



**City of
Toronto**

***Fair Campaign
Practices Act***

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TITLE 1 ELECTIONS

ARTICLE 45 Fair Campaign Practices Act

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

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

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

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

(1.3) "Ballot issue" shall have the same meaning as set forth in section 1-1-104 (2.3); except that, for purposes of section 1-45-117, "ballot issue" shall mean both a ballot issue as defined in this subsection (1.3) and a ballot question.

(1.5) "Ballot question" shall have the same meaning as set forth in section 1-1-104 (2.7).

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

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

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

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

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

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

(c) "Contribution" also includes:

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

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

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

(d) "Contribution" does not include the payment of legal fees to advise a candidate on compliance with campaign laws or regulations or to represent a candidate or candidate committee in any action in which the candidate or committee has been named as a defendant. Such legal services are not undertaken "for the benefit of any candidate committee" or "for the purpose of promoting the candidate's nomination, retention, recall, or election" as those phrases are used in section 2 (5)(a)(II) and (5)(a)(IV) of article XXVIII of the state constitution.

(e) "Contribution" does not include an intervention by the secretary of state, as authorized by section 1-45-111.5 (1.5)(g), in

any action brought to enforce the provisions of article XXVIII of the state constitution or this article 45.

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

(7.3) (a) "Donation" means:

(I) The payment, loan, pledge, gift, or advance of money, or the guarantee of a loan, made to any person for the purpose of making an independent expenditure;

(II) Any payment made to a third party that relates to, and is made for the benefit of, any person that makes an independent expenditure;

(III) The fair market value of any gift or loan of property that is given to any person for the purpose of making an independent expenditure; or

(IV) Anything of value given, directly or indirectly, to any person for the purpose of making an independent expenditure.

(b) "Donation" shall not include a transfer by a membership organization of a portion of a member's dues for an independent expenditure sponsored by such membership organization.

(7.5) "Earmark" means a designation, instruction, or encumbrance

that directs the transmission and use by the recipient of all or part of a donation to a third party for the purpose of making one or more independent expenditures or electioneering communications in excess of one thousand dollars.

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

(9) "Electioneering communication" has the same meaning as set forth in section 2 (7) of article XXVIII of the state constitution. For purposes of the disclosure required by section 1-45-108, "electioneering communication" also includes any communication that satisfies all other requirements set forth in said section 2 (7) of article XXVIII but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

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

(b) "Expenditure" does not include legal services paid to defend a candidate or candidate committee against any action brought to enforce the provisions of article XXVIII of the state constitution or this article 45.

(10.5) "Foreign corporation" means:

(a) A parent corporation or the subsidiary of a parent corporation formed under the laws of a foreign country that is functionally equivalent to a domestic corporation;

(b) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a combined ownership interest that exceeds fifty percent;

(c) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a majority of the positions on the corporation's board of directors; or

(d) A parent corporation or the subsidiary of a parent corporation whose United States-based operations, or whose decision-making with respect to political activities, falls under the direction or control of a foreign entity, including the government of a foreign country.

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

(11.5) "Independent expenditure committee" means one or more persons that make an independent expenditure in an aggregate amount in excess of one thousand dollars or that collect in excess of one thousand dollars from one or more persons for the purpose of making an independent expenditure.

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

(b) For purposes of section 2 (10)(a)(I) of article XXVIII of the state constitution, "major purpose" means support of or opposition to a ballot issue or ballot question that is reflected by:

(I) An organization's specifically identified objectives in its organizational documents at the time it is established or as such documents are later amended; or

(II) An organization's demonstrated pattern of conduct based upon its:

(A) Annual expenditures in support of or opposition to a ballot issue or ballot question; or

(B) Production or funding, or both, of written or broadcast communications, or both, in support of or opposition to a ballot issue or ballot question.

(c) The provisions of paragraph (b) of this subsection (12) are intended to clarify, based on the decision of the Colorado court of appeals in *Independence Institute v. Coffman*, 209 P.3d 1130 (Colo. App. 2008), cert. denied, 558 U.S. 1024, 130 S. Ct. 165,

175 L. Ed. 479 (2009), section 2 (10)(a)(I) of article XXVIII of the state constitution and not to make a substantive change to said section 2 (10)(a)(I).

(12.5) "Media outlet" means a publication or broadcast medium that transmits news, feature stories, entertainment, or other information to the public through various distribution channels, including, without limitation, newspapers; magazines; radio; and broadcast, cable, or satellite television.

(12.7) "Obligating" means, in connection with a named candidate, agreeing to spend in excess of one thousand dollars for an independent expenditure or to give, pledge, loan, or purchase one or more goods, services, or other things of value that have a fair market value in excess of one thousand dollars as an independent expenditure. "Obligating" shall not require that the total amount in excess of one thousand dollars be finally determined at the time of the agreement to spend moneys for an independent expenditure or to give, pledge, loan, or purchase anything of value.

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

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

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

purposes of the "Uniform Election Code of 1992", articles 1 to 13 of this title.

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

(15.3) "Regular biennial school election" means the election that is described in section 22-31-104 (1), C.R.S.

(15.5) "Regular biennial school electioneering communication" has the same meaning as "electioneering communication" as defined in section 2 (7) of article XXVIII of the state constitution; except that, for purpose of the definition of regular biennial school electioneering communication only, "candidate" as referenced in section 2 (7)(a)(I) of said article means a candidate in a regular biennial school election and the requirements specified in section 2 (7)(a)(II) mean a communication that is broadcast, printed, mailed, delivered, or distributed within sixty days before a regular biennial school election. Except as otherwise specified in this subsection (15.5), the definition of "regular biennial school electioneering communication" is the same as that of "electioneering communication".

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

(16.3) (a) "Small-scale issue committee" means an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question.

(b) The following are treated as a single small-scale issue committee:

(I) All small-scale issue committees that support or oppose a common ballot measure if the committees are established,

financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single labor organization or the affiliated local units it directs; or

(III) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by substantially the same person, group of persons, or other organizations.

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

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

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

1-45-103.7. Contribution limits - county offices - treatment of independent expenditure committees - contributions from limited liability companies - voter instructions on spending limits - definitions. (1) Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor

organization from making a contribution to a political committee.

(1.5) (a) (I) The maximum amount of aggregate contributions that any one person other than a small donor committee or a political party may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any such person, is one thousand two hundred fifty dollars for the primary election and one thousand two hundred fifty dollars for the general election.

(II) The maximum amount of aggregate contributions that any one small donor committee may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any one small donor committee, is twelve thousand five hundred dollars for the primary election and twelve thousand five hundred dollars for the general election.

(III) The maximum amount of aggregate contributions that a political party may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any political party, is twenty-two thousand one hundred twenty-five dollars for the applicable election cycle.

(b) Candidates may accept contributions subject to the aggregate limits specified in subsection (1.5)(a)(I) or (1.5)(a)(II) of this section in accordance with subsection (3) of this section.

(c) Any monetary amount specified in subsection (1.5)(a) of this section must be adjusted in accordance with the adjustments made to other contribution limits as specified in section 3 (13) of article XXVIII of the state constitution.

