

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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1995 JUL 31 PM 4:25

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: STATE ELECTION COMMISSION TITLE NUMBER: 146

CITE AUTHORITY §§3-1A-5, 3-1A-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Regulation of Campaign Practices

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Ken Hechler

11.40

STATEMENT OF CIRCUMSTANCES

146-3

Senate Bill 573 required the State Election Commission to promulgate additional regulations in the area of campaign finance.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Regulation of Campaign Practices 146-3

Type of Rule: Legislative Interpretive Procedural

Agency Attention: Bill Harrington, State Election Commission

Address Secretary of State's office, Bldg. 1, Room 157K

Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ N/A	\$	\$	\$	\$
PERSONAL SERVICES	N/A				
CURRENT EXPENSE	N/A				
REPAIRS & ALTERATIONS	N/A				
EQUIPMENT	N/A				
OTHER	N/A				

2. Explanation of above estimates:

This rule has no fiscal impact.

3. Objectives of these rules:

Rule Title: _____

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

C. Economic Impact on Citizens/Public at Large.

Date: June 30, 1995

Signature of Agency Head or Authorized Representative

Ken Hessler

DATE: JULY 31, 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: BILL HARRINGTON, CHIEF OF STAFF, SECRETARY OF STATE

LEGISLATIVE RULE TITLE: REGULATION OF CAMPAIGN FINANCE

1. Authorizing statute(s) citation §§3-1A-5, 6

2. a. Date filed in State Register with Notice of Hearing
JUNE 30, 1995

b. What other notice, including advertising, did you give
of the hearing?

PRESS RELEASE, AFFECTED PARTIES

c. Date of Hearing(s) JULY 31, 1995

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved
proposed Legislative Rule following public hearing:
(be exact)

JULY 31, 1995

f. Name and phone number(s) of agency person(s) to
contact for additional information:

BILL HARRINGTON

558-6000

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

_____ N/A

b. Date of hearing: _____ N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____ N/A

d. Attach findings and determinations and reasons:

Attached _____ N/A

SUMMARY

146-3

This rule implements a number of the campaign finance revisions required by Senate Bill 573. Among other items, it requires Inaugural committees to report where their money came from, how excess money is to be spent by campaigns and clarifies the process to be used in dissolving political committees.

TITLE ~~153~~ 146
LEGISLATIVE RULES
ELECTION COMMISSION

SERIES 9 3
REGULATION OF CAMPAIGN FINANCE

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

~~§153-9~~ 146-3-1. General.

1.1. Scope. -- These rules clarify and provide for implementation of state law relating to the regulation of campaign finance, reporting requirements and prohibited activities. See West Virginia Code §3-8-1 et seq.

1.2. Authority. -- W. Va. Code §3-1A-5, §3-1A-6

1.3. Filing Date. -- ~~October 9, 1987~~

1.4. Effective Date. -- ~~October 9, 1987~~

~~§153-9~~ 146-3-2. Definitions.

This section defines terms used in article eight, chapter three of the West Virginia Code and terms used in this rule which are not otherwise defined in chapter three.

2.1. "Election" means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality.

2.2. "Candidate" means an individual who:

2.2.1. has filed a certificate of announcement under §3-5-5, §3-5-7 or a municipal charter;

2.2.2. has filed declaration of candidacy under §3-5-23;

2.2.3. has been named to fill a vacancy on a ballot; or

2.2.4. has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election to a state, district, county or municipal office or party office to be filled at any primary, general or special election.

2.3. "Pre-candidate" means, for the purpose of this rule, an individual who has filed a pre-candidacy statement under the provisions of §3-8-5e but has not yet filed a certificate of announcement or declaration of candidacy. This definition does not exclude a pre-candidate from the requirements and prohibitions relating to candidates in West Virginia Code.

2.4. "Ballot issue" means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter adoption or revision, an increase or decrease of corporate limits, or any other question placed before the voters under the provisions of the West Virginia Code.

2.5. "Political purposes" means advocating or opposing the nomination, election or defeat of one or more candidates, supporting the administration or activities of an established political party or an organization which has declared itself a political party, supporting the administration or activities of a political committee, advocating or opposing the passage or defeat of a ballot issue, determining the advisability of becoming a candidate under the pre-candidacy financing provisions, and supporting the retirement of the debt of a candidate or political committee incurred for any of the above purposes.

