for, or any notice of, any political assessments to,
30 any officer or employee of the state, or a political subdi-
31 vision thereof.

32 (d) Except as provided in section eight of this article,
33 no person entering into any contract with the state or its

34 subdivisions, or any department or agency thereof, either
35 for rendition of personal services or furnishing any
36 material, supplies or equipment or selling any land or
37 building to the state, or its subdivisions, or any depart-
38 ment or agency thereof, if payment for the performance
39 of such contract or payment for such material, supplies,
40 equipment, land or building is to be made in whole or in
41 part from public funds shall, during the period of
42 negotiation for or performance under such contract or
43 furnishing of materials, supplies, equipment, land or
44 buildings, directly or indirectly make any contribution
45 to any political party, committee or candidate for public
46 office or to any person for political purposes or use; nor
47 shall any person or firm solicit any contributions for any
48 such purpose during any such period.

49 (e) No person shall, directly or indirectly, promise any
50 employment, position, work, compensation or other
51 benefit provided for, or made possible, in whole or in
52 part by act of the Legislature, to any person as consider-
53 ation, favor or reward for any political activity for the
54 support of or opposition to any candidate, or any political
55 party in any election.

56 (f) No person shall, directly or indirectly, make any
57 contribution in excess of the value of one thousand
58 dollars in connection with any campaign for nomination
59 or election to or on behalf of any statewide or national
60 elective office, or in excess of the value of one thousand
61 dollars, in connection with any other campaign for
62 nomination or election to or on behalf of any other
63 elective office in the state or any of its subdivisions, or in
64 connection with or on behalf of any committee or other
65 organization or person engaged in furthering, advancing
66 or advocating the nomination or election of any candi-
67 date for any such office.

68 (g) (1) Notwithstanding the provisions of subsection (f)
69 of this section to the contrary, the aggregate contribu-
70 tions made to a state party executive committee shall be

71 permitted only pursuant to the limitations imposed by
72 the provisions of this subsection.

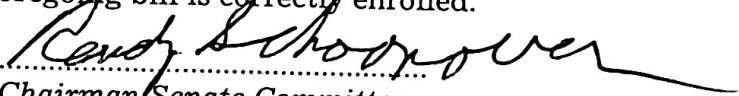
73 (2) No person shall, directly or indirectly, make
74 contributions to a state party executive committee
75 which, in the aggregate, exceed the value of one thou-
76 sand dollars in any calendar year.

77 (h) No person shall solicit any contribution from any
78 nonelective salaried employee of the state government or
79 of any of its subdivisions or coerce or intimidate any
80 such employee into making such contribution. No
81 person shall coerce or intimidate any nonsalaried
82 employee of the state government or any of its subdivi-
83 sions into engaging in any form of political activity. The
84 provisions hereof shall not be construed to prevent any
85 such employee from making such a contribution or from
86 engaging in political activity voluntarily, without
87 coercion, intimidation or solicitation.

88 (i) No person shall solicit a contribution from any other
89 person without informing such other person at the time
90 of such solicitation of the amount of any commission,
91 remuneration or other compensation that the solicitor or
92 any other person will receive or expect to receive as a
93 direct result of such contribution being successfully
94 collected. Nothing in this subsection shall be construed
95 to apply to solicitations of contributions made by any
96 person serving as an unpaid volunteer.

97 (j) Any person violating any provision of this section is
98 guilty of a misdemeanor, and, upon conviction thereof,
99 shall be fined not more than one thousand dollars, or
100 confined in jail for not more than one year, or, in the
101 discretion of the court, be subject to both such fine and
102 confinement.

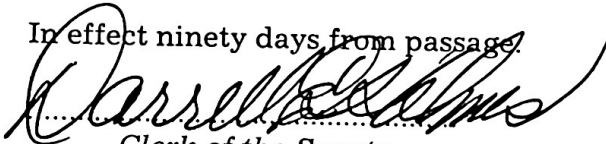
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

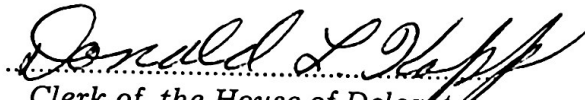

.....
Chairman Senate Committee

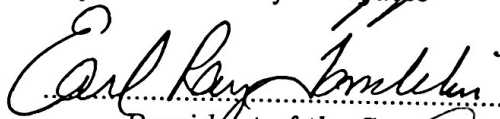

.....
Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this the 24th
day of March 1995.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/95

Time 3:59 pm