(d) The requirements of sections 1-45-108 and 1-45-109, as applicable, apply to any contribution made or received that is subject to subsection (1.5)(a) of this section.

(e) For purposes of this subsection (1.5), "county office" means a county commissioner, county clerk and recorder, sheriff, coroner, treasurer, assessor, or surveyor.

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

(2.5) (a) An independent expenditure committee differs from a political committee in that an independent expenditure committee does not coordinate its activities with a candidate or political party.

(b) An independent expenditure committee shall not be treated as a political committee and, therefore, is not subject to the requirements of section 3 (5) of article XXVIII of the state constitution.

(3) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party who is running in a primary election may accept:

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

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

contributions is on the primary election ballot.

(4) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party running in a primary election may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate affiliated with a major political party or a minor political party running in a primary election who wins the primary election may expend contributions received and accepted for a primary election in the general election.

(4.5) (a) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may accept from any one person the aggregate contribution limit specified in either section 3 (1) of article XXVIII of the state constitution or subsection (1.5)(a) of this section applicable to the office he or she is seeking at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot.

(b) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may expend contributions received and accepted in accordance with paragraph (a) of this subsection (4.5) at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot.

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

- (I) A corporation;
- (II) A labor organization;
- (III) A natural person who is not a citizen of the United States;
- (IV) A foreign government;
- (V) A professional lobbyist, volunteer lobbyist, or the principal of a professional or volunteer lobbyist, and the contribution is prohibited under section 1-45-105.5 (1); or
- (VI) Otherwise prohibited by law from making the contribution.

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

- (I) An entity formed under and subject to the laws of a foreign country;
- (II) A natural person who is not a citizen of the United States; or
- (III) A foreign government.

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

(d) (I) Any limited liability company that is authorized to make a contribution shall, in writing, affirm to the candidate committee, political committee, or political party to which it has made a contribution, as

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

(II) Any contribution by a limited liability company, and the aggregate amount of contributions from multiple limited liability companies attributed to a single member of any such company under this subparagraph (II), shall be subject to the limits governing such contributions under section 3 of article XXVIII of the state constitution. A limited liability company that makes any contribution to a candidate committee, political committee, or political party shall, at the time it makes the contribution, provide information to the recipient committee or political party as to the amount of the total contribution attributed to each member of the limited liability company. The attribution shall reflect the capital each member of the limited liability company has invested in the company relative to the total amount of capital invested in the company as of the date the company makes the campaign contribution, and for a single member limited liability company, the contribution shall be attributed to that single member. The limited liability company shall then deduct the amount of the contribution attributed to each of its members from the aggregate contribution limit applicable to multiple

limited liability companies under this subparagraph (II) for purposes of ensuring that the aggregate amount of contributions from multiple limited liability companies attributed to a single member does not exceed the contribution limits in section 3 of article XXVIII of the state constitution. Nothing in this subparagraph (II) shall be construed to restrict a natural person from making a contribution in his or her own name to any committee or political party to the extent authorized by law.

(5.3) An issue committee or small-scale issue committee shall not knowingly accept contributions from:

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

(b) A foreign government; or

(c) Any foreign corporation that does not have the authority to transact business in this state pursuant to article 115 of title 7 or any successor section.

(5.5) A natural person who is not a citizen of the United States, a foreign government, or a foreign corporation shall not establish, register, or maintain a political committee, small donor committee, political party, issue committee, or small-scale issue committee, or make an electioneering communication or regular biennial school electioneering communication.

(6) No nondomestic corporation may make any contribution under article XXVIII of the state constitution or this article that a domestic corporation is prohibited from making under article XXVIII of the state constitution or this article.

(6.5) Notwithstanding any other provision of law, a candidate committee established in the name of a candidate may expend contributions received and accepted by the committee during any particular election cycle to reimburse the candidate for reasonable and necessary expenses for the care of children or other dependents the candidate incurs directly in connection with

the candidate's campaign activities during the election cycle. The candidate committee shall disclose the expenditures in the same manner as any other expenditures the committee is required to disclose under section 1-45-108 (1)(a)(I).

(7) (a) Any person who believes that a violation of subsection (1.5), (5), or (6) of this section has occurred may file a written complaint with the secretary of state in accordance with section 1-45-111.7.

(b) Any person who has violated subsection (1.5), (5)(a), (5)(b), (5)(c), or (6) of this section is subject to a civil penalty of at least double and up to five times the amount contributed or received in violation of the applicable provision.

(c) Any person who has violated any of the provisions of subparagraph (I) of paragraph (d) of subsection (5) of this section shall be subject to a civil penalty of fifty dollars per day for each day that the written affirmation regarding the membership of a limited liability company has not been filed with or retained by the candidate committee, political committee, or political party to which a contribution has been made.

(8) As used in this section, "limited liability company" has the same meaning as "domestic limited liability company" as defined in section 7-90-102 (15) or "foreign limited liability company" as defined in section 7-90-102 (24).

(9) (a) The voters instruct the Colorado congressional delegation to propose and support, and the Colorado state legislature to ratify, an amendment to the United States Constitution that allows Congress and the states to limit campaign contributions and spending, to ensure that all citizens, regardless of wealth, can express their views to one another and their government on a level playing field.

(b) The provisions of this subsection shall take effect on January 1, 2013, and be applicable thereafter.

(10) For purposes of this section, the terms "unaffiliated", "major political party", and "minor political party" have the same meanings as specified in the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(11) (a) If, within the six months before becoming a candidate for public office, a person actively solicits funds for an independent expenditure committee with the intent of benefiting his or her future candidacy, any expenditure made by that independent expenditure committee in that candidate's race is presumed to be controlled by or coordinated with that candidate and deemed to constitute both a contribution by the maker of the expenditures, and an expenditure by the candidate committee.

(b) If any complaint filed under section 1-45-111.7 for a violation of this subsection (11) fails to state sufficient facts to support the allegations of the complaint, upon a final agency action, the respondent to such a complaint may apply to the state district court for an award of the person's attorneys fees and costs in connection with defending against the complaint if the district court determines that the complaint was frivolous, vexatious, or for the purpose of harassment.

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

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

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

1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation.

(1) (a) No professional lobbyist, volunteer lobbyist, or principal of a professional lobbyist or volunteer lobbyist shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for:

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

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

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

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

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

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

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

(II) Nothing contained in this subsection (1) shall be construed to prohibit a lobbyist or principal of a lobbyist from participating in a fund-raising event of a political party when the general assembly is in regular session or when regular session legislation is pending before the governor, so long as the purpose of the event is not to raise money for specifically designated members of the general assembly, specifically designated candidates for the general assembly, the governor, or specifically designated candidates for governor.

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

(IV) A gift of a meal described in subparagraph (III) of this paragraph (c) by a lobbyist or a principal of a lobbyist to a candidate elected to any office described in paragraph (a) of this subsection (1) but who has not yet been sworn into such office shall be reported as follows:

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

(B) The elected candidate who has not yet been sworn into office shall report the value of the meal in the public official disclosure statement filed pursuant to section 24-6-203, C.R.S.