2.6. "Political committee" means an association of persons, an organization of any kind, or any two (2) or more persons acting together, wholly or in part, to receive or expend money or other thing of value for political purposes.

This definition shall include but not be limited to political party executive committees, other committees operating in conjunction with a political party or using a political party name, political action committees and any other organizations, whether temporarily or permanently established, using any portion of their funds for political purposes.

This definition shall not include family members or members of a partnership acting together to make joint or individual contributions to a candidate or political committee.

2.7. "Candidate's committee" means a political committee established with the approval of or in cooperation with one pre-candidate or candidate to explore the possibilities of seeking a particular office ~~"test the waters"~~ and/or to advocate his or her nomination or election to an office in one election cycle. If a candidate directs or influences the activities of more than one committee, those committees shall be considered one committee for the purpose of contribution limits.

2.8. "Ballot issue committee" means a political committee established solely for the purpose of advocating or opposing a ballot issue and ~~making~~ which makes no expenditures to or on behalf of a candidate, political party or other political committee.

2.9. "Inaugural committee" includes any person, organization or group of persons soliciting or receiving contributions for the purpose of funding an inaugural event for an elected state official.

2.10 "Inaugural event" means any event or events held between the date of the general election for a state public office and a date ninety days after the date of the general election, whether the event is sponsored by the inaugural committee or the state political party committee representing the party of the elected official and for which the elected official is a prominent participant or for which solicitations of contributions include the name of the elected official in prominent display.

~~2.9~~ 2.11. "Treasurer" means an individual designated to act on behalf of a political committee to conduct the financial transactions of the committee. For the purposes of this rule, the term "treasurer" shall be used in place of "financial agent" as defined in §3-8-4 when the individual acts on behalf of more than one candidate or person.

~~2.10.~~ 2.12. "Financial agent" is, for the purposes of this rule, an individual designated to act on behalf of one candidate to conduct financial transactions for political purposes on behalf of that candidate.

~~2.11.~~ 2.13. "Solicit" or "solicitation" means the act of asking, suggesting, requiring or inviting, either orally or in writing, a person or persons, organization of any kind, political committee or other entity to give a contribution or other thing of value for political purposes, as defined in this section.

~~2.12.~~ 2.14. "Occupation" means the principal work activity which is described by a general term such as teacher, miner, business executive, homemaker or doctor.

~~2.13~~ 2.15. "Business affiliation" means the name of an individual's employer, or the name of the firm, business or organization, if any, with which a self-employed individual is primarily affiliated.

~~2.14~~ 2.16. "Contribution" means a gift subscription, assessment, payment for services, dues, advance donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether or not conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for political purposes, as defined herein. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected before it is received or returned within thirty (30) days and not used during that time for political purposes. A contribution does not include volunteer personal services provided without compensation.

2.17. "Nominal noncash expressions of appreciation" shall mean a token of appreciation, having a cash value of three dollars (\$3.00) or less, given to volunteer or paid campaign workers following the close of the polls or within 30 days thereafter.

2.18. "Grossly incomplete or grossly inaccurate" shall mean that a financial statement as defined under Article 8, Chapter 3, Section 5 of the West Virginia Code is missing information required by Article 8, Chapter 3 of the Code and Title 146 of the West Virginia Code of State Rules.

~~§153-9~~ 146-3-3. Contributions for Primary and General Elections.

This ~~action section~~ establishes a means for distinguishing between primary and general election contributions, for the purpose of contribution limits established in §3-8-12(f).

3.1. A contribution to a pre-candidate or pre-candidate's committee is a contribution in connection with a primary election.

3.2. A contribution to a candidate or candidate's committee is a contribution in connection with a primary election in the following circumstances:

3.2.1. For a candidate for nomination or election in the primary or for nomination by petition, all contributions received on or before the primary election day;

3.2.2. For a candidate nominated in the primary election, a contribution received after the primary which is designated in writing on the financial report, with the consent of the contributor, as a contribution for the primary election, providing the aggregate of all such designated contributions do not exceed the total of unpaid bills, loans or other financial obligations incurred for the primary election;

3.2.3. For a candidate defeated for nomination in the primary election, all contributions received after the primary, not to exceed the total of unpaid primary election expenses;

3.2.4. For a candidate for nomination in a party convention, all contributions received on or before the day of that convention.