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

(A) Contributed to a political party;

(B) Contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in section 3 of article XXVIII of the state constitution, if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made;

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

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

(II) Except as authorized by section 1-45-103.7 (6.5), in no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate.

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

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

(I) Voter registration;

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

(III) Postsecondary educational scholarships;

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

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

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

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

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

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

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

1-45-107.5. Independent expenditures - restrictions on foreign corporations - registration - disclosure - disclaimer requirements - definitions. (1)

Notwithstanding any other provision of law, no natural person who is not a citizen of the United States, foreign government, or foreign corporation may expend moneys on an independent expenditure in connection with an election in the state, and no independent expenditure committee may knowingly accept a donation from any natural person who is not a citizen of the United States, any foreign government, or any foreign corporation.

(2) In accordance with the decision of the supreme court of Colorado in the case of *In re Interrogatories Propounded by Governor Bill Ritter, Jr., Concerning the Effect of Citizens United v. Federal Election Comm'n*, 558 U.S. ___ (2010), on Certain Provisions of Article XXVIII of the Constitution of the State of Colorado, 227 P.3d 892 (Colo. 2010), notwithstanding sections 3 (4)(a) and 6 (2) of article XXVIII of the state constitution, corporations and labor organizations shall not be prohibited from making independent expenditures. All such expenditures shall be disclosed in accordance with the requirements of this article and article XXVIII of the state constitution. For purposes of this article and article XXVIII of the state constitution, any use of the word "person" shall be construed to include, without limitation, any corporation or labor organization.

(3) (a) Any person that accepts a donation that is given for the purpose of making an independent expenditure in excess of one thousand dollars or that makes an independent expenditure in excess of one thousand dollars shall register with the appropriate officer within two business days of the date on which an aggregate amount of donations accepted or

expenditures made reaches or exceeds one thousand dollars.

(b) The registration required by paragraph (a) of this subsection (3) shall include a statement listing:

(I) The person's full name, spelling out any acronyms used therein;

(II) A natural person authorized to act as a registered agent;

(III) A street address and telephone number for the principal place of operations; and

(IV) The aggregate ownership interest in the person held by foreign persons calculated as of the time the person registers with the appropriate officer under paragraph (a) of this subsection (3).

(c) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a corporation, a subsidiary may register on behalf of its parent corporation or for other subsidiaries of the parent corporation, and the parent corporation may register on behalf of all of its subsidiaries. In each such case, the registered agent of the person registering shall serve as the registered agent for all such affiliated corporations. Registration of a subsidiary shall include the name of its parent corporation as well as any names under which the subsidiary does business.

(d) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a labor organization, a local labor organization may register on behalf of any affiliated local, national, or international labor organization that will be making independent expenditures, and a national or international labor organization may register on behalf of any affiliated local labor organization that will be making independent expenditures. In each such case, the registered agent of the labor organization that is registering shall serve as the registered agent for each affiliated local, national, or international labor organization.

(4) (a) In addition to any other applicable disclosure requirements specified in this article or in article XXVIII of the state constitution, any person making an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall report the following to the appropriate officer:

(I) The person's full name, or, if the person is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(II) All names under which the person does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (a);

(III) The address of the home office of the person, or, if the person is a subsidiary of a parent corporation, the home office of the parent corporation; and

(IV) The name and street address in the state of its registered agent.

(b) (I) Any person who expends an aggregate amount in excess of one thousand dollars or more per calendar year for the purpose of making an independent expenditure shall report to the appropriate officer, in accordance with the requirements of this section, the name and address of any person that, for the purpose of making an independent expenditure, donates more than two hundred fifty dollars per year to the person expending one thousand dollars or more on an independent expenditure.

(II) If the person making the donation of two hundred fifty dollars or more is a natural person, the disclosure required by subparagraph (I) of this paragraph (b) shall also include the donor's occupation and employer.

(III) If the person making the donation of two hundred fifty dollars or more is not a natural person, the disclosure required by this paragraph (b) shall also include:

(A) The donor's full name, or, if the donor is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(B) All names under which the donor does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (b);

(C) The address of the home office of the donor, or, if the donor is a subsidiary of a parent corporation, the home office of the parent corporation; and

(D) The name and street address in the state of the donor's registered agent.

(c) The information required to be disclosed pursuant to paragraph (a) of this subsection (4) must be reported in accordance with the schedule specified in section 1-45-108 (2) for political committees; except that any person making an independent expenditure in excess of one thousand dollars within thirty days before a primary, general, or regular biennial school election shall provide such report within forty-eight hours after obligating moneys for the independent expenditure.

(5) (a) In addition to any other applicable requirements provided by law, and subject to the provisions of this section, any communication that is broadcast, printed, mailed, delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed that constitutes an independent expenditure for which the person making the independent expenditure expends in excess of one thousand dollars on the communication shall include in the communication a statement that:

(I) The communication has been "paid for by (full name of the person paying for the communication)"; and

(II) Identifies a natural person who is the registered agent if the person identified in subsection (5)(a)(I) of this section is not a natural person.

(b) In the case of a broadcast or online video or audio communication, the statement required by subsection (5)(a) of this section shall satisfy all applicable requirements promulgated by the federal communications commission for size, duration, and placement.

(c) In the case of a nonbroadcast communication, including an online communication, the secretary of state shall, by rule, establish size and placement requirements for the disclaimer statement. If the size, format, or display requirements of the communication make it impracticable to include a disclaimer statement on the communication, the rules must require that the disclaimer statement be available by means of a direct link from the communication to the web page or application screen containing the statement.

(6) Any person that expends an aggregate amount in excess of one thousand dollars on an independent expenditure in any one calendar year shall deliver written notice to the appropriate officer that shall list with specificity the name of the candidate whom the independent expenditure is intended to support or oppose. Where the independent expenditure is made within thirty days before a primary, general, or regular biennial school election, the notice required by this subsection (6) must be delivered within forty-eight hours after the person obligates moneys for the independent expenditure.

(7) Any person that accepts any donation that is given for the purpose of making an independent expenditure or expends any moneys on an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall establish a separate account in a financial institution, and the title of the account shall indicate that it is used for such purposes. All such donations accepted by such person for the making of any such

independent expenditures shall only be deposited into the account, and any moneys expended for the making of such independent expenditure shall only be withdrawn from the account. As long as the person uses a separate account for the purposes of this subsection (7), in any complaint relating to the use of the person's account, no discovery may be made of information relating to the identity of the person's members and general donors and any discovery is limited to the sources, amounts, and uses of donations deposited into and expenditures withdrawn from the account.

(8) Any person that expends moneys on an independent expenditure in excess of one thousand dollars, regardless of the medium of the communication produced by the expenditure, shall disclose to the secretary of state, in accordance with the schedule specified in section 1-45-108 (2) for political committees, any donation in excess of twenty dollars given in that reporting period for the purpose of making an independent expenditure.

(9) Repealed.

(10) Any earmarked donation given for the purpose of making an independent expenditure in excess of one thousand dollars shall be disclosed as a donation from both the original source of the donation and the person transferring the donation.

(11) On reports it files with the appropriate official, an independent expenditure committee that obligates in excess of one thousand dollars for an independent expenditure shall disclose a good faith estimate of the fair market value of the expenditure if the committee does not know the actual amount of the expenditure as of the date that a report is required to be filed with the appropriate official.

(12) All information required to be disclosed to the secretary of state under this section shall be posted on the website of the

secretary within two business days after its receipt by the secretary.

(13) Notwithstanding any other provision of this section, any requirement contained in this section that is applicable to a corporation shall also be applicable to a labor organization.

(14) (a) Any covered organization that contributes, donates, or transfers ten thousand dollars or more to any person, earmarked for the purpose of making an independent expenditure or electioneering communication, during any one calendar year, shall provide to the recipient of the contribution, donation, or transfer an affirmation, in writing, that includes the information listed in subsection (14)(d) of this section. After reaching the ten thousand dollar threshold, the covered organization shall provide a new affirmation statement for each qualifying subsequent contribution, donation, or transfer during that calendar year.

(b) Any covered organization that transfers ten thousand dollars or more to any person, earmarked for the purpose of that person making a contribution, donation, or transfer to pay for an independent expenditure or electioneering communication, during any one calendar year, shall provide to the recipient of the transfer an affirmation, in writing, that includes the information listed in subsection (14)(d) of this section. After reaching the ten thousand dollar threshold, the covered organization shall provide a new affirmation statement for each qualifying subsequent transfer during that calendar year.

(c) A person shall not accept a contribution, donation, or transfer as described in subsection (14)(a) or (14)(b) of this section from a covered organization unless the covered organization provides a written affirmation to the recipient satisfying the requirements of subsection (14)(d) of this section. The recipient shall include the

written affirmation when reporting the independent expenditure or electioneering communication to the appropriate filing officer and shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the affirmation was received.

(d) The affirmation required by this subsection (14) must include:

(I) The name of the covered organization and its principal place of business;

(II) The amount of the contribution, donation, or transfer and the name of the person who received the contribution, donation, or transfer;

(III) (A) If the covered organization is a for-profit corporation, each beneficial owner's name and current residence or business address and, if a listed beneficial owner exercises control over the entity through another legal entity, such as a corporation, partnership, limited liability company, or trust, each such other legal entity and each such beneficial owner who will use that other entity to exercise control over the entity.

(B) For purposes of this subsection (14)(d)(III), "beneficial owner" means a corporation's officers, directors, and owners of more than five percent of the corporation.

(IV) (A) If the covered organization is not a for-profit corporation but is subject to disclosure under subsection (14)(a) or (14)(b) of this section, a list of any person who transferred five thousand dollars or more to the covered organization and who earmarked that transfer of funds for the purpose of making an independent expenditure or electioneering communication as determined by the earlier of either the preceding twelve-month period that ends on the date of the transmission of the independent expenditure or electioneering communication or that ends on the date of the transfer.

(B) A covered organization is not required to include a natural person's name if disclosure of that person would lead to a reasonable probability of harm, threats, harassment, or reprisals to the person or to individuals affiliated with that person.

(C) A covered organization may only redact a person's name from its report under subsection (14)(d)(IV)(B) of this section if the person has affirmed on a form provided by the secretary of state, under oath, that the person believes there is a reasonable probability that they will be subject to harm, threats, harassment, or reprisal if disclosed. The covered organization shall retain the affirmation for not less than one year and shall produce the affirmation to the secretary of state's office in response to a request for information related to any investigation of a campaign finance violation. The affirmation must remain confidential during the pendency of any investigation and complaint with a hearing officer under section 1-45-117.5. Following a final agency decision finding that the individual whose name was redacted does not meet the requirements of this subsection (14)(d)(IV)(C), including the applicable period for appeal, the affirmation is no longer confidential and is subject to public review.

(D) If the contribution, donation, or transfer under subsection (14)(a) or (14)(b) of this section is from another covered organization, the covered organization shall provide a list of persons who transferred to that covered organization consistent with subsections (14)(d)(IV)(B) and (14)(d)(IV)(C) of this section.

(V) A covered organization need not include a transfer made for a commercial transaction in the ordinary course of any trade or business conducted by the covered organization.

(VI) A certification by the chief executive officer or person who is the head of the covered organization stating that the

contribution, donation, or transfer is not made in cooperation, consultation, or concert with or at the request or suggestion of a candidate, authorized committee, or agent of a candidate, political party, or agent of a political party.

(e) For purposes of this subsection (14), "covered organization" means a corporation, including an entity organized under section 501(c) or 527 of the internal revenue code, a labor organization, or an independent expenditure committee. It does not include a small donor committee, political party committee, or candidate committee.

(f) For purposes of this subsection (14), "transfer", "donate", or "contribute" does not include the provision of funds to a vendor or in payment of a contract for goods or services.

1-45-108. Disclosure - definitions -

repeal. (1) (a) (I) Subject to subsection (1.5) of this section, all candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) Subject to subsection (1.5) of this section, in the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(III) Any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall report to the secretary of state, in accordance with the disclosure

required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making a contribution of more than two hundred fifty dollars is a natural person, the disclosure required by this section must also include the person's occupation and employer. Electioneering communication reports must include the name of the candidate or candidates unambiguously referred to in the electioneering communication or regular biennial school electioneering communication. In accordance with section 1-45-103 (9), an electioneering communication includes any communication that satisfies all other requirements set forth in section 2 (7) of article XXVIII of the state constitution but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

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

(V) Any disbursement not otherwise defined as an expenditure may be reported to the appropriate officer.

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

(c) A candidate committee in a special district election is not required to file reports under this section until the committee has received contributions or made expenditures exceeding two hundred dollars in the aggregate during the election cycle.

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

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

(1.5) Notwithstanding any other provision of law, in light of the opinion of the United States court of appeals for the tenth circuit in the case of *Coalition for Secular Government v. Williams*, no. 14-1469 (10th circuit March 2, 2016), that affirmed the order of the federal district court in the case of *Coalition for Secular Gov't v. Gessler*, case no. 12 CV 1708, the disclosure requirements specified in subsection (1)(a)(I) or (1)(a)(II) of this section and the reporting requirements specified in subsection (3.3) or (6) of this section shall not apply to a small-scale issue committee. A small-scale issue committee shall disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures in accordance with the following alternative requirements:

(a) A small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that does not exceed two hundred dollars is not required to disclose or file reports about the contributions or expenditures it has made or

received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures.

(b) (I) A small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle of between two hundred dollars and five thousand dollars shall register with the appropriate officer within ten business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars. The registration required by this subsection (1.5)(b)(I) must include a statement listing:

(A) The committee's full name, spelling out any acronyms used in the name;

(B) The name of a natural person authorized to act as a registered agent of the committee;

(C) A street address for the principal place of business of the committee;

(D) The purpose or nature of interest of the committee; and

(E) The name of the financial institution in which, in a separate account bearing the name of the committee, all contributions received by the committee are deposited.