3.3. A contribution to a candidate or candidate's committee is a contribution in connection with a general or special election in the following circumstances:

3.3.1. For a candidate nominated in a primary election or party convention, all contributions, except those designated as primary contributions under 3.2.2, received after the nomination and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid;

3.3.2. For a candidate appointed to fill a vacancy on

the general or special election ballot by a party executive committee, all contributions received in connection with the election and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid.

3.4. A contribution to a political committee, other than a candidate's committee, acting for political purposes in both the primary and general election is a contribution:

3.4.1. In connection with a primary election if the contribution is received on or after the last Saturday in March of a non-election year and by the date of the primary election in the following calendar year (for example, from March 28, 1987, to May 10, 1988); and

3.4.2. In connection with a general election if the contribution is received after the date of a primary election and not later than the day before the last Saturday of March of the following calendar year (for example, from May 11, 1988, to March 24, 1989).

3.5. A contribution to a political committee acting for political purposes only in one election is a contribution in connection with that election.

§146-3-4. Contributions for Inaugural Events.

This section clarifies the provisions of §3-8-2a which requires the filings of statements for certain contributions to inaugural event committees.

4.1. An inaugural committee established for purpose of soliciting or receiving contributions for the funding of all or any part of an inaugural event for any person elected to any state public office must file a verified financial statement with the Secretary of State's Office relating to any contributions from one person in excess of two hundred fifty dollars (\$250.) The term "person" is defined in West Virginia Code §3-8-4.

4.2. An inaugural committee shall file and retain detailed records of any contribution from one person in excess of two hundred fifty dollars (\$250.).

4.3. For purposes of this section, "detailed records" shall contain the following information:

4.3.1 The first name, middle initial, if any, and the last name in the case of an individual, and the full name of each firm, association or committee; and,

4.3.2 The residence, mailing address and may include a

business telephone number, if available; and,

4.3.3 In the case of an individual, the major business affiliation and occupation; and,

4.3.4 The amount of contribution; and,

4.4 The inaugural committee, financial agent or any person or officer acting on behalf of such committee shall file a sworn and notarized financial statement, containing the above stated information for each person making a contribution in excess of two hundred fifty dollars (\$250.), within forty-five (45) days following the inaugural event.

4.5 The sworn and notarized financial statement shall be on a form prescribed by the State Election Commission.

4.6 Aggregate contributions of any person to any inaugural committee are not limited and do not fall within the contribution limitations imposed for any candidate in connection with a primary or general election.

4.7. Excess campaign funds, as defined in section 7 below, may not be transferred to an inaugural committee.

~~§153-9-4.~~ §146-3-5. Contribution Limitations and Sources.

This section clarifies the application of the limitation on contributions established in §3-8-12(f) and §3-8-12(g), and the prohibition on corporate contributions in §3-8-8.

~~4.1.~~ 5.1. Limitations on contributions to candidates for national elective office (including President, Vice President, U.S. Senate and U.S. House of Representatives) are established in Chapter 14, Title 2 of the United States Code and the Code of Federal Regulations and are not subject to regulation by the states. The Federal Election Commission regulates federal campaign activity. (FEC, 999 E Street, N. W., Washington, D.C. 20463 Telephone (800)424-9530)

~~4.2.~~ 5.2. Aggregate contributions ~~form from~~ from one person to a candidate or political committee in connection with a primary election may not exceed one thousand dollars (\$1,000). Aggregate contributions from one person to a candidate or political committee in connection with a general or special election may not exceed one thousand dollars (\$1,000). Aggregate contributions from one person to a State political party executive committee may not exceed one thousand dollars (\$1,000.) in any calendar year. The term person is defined by West Virginia Code §3-8-4.

~~4.3.~~ 5.3. A contribution made by a business licensed as a sole proprietorship is a contribution made by the owner of that

sole proprietorship. The aggregate contribution limits apply to all contributions to a candidate or political committee made by that owner, whether from personal or business funds.

~~4.4.~~ 5.4. A contribution made by a business licensed as a partnership is a contribution which shall be apportioned to the ownership interest of the partners. The aggregate contribution limits apply to contributions to a candidate or political committee made by each partner whether from personal funds or from the contributor's share of partnership funds.

~~4.5.~~ 5.5. A husband and wife may each contribute one thousand dollars (\$1,000) to the same candidate or political committee in connection with the same election, regardless of the source of family income.