(II) A small-scale issue committee described in subsection (1.5)(b)(I) of this section is not required to make any disclosure about any contributions or expenditures it has made or received.

(c) (I) At such time as an issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall report to the appropriate officer, for each particular contribution or expenditure accepted or made, the name and address of each person who has made such contribution and the amount of each specific

contribution and expenditure accepted or made by the committee.

(II) At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall make disclosure of any contributions or expenditures it accepts or makes on or after the date on which such aggregate amount exceeds five thousand dollars in compliance with all applicable requirements under this article 45 pertaining to the disclosure by an issue committee of its contributions or expenditures accepted or made.

(III) Within fifteen days of a small-scale issue committee becoming subject to the applicable requirements governing an issue committee under this article 45, the committee through its registered agent shall report this change in the committee's status to the secretary of state.

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

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

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

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

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

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

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

(II) Such reports that are required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1)(a)(II) and (1)(c) shall be filed on the twenty-first day and on the Friday before and thirty days after the primary election, where applicable, and the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs.

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

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

(V) Any political committee, small donor committee, independent expenditure committee, or political organization that is participating in a regular biennial school election shall file its disclosure reports in accordance with the filing schedule specified in sub-subparagraphs (C) to (E) of subparagraph (I) of this paragraph (a) as of the date the committee or organization, as applicable, makes an expenditure or undertakes spending in connection with that election.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received,

the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

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

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

(e) The reporting period for all reports required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1)(a)(II) and (1)(c) shall close five calendar days prior to the effective date of filing.

(2.3) Repealed.

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

(b) Notwithstanding the provisions of subsection (2.5)(a) of this section, the following committees need not file the reports described in subsection (2.5)(a) of this section in the following instances:

(I) An issue committee need not report a contribution of one thousand dollars or more preceding a primary election;

(II) A committee for a candidate not on the ballot need not report a contribution of one thousand dollars or more during the off-election year; and

(III) A candidate or candidate committee for school board need not report a contribution of one thousand dollars or more during the off-election year.

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

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

(a) The organization's full name, spelling out any acronyms used therein;

(b) A natural person authorized to act as a registered agent;

(c) A street address and telephone number for the principal place of operations;

(d) All affiliated candidates and committees;

(e) The purpose or nature of interest of the committee or party.

(f) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1, 2010.)

(3.3) Subject to subsections (1.5) and (7) of this section, each issue committee shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question or

upon receipt of the notice from the secretary of state pursuant to section 1-40-113 (1)(b). If required to register under the requirements of this subsection (3.3), the registration of the issue committee must include a statement containing the items listed in paragraphs (a) to (e) of subsection (3) of this section in connection with other committees and a political party.

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

(4) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1, 2010.)

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

(6) Subject to subsection (1.5) of this section, any issue committee whose purpose is the recall of any elected official shall register with the appropriate officer

within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose the recall. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.

(7) (a) Notwithstanding any other provision of law, and subject to subsection (7)(b) of this section, a matter is considered a ballot issue or a ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article 45 and article XXVIII of the state constitution, at the earliest of the following:

(I) A title for the matter has been designated and fixed in accordance with law and any motion for rehearing has been heard;

(II) The matter has been referred to the voters by the general assembly or the governing body of any political subdivision of the state with authorization to refer matters to the voters;

(III) In the case of a citizen referendum petition, the matter has been submitted for format approval in accordance with law;

(IV) A petition concerning the matter has been circulated and signed by at least one person; except that, where a matter becomes a ballot issue or ballot question upon such signing, any person opposing the matter shall not be considered to be an issue committee for purposes of this article and article XXVIII of the state constitution until one such person knows or has reason to know of the circulation; or

(V) A signed petition has been submitted to the appropriate officer in accordance with law.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), where a matter concerns a municipal annexation brought pursuant to article 12 of title 31, C.R.S., the matter shall not be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article and article XXVIII of the state constitution, unless and until the first notice of the annexation election has been published in accordance with the requirements of section 31-12-112 (6), C.R.S.

(8) (a) Any expenditure or spending on a covered communication that is controlled by or coordinated with a candidate or candidate's agent or a political party is considered both a contribution by the maker of the expenditure or spending, and an expenditure by the candidate committee.

(b) For purposes of this subsection (8), "covered communication" includes:

(I) A communication that expressly advocates for the election or defeat of a candidate;

(II) An electioneering communication as defined in section 2 (7) of article XXVIII of the state constitution and section 1-45-103 (9), or regular biennial electioneering communication as defined in section 1-45-103 (15.5); and

(III) A communication by a political organization that influences or attempts to influence the selection, nomination, election, or appointment of a candidate to public office.

1-45-108.3. Disclaimer statement - committees - electioneering communications.

(1) A candidate committee, political committee, issue committee, small donor committee, political organization, political party, or other person making an expenditure in excess of or spending more than one thousand dollars per calendar year on a communication that must be disclosed under article XXVIII of the state constitution or under this article 45 or supports or opposes a ballot issue or ballot question, and that is broadcast, printed, mailed, delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed shall include in the communication a disclaimer statement in accordance with subsection (2) of this section.

(2) The disclaimer statement required by subsection (1) of this section must conform to the requirements specified in section 1-45-107.5 (5) for content, size, duration, and placement.

(3) In addition to any other applicable requirements provided by law, any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall, in accordance with the requirements specified in section 1-45-107.5 (5), state in the communication the name of the person making the communication. For purposes of this subsection (3), an "electioneering communication" also includes any communication that satisfies all other requirements set forth in section 2 (7) of article XXVIII of the state constitution but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

1-45-108.5. Political organizations - disclosure.

(1) Any political organization shall report to the appropriate officer in

accordance with the requirements of sections 1-45-108 and 1-45-109:

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

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

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

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

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

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

1-45-109. Filing - where to file - timeliness.

(1) For the purpose of meeting the filing and reporting requirements of this article 45:

(a) The following shall file with the secretary of state:

(l) Candidates for statewide office, the general assembly, district attorney, district court judge, school district director, or any office representing more than one county; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; issue

committees in support of or in opposition to an issue on the ballot in more than one county; small donor committees making contributions to such candidates; and persons expending one thousand dollars or more per calendar year on electioneering communications.

(II) Candidates in special district elections; the candidate committees of such candidates; political committees in support of or in opposition to such candidates; issue committees supporting or opposing a special district ballot issue; and small donor committees making contributions to such candidates.

(b) Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, an issue committee supporting or opposing a municipal ballot issue, and small donor committees making contributions to such candidates shall file with the municipal clerk.

(c) All other candidates, candidate committees, issue committees, political committees, and small donor committees shall file with the secretary of state.

(2) (a) Reports required to be filed by this article 45 are timely if received by the appropriate officer not later than the close of business on the due date.

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

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

(4) (a) All reports required to be filed by this article 45 are public records and are open to inspection by the public during regular business hours. A copy of the report must be kept by the appropriate officer and a copy shall be made available immediately in a file for public inspection. When the secretary of state is the appropriate officer, the secretary shall make reports viewable on the secretary of state's official website.

(b) and (c) Repealed.

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

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

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

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

(I) Enhanced searching and summary reporting, including additional search fields such as zip code, employer, and vendor, the ability to search across multiple committees and all filers, the ability

to filter or limit searches, such as by election cycle or candidate, the inclusion of smart-search features such as "name sounds like" or "name contains", and numerical totaling of amounts shown on search results;

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

(III) Detailed, technical instructions for users;

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

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

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

(6) (a) The secretary of state shall establish, operate, and maintain a system that enables electronic filing using the internet of the reports required by this article to be filed with the secretary of state's office. In accordance with the provisions of section 24-21-111 (1), C.R.S., the secretary may require any filing under this section to be made by electronic means as determined by the secretary. The rules for use of the electronic filing system shall be promulgated by the secretary in accordance with article 4 of title 24, C.R.S.

(b) Any person required to file with the secretary of state's office shall use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article, if so required by the secretary in accordance with paragraph (a) of this subsection (6), except insofar as an alternate method of filing may be permitted by the secretary. Where a person uses such electronic filing system to meet the filing requirements of this article, the secretary of state shall acknowledge by electronic means the receipt of such filing.

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

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

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

(II) and (III) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

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

(II) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

(9) Subsection (1) of this section shall not be construed to require the secretary of state to review reports electronically filed by persons beyond the duties specified in section 9 of article XXVIII of the state constitution.

(10) to (12) Repealed.

1-45-110. Candidate affidavit - disclosure statement. (1) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the appropriate officer within ten days, that the candidate is familiar with the provisions of this article; except that an individual who is a candidate in a special legislative election that filed a candidate affidavit for the preceding general election shall not be

required to comply with the provisions of this section, and except that a candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with section 1-13.5-303, if such form or letter contains a statement that the candidate is familiar with the provisions of this article, no later than the date established for certification of the special district's ballot pursuant to section 1-5-203 (3)(a). A candidate in a municipal election may comply with this section by filing a candidate affidavit pursuant to section 31-10-302 (6), C.R.S., if such affidavit contains a statement that the candidate is familiar with the provisions of this article.

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

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

(3) If any person fails to file the affidavit or the disclosure statement required by subsection (2) of this section, the designated election official certifying the ballot in accordance with section 1-5-203 (3)(a) shall send a notice to the person by certified mail, return receipt requested, to the person's mailing address. The notice must

state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five business days of the receipt of the notice. If the person fails to file the appropriate document within that time frame, the designated election official shall disqualify the candidate.

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

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

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

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

(1.5) (a) Any person who believes that a violation of article XXVIII of the state constitution, the secretary of state's rules concerning campaign and political finance, or this article 45 has occurred may file a written complaint with the secretary of state in accordance with section 1-45-111.7.

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

(c) In addition to any other penalty authorized by article XXVIII of the state

constitution or this article 45, a hearing officer may impose a civil penalty of fifty dollars per day for each day that a report, statement, or other document required to be filed under this article 45 that is not specifically listed in article XXVIII of the state constitution is not filed by the close of business on the day due. Any person who fails to file three or more successive committee registration reports or reports concerning contributions, expenditures, or donations in accordance with the requirements of section 1-45-107.5 shall be subject to a civil penalty of up to five hundred dollars for each day that a report, statement, or other document required to be filed by an independent expenditure committee is not filed by the close of business on the day due. Any person who knowingly and intentionally fails to file three or more reports due under section 1-45-107.5 shall be subject to a civil penalty of up to one thousand dollars per day for each day that the report, statement, or other document is not filed by the close of business on the day due. Imposition of any penalty under this subsection (1.5)(c) shall be subject to all applicable requirements specified in section 10 of article XXVIII of the state constitution governing the imposition of penalties.

(d) In connection with a complaint brought to enforce any requirement of article XXVIII of the state constitution or this article 45, a hearing officer may order disclosure of the source and amount of any undisclosed donations or expenditures.

(e) In connection with any action brought to enforce any provision of article XXVIII of the state constitution or this article 45, the membership lists of a membership organization, a labor organization or, in the case of a publicly held corporation, a list of the shareholders of the corporation, shall not be disclosed by means of discovery or by any other manner.

(f) Any person who is fined up to one thousand dollars per day for a knowing and intentional failure to file under paragraph (c) of this subsection (1.5) shall, if the person has shareholders or members, notify such shareholders or members of the penalty and the adjudicated violations on its publicly accessible website in a prominent manner for not less than one hundred eighty days after the final adjudication. A copy of this notice, with the website address used, shall be filed with the secretary of state and shall be a public record.

(g) The secretary of state has, as a matter of right, the right to intervene in any action pending before the office of administrative courts or the court of appeals that is brought to enforce the provisions of article XXVIII of the state constitution or this article.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article 45 is entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the hearing officer that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was commenced for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including abuses of discovery procedures available under the Colorado rules of civil procedure. Notwithstanding any other provision of this subsection (2), no attorney fees may be awarded under this subsection (2) unless the court or hearing officer, as applicable, has first considered and issued written findings regarding the provisions of section 13-17-102 (5) and (6). Either party in an action in which the hearing officer awarded attorney fees and costs may apply to a district court to convert an award of

attorney fees and costs into a district court judgment. Promptly upon the conversion of the award of attorney fees and costs into a district court judgment, the clerk of the district court shall mail notice of the filing of the judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice must include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(3) Upon a determination by the hearing officer that an issue committee failed to file a report required pursuant to section 1-45-108, the hearing officer shall direct the issue committee to file any such report within ten days containing all required disclosure of any previously unreported contributions or expenditures and may, in addition to any other penalty, impose a penalty not to exceed twenty dollars for each contribution received and expenditure made by the issue committee that was not timely reported.

(4) (a) Upon failure of a witness or party to comply with an administrative subpoena issued in relation to an alleged campaign finance violation pursuant to article XXVIII of the state constitution or this article, the party that requested the administrative subpoena or the issuing agency may petition the district court ex parte with a copy of the petition sent to the subpoenaed witness or party and the administrative law judge by regular mail, for

an order directing the witness or party to comply with the administrative subpoena.

(b) If the petition required by paragraph (a) of this subsection (4) shows to the district court's satisfaction that the administrative subpoena was properly served pursuant to rule 4 of the Colorado rules of civil procedure, the district court shall order the subpoenaed witness or party to appear before the district court and show cause why the witness or party should not be ordered to comply with the administrative subpoena. A copy of the petition and the court order shall be served, pursuant to rule 5 of the Colorado rules of civil procedure, on the witness or party at least fifteen days before the date designated for the witness or party to appear before the district court.

(c) At a show cause hearing ordered by the district court pursuant to paragraph (b) of this subsection (4), the court shall review the administrative subpoena and any evidence presented by the parties to determine compliance with the Colorado rules of civil procedure. The subpoenaed witness or party shall bear the burden of showing good cause as to why he or she should not be ordered to comply with the administrative subpoena.

(d) If the court determines that the subpoenaed witness or party is required to comply with the administrative subpoena:

(I) The district court shall order compliance forthwith and may impose remedial and punitive fines, including attorneys' fees and costs, for the witness's or party's failure to comply with the administrative subpoena; and

(II) The hearing officer shall schedule a hearing on the complaint to occur on a day after the occurrence of the required deposition and such other discovery as may be warranted due to such deposition.