~~4.6.~~ 5.6. A contribution made by check drawn on a joint personal account shall be attributed to the person who signed the check, or equally to the persons signing the check, unless otherwise specified in writing by the contributor.

~~4.7.~~ 5.7. Minor children (children under eighteen (18) years of age) may contribute up to one thousand dollars (\$1,000) to a candidate for an election if:

~~4.7.1.~~ 5.7.1. The decision to contribute is made knowingly and voluntarily by the minor child;

~~4.7.2.~~ 5.7.2. The funds, goods or services contributed are owned and controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

~~4.7.3.~~ 5.7.3. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed or is not in any other way controlled by another individual.

~~4.8.~~ 5.8. When a contributor designates all or part of a contribution for the benefit of a particular candidate and makes that contribution to a political committee acting with the approval or control of that candidate, the contribution shall be deemed to be an indirect contribution to the designated candidate and shall be subject to the aggregate contribution limits for that candidate.

~~4.9.~~ 5.9. A candidate or candidate's committee established for one primary and general election may transfer excess campaign assets to the same candidate's campaign or committee for a subsequent election year, and such a transfer shall not be limited by aggregate contribution limits.

~~4.10.~~ 5.10. The aggregate contribution by a person to a ballot issue committee is not limited; and corporate contributions to a ballot issue committee are not prohibited.

~~4.11.~~ 5.11. Transfers of contributions by a political committee established as a federal committee under the regulation of the Federal Election Commission (FEC) from the committee's federal account to a state account shall not be made for the purpose of allowing any contributor to exceed the maximum contribution per election to the state account.

~~4.12.~~ 5.12. If a candidate or candidate's committee has excess campaign funds at the time of filing the post election financial report, no further contributions may be accepted until the candidate files a pre-candidacy statement for a subsequent election.

~~4.13.~~ 5.13. If a candidate or candidate's committee has debts, outstanding loans or unpaid bills at the time of filing the post election financial report, further contributions may be accepted only until an amount sufficient to repay such debts and outstanding loans has been received.

~~§153-9-5.~~ §146-3-6. Lawful Expenditures.

This section clarifies the meaning of certain permissible expenditures of money and other things of value for election expenses for purposes enumerated in West Virginia Code §3-8-9.

~~5.1.~~ 6.1. Funds belonging to or received by a candidate or political committee for political purposes may be used to employ persons to perform those functions enumerated in West Virginia Code §3-8-9, either on a full-time, part-time or temporary basis, providing the provisions of Title ~~153~~ 146, Code of State Rules, Series ~~10~~ 4, are complied with.

6.2. Funds belonging to or received by a candidate or political committee for political purposes may be used for reasonable office expenses enumerated in West Virginia Code §3-8-9.

~~5.2.~~ 6.3. "Necessary traveling and hotel expenses" shall include mileage at a rate not to exceed ~~twenty-five cents (\$.25)~~ the current state-mandated reimbursement rate per mile or direct charges for transportation and itemized food and lodging costs incurred specifically for the purpose of campaigning or conducting the organizational, political or financial business of a political committee or candidate's campaign. The term shall not include the purchase cost of any vehicle, or expenditures for traveling and hotel expenses incurred for activities which result primarily in personal benefit and are not directly and specifically undertaken for political purposes.

~~5.3.~~ 6.4. No money or thing of value derived from contributions received by a candidate or political committee may be paid to or given to any person, except:

~~5.3.1.~~ 6.4.1. as lawful payment for goods provided, services rendered or reimbursement of expenses incurred for political purposes;

~~5.3.2.~~ 6.4.2. as food, entertainment or costs incidental to a fund-raising event or public meeting; or

~~5.3.3.~~ 6.4.3. as printed campaign promotional items of nominal value which clearly identify the candidate; or party.

6.4.4. as a nominal noncash expression of appreciation as defined in section 2.17 above, following the close of the polls or within 30 days thereafter.

~~5.4.~~ 6.5. A candidate may be reimbursed from contributions received for lawful election expenses paid from the personal funds of the candidate, providing receipts are retained and those itemized expenditures are reported as required by law.

~~5.5.~~ 6.6. No candidate may receive any payment of money or other thing of value for personal use from funds solicited or received for political purposes on his or her behalf, except as reimbursement as provided in section ~~5.4~~ 6.5.