(e) If the subpoenaed witness or party fails to appear at the show cause hearing, the district court may issue a bench

warrant for the arrest of the subpoenaed witness or party and may impose other sanctions pursuant to the Colorado rules of civil procedure.

(5) Repealed.

1-45-111.7. Campaign finance complaints - initial review - curing violations - investigation and enforcement - hearings - advisory opinions - document review - collection of debts resulting from campaign finance penalties - definitions. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Article XXVIII" means article XXVIII of the state constitution.

(b) "Deputy secretary" means the deputy secretary of state appointed pursuant to section 24-21-105 or the deputy secretary's designee.

(c) "Division" means the division within the office of the secretary responsible for administering the state's laws governing campaign and political finance.

(d) "Hearing officer" means a person authorized to conduct a hearing under section 24-4-105 (3).

(e) "Rules" means the rules of the secretary concerning campaign and political finance.

(f) "Secretary" means the secretary of state or the secretary's designate.

(2) **Filing complaints.** (a) Any person who believes that a violation has occurred of article XXVIII, this article 45, or the rules may file a complaint with the secretary.

(b) A complaint must be filed no later than one hundred eighty days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation.

(c) Any complaint must be filed in writing and signed by the complainant on the

form provided by the secretary. The complaint must identify one or more respondents and include the information required to be provided on the form.

(d) Upon receipt of a complaint, the division shall notify the respondent of the complaint by e-mail or by regular mail if e-mail is unavailable.

(e) The division shall forward any complaint made against a candidate for secretary or the secretary to the department of law for the review of the complaint by the attorney general to act on behalf of the division in accordance with applicable requirements of this section.

(3) **Initial review.** (a) The division shall conduct an initial review of a complaint filed under subsection (2) of this section to determine whether the complaint:

(I) Was timely filed under subsection (2)(b) of this section;

(II) Specifically identifies one or more violations of article XXVIII, this article 45, or the rules; and

(III) Alleges sufficient facts to support a factual and legal basis for the violations of law alleged in the complaint.

(b) Within ten business days of receiving a complaint, the division shall take one or more of the actions specified in this subsection (3)(b):

(I) If the division makes an initial determination that the complaint was not timely filed, has not specifically identified one or more violations of article XXVIII, this article 45, or the rules, or does not assert facts sufficient to support a factual or legal basis for an alleged violation, the division shall prepare and file with the deputy secretary a motion to dismiss the complaint. The deputy secretary shall make a determination on the motion to dismiss within five business days, which must be provided to the complainant and the respondent by e-mail or by regular mail if e-mail is unavailable. If the deputy secretary

denies the motion, the division shall determine whether to conduct a review under subsection (3)(b)(II) or (3)(b)(III) of this section. The final determination by the deputy secretary on the motion to dismiss constitutes final agency action and is subject to judicial review by a state district court under section 24-4-106.

(II) If the division makes an initial determination that the complaint alleges one or more curable violations as addressed in subsection (4) of this section, the division shall notify the respondent and provide the respondent an opportunity to cure the violations.

(III) If the division makes an initial determination that the complaint has specifically identified one or more violations of article XXVIII, this article 45, or the rules, and has alleged facts sufficient to support a factual or legal basis for each alleged violation, and that either a factual finding or a legal interpretation is required, the division shall conduct additional review under subsection (5) of this section within thirty days to determine whether to file a complaint with a hearing officer.

(4) **Curing violations.** (a) Upon the division's initial determination that a complaint alleges a failure to file or otherwise disclose required information, or alleges another curable violation, the division shall notify the respondent by e-mail or by regular mail if e-mail is unavailable of the curable deficiencies alleged in the complaint.

(b) The respondent has ten business days from the date the notice is e-mailed or mailed to file an amendment to any relevant report that cures any deficiencies specified in the notice.

(c) The respondent shall provide the division with notice of the respondent's intent to cure on the form provided by the secretary and include a copy of any amendments to any report containing one or more deficiencies.

(d) Upon receipt of the respondent's notice of an intent to cure, the division may ask the respondent to provide additional information and may grant the respondent an extension of time to file an amended notice of intent to cure in order to respond to any such request.

(e) (I) After the period for cure has expired, the division shall determine whether the respondent has cured any violation alleged in the complaint and, if so, whether the respondent has substantially complied with its legal obligations under article XXVIII, this article 45, and the rules in accordance with subsection (4)(f) of this section.

(II) If the division determines that the respondent has substantially complied with its legal obligations, the division shall prepare and file with the deputy secretary a motion to dismiss the complaint. The motion must be accompanied by a draft order specifying the manner in which the respondent has satisfied the factors specified in subsection (4)(f) of this section. The deputy secretary shall make a determination on the motion to dismiss, which must be provided to the complainant and the respondent by e-mail or by regular mail if e-mail is unavailable. If the deputy secretary denies the motion, the division shall determine whether to conduct a review under subsection (3)(b)(II) or (3)(b)(III) of this section. The determination by the deputy secretary under this subsection (4)(e)(II) is final agency action and is subject to judicial review by a state district court under section 24-4-106.

(III) If the division determines that the respondent has failed to substantially comply under subsection (4)(f) of this section, the division shall conduct an additional review under subsection (5)(a) of this section to determine whether to file the complaint with a hearing officer.

(f) In determining whether an entity substantially complied with its legal

obligations under article XXVIII, this article 45, or the rules the division must consider:

(I) The extent of the respondent's noncompliance;

(II) The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and

(III) Whether the noncompliance may properly be viewed as an intentional attempt to mislead the electorate or election officials.

(g) If the division determines that the respondent failed to cure any alleged deficiency, the division shall conduct an additional review under subsection (5)(a) of this section to determine whether to file a complaint with a hearing officer.

(5) **Investigations and enforcement.** (a) (I) The division shall investigate each complaint that was not dismissed during either its initial review or by means of the cure proceedings in accordance with subsection (3) or (4) of this section to determine whether to file a complaint with a hearing officer. The division may also initiate an investigation under subsection (7)(b) of this section.

(II) For the purpose of an investigation relating to a complaint filed under subsection (2)(a) of this section or an investigation initiated by the division under subsection (7)(b) of this section, the division may request the production of any documents or other tangible things that are believed to be relevant or material to the investigation, and shall establish the relevance and materiality in writing. Notwithstanding any other provision of law, documents or other tangible things provided to the division during the course of an investigation under this subsection (5) are not subject to inspection or copying under the "Colorado Open Records Act", part 2 of article 72 of title 24. Notwithstanding any other provision of law, documents or other tangible things provided to the division

during the course of an investigation under this subsection (5) and other materials prepared or assembled to assist the secretary's designee in reaching a decision are work product as defined in section 24-72-202 (6.5)(a) and are not public records subject to inspection under part 2 of article 72 of title 24.

(III) If the division receives a person's membership list or donor list during the course of the division's initial review under subsection (3) of this section, investigation under this subsection (5), or the cure process, including the determination of substantial compliance, as described in subsection (4) of this section, the division shall not disclose such list or the identity of any member or donor to any person. Notwithstanding any other provision of law, any such membership or donor list is not a public record subject to inspection, copying, or any other form of reproduction under part 2 of article 72 of title 24.

(IV) The division shall determine whether it will file a complaint with a hearing officer within thirty days after initiating an investigation. If the division makes a determination that a complaint should not be filed with a hearing officer because there is not sufficient information to support the allegations contained in the complaint or for any other reason, it shall prepare and file with the deputy secretary a motion to dismiss the complaint. The deputy secretary shall make a determination on the motion to dismiss within thirty-five days of the initial determination of the division under this subsection (5)(a)(IV), or the initiation of an investigation by the division under subsection (7)(b) of this section, which must be provided to the complainant and the respondent by e-mail or by regular mail if e-mail is unavailable. If the deputy secretary denies the motion, the division has fourteen business days to file a complaint with a hearing officer under this subsection (5).

(V) If the division files a complaint with a hearing officer under this subsection (5), it is responsible for conducting such discovery as may be necessary for effectively prosecuting the complaint, supplementing or amending the complaint with such additional or alternative claims or allegations as may be supported by the division's investigation, amending the complaint to strike allegations or claims that are not supported by the division's investigation, and in all other respects prosecuting the complaint.

(b) A complainant or any other nonrespondent is not a party to the division's initial review, cure proceedings, investigation, or any proceedings before a hearing officer as described in this section. A complainant may seek permission from the hearing officer to file a brief as an amicus curiae. A person's status as a complainant is not sufficient to establish that he or she may be affected or aggrieved by the secretary's action on the complaint. To the extent this subsection (5)(b) conflicts in any respect with section 24-4-105 or 24-4-106, this subsection (5)(b) controls. A complainant may also seek judicial review by a state district court of a final agency action under section 24-4-106.

(6) **Conduct of hearings.** (a) Any hearing conducted by a hearing officer under this section must be in accordance with section 24-4-105; except that a hearing officer shall schedule a hearing within thirty days of the filing of the complaint, which hearing may be continued upon the motion of any party for up to thirty days or a longer extension of time upon a showing of good cause.

(b) Any initial determination made by a hearing officer must be made in accordance with section 24-4-105 and is subject to review by the deputy secretary. The final agency decision is subject to review under section 24-4-106.

(7) **Document review.** (a) In addition to any other powers and duties it possesses under law, the division may also review any document the secretary receives for filing under article XXVIII, this article 45, or the rules.

(b) In connection with the review of other available information regarding a potential violation under this subsection (7):

(I) If the division determines that a person violated or potentially violated any of the provisions of article XXVIII, this article 45, or the rules, the division shall either notify the person of his or her opportunity to cure the identified deficiencies in accordance with subsection (4) of this section or notify the person that the division is initiating an investigation under subsection (5) of this section. The division shall send the notification by e-mail or by regular mail if e-mail is unavailable.

(II) If the division initiates an investigation or files a complaint with a hearing officer in connection with its review, the procedures described in subsections (5) and (6) of this section apply.

(c) As used in this subsection (7), "review" means the factual inspection of any document required to be filed with the secretary for campaign finance registration, reporting, or disclosure in order to assess the document's accuracy and completeness and the timeliness of the document's filing.

(8) **Advisory opinions.** (a) Any person seeking guidance on the application of article XXVIII, this article 45, or the rules may request that the secretary issue an advisory opinion regarding that person's specific activity.

(b) The secretary shall determine, at the secretary's discretion, whether to issue an advisory opinion under subsection (8)(a) of this section. In making this determination, the secretary shall consider factors including whether:

(I) The advisory opinion will terminate a controversy or remove one or more uncertainties as to the application of the law to the requestor's situation;

(II) The request involves a subject, question, or issue that concerns a formal or informal matter or investigation currently pending before the secretary or a court; and

(III) The request seeks a ruling on a moot or hypothetical question.

(c) A person may rely on an advisory opinion issued by the secretary as an affirmative defense to any complaint filed under this section.

(d) A refusal by the secretary to issue an advisory opinion does not constitute a final agency action that is subject to appeal.

(9) **Miscellaneous matters - debt collection - municipal complaints.** (a) The secretary may send to the state controller for collection any outstanding debt resulting from a campaign finance penalty that the secretary deems collectible.

(b) Any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the applicable municipality.

1-45-112. Duties of municipal clerk. (1) The municipal clerk shall:

(a) Develop a filing and indexing system for their offices consistent with the purposes of this article;

(b) Keep a copy of any report or statement required to be filed by this article for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one year after the candidate leaves office;

(c) Make reports and statements filed under this article available to the public for inspection and copying no later than the end of the next business day after the date of filing. No information copied from such reports and statements shall be sold or used

by any person for the purpose of soliciting contributions or for any commercial purpose.

(d) Upon request by the secretary of state, transmit records and statements filed under this article to the secretary of state;

(e) Notify any person under their jurisdiction who has failed to fully comply with the provisions of this article and notify any person if a complaint has been filed with the secretary of state alleging a violation of this article.

(f) Repealed.

(2) The secretary of state shall reimburse the municipal clerk of each municipality at the rate of two dollars per candidate per election to help defray the cost of implementing this article.

1-45-112.5. Immunity from liability.

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

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

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

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

(3) Any media outlet shall be immune from civil liability in any court where the media outlet:

(a) Withdraws advertising time reserved by an independent expenditure committee that fails to register in accordance with the requirements of section 1-45-107.5 (3)(a); or

(b) Elects to void an advertising contract and the advertisement:

(I) Is paid for by an independent expenditure committee that fails to register under section 1-45-107.5 (3)(a);

(II) Is paid for by an independent expenditure committee that is registered under section 1-45-107.5 (3)(a) but the committee fails to file a disclosure report under section 1-45-108 (2) through the date of the most recent required report; or

(III) Fails to satisfy the requirements of section 1-45-107.5 (5)(a).

(4) An affected media outlet may void a contract that implicates paragraph (b) of subsection (3) of this section in the sole discretion of the media outlet.

1-45-113. Sanctions. (Repealed)

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

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

(3) Nothing in this article shall be construed to prevent an adjustment in rates related to frequency, volume, production

costs, and agency fees if such adjustments are offered consistently to other advertisers.

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

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

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

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

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

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

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

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

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

appear on an election ballot in the jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

(b) If a board, commission, or council is found to have made a contribution or expenditure in violation of this section, an individual member of the board, commission, or council who voted in favor of or otherwise

authorized the contribution or expenditure may be ordered to reimburse an amount pursuant to subsection (4)(a) of this section as long as the amount does not exceed the amount ordered to be reimbursed by any other individual of the board, commission, or council who voted in favor or otherwise authorized the contribution or expenditure.

1-45-117.5. Media outlets - political records. Any media outlet that is subject to the provisions of 47 U.S.C. sec. 315 (e) shall maintain and make available for public inspection such records as the outlet is required to maintain to comply with federal law or rules.

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