6.7. Monies exceeding five dollars (\$5.00) in amount expended by any person for the printing, duplicating or distributing of a scorecard, voter guide, or other written analysis of a candidate's position or votes on specific issues within sixty (60) days of an election, or monies expended to distribute more than fifty (50) copies of such materials are an expense incurred for political purposes and shall be properly reported pursuant to West Virginia Code §3-8-1 et seq. The provisions of this subsection shall not apply to those exceptions as set forth in West Virginia Code §3-8-5(e).

~~§153-9-6.~~ §146-3-7. Disposing of Excess Campaign Assets, terminating a political committee.

This rule clarifies the methods of lawfully disposing of excess campaign assets, and the method for terminating a political committee pursuant to W. Va. Code §3-8-4a.

~~6.1.~~ 7.1. Excess campaign assets are those monies, materials, equipment or other things of value derived from contributions which are:

~~6.1.1.~~ 7.1.1. remaining in the possession of the pre-candidate or pre-candidate's committee at the conclusion of pre-

candidacy when the pre-candidate decides not to become a candidate;

~~6.1.2.~~ 7.1.2. remaining in the possession of the candidate or candidate's committee at the conclusion of the campaign and after debts, loans and other liabilities are repaid; or

~~6.1.3.~~ 7.1.3. belonging to a political committee which wishes to discontinue activity and dissolve.

~~6.2.~~ 7.2. Excess campaign assets may be lawfully:

~~6.2.1.~~ 7.2.1. transferred from a candidate's committee organized for one election year to the same candidate's committee for a subsequent election year, providing that candidate has filed a pre-candidacy statement and a statement of organization of the new committee before the transfer is made;

~~6.2.2.~~ 7.2.2. distributed for a lawful election expense enumerated in West Virginia Code §3-8-9 by making a contribution to one or more political party committees, other political committees or candidates; or

~~6.2.3.~~ 7.2.3. returned on a pro-rata basis to each contributor.

7.2.4. subject to Internal Revenue Service regulations relating to personal income, used by the candidate to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of public office;

7.2.5 contributed to any charitable organization; or

7.2.6 transferred, without limitation, to any national, state or local committee of any political party.

~~6.3.~~ 7.3. No person may receive or utilize excess campaign assets for personal economic benefit or use.

7.3.1. Subject to section 7.2.4 above, supplies or equipment purchased by an office holder and used to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of public office shall become the property of the state, or the district, county, or municipality in which the office is held.

~~6.4.~~ 7.4. No candidate, financial agent or treasurer may distribute excess campaign assets through personal gifts, promotional items or other expenditures not authorized by West Virginia Code §3-8-9.

7.5 A political committee which is solvent and has no

outstanding debts or obligations may terminate its existence by

7.5.1. filing a statement of dissolution with the Secretary of State of the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of the entire state, or a candidate for nomination or election for any office encompassing an election district larger than a county, or the passage or defeat of any issue, thing or item to be voted upon, encompassing an election larger than a county; or

7.5.2. filing a statement of dissolution with the county clerk or municipal clerk or recorder, or other such election officer as defined in 146CSR2-3.3.4 Code of Fair Campaign Practices, as may be deemed proper by the Secretary of State, if the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of a county or district therein, or for the passage or defeat of any issue, thing or item to be voted upon, encompassing the electorate of a county or district therein; and,

7.5.3. stating within such written request that the political committee will no longer receive any contributions or make any disbursements; and,

7.5.4. stating within such written request that the political committee has no outstanding debts or obligations; and,

7.5.5. stating within such written request that any excess funds of the political committee will be transferred to a political committee established by the same candidate, or established for the passage or defeat of the same issue, thing or item, or will be otherwise disbursed pursuant to section 6.2 above.

7.6 The Secretary of State's Office shall have the authority to make determinations as to the solvency or insolvency of a political committee, including

7.6.1 the orderly liquidation of an insolvent political committee; and

7.6.2. the orderly application of the assets of an insolvent political committee toward reduction of its outstanding debts; and

7.6.3. the assessment of any forgiven debts as being political contributions; and,

7.6.4. the termination of an insolvent political committee after the liquidation and application of assets.

~~§153-9-7.~~ §146-3-8. Receiving, Distributing and Reporting Contributions and Expenditures.

This section clarifies the handling and reporting requirements set forth in West Virginia Code §3-8-2 through 3-8-7.

~~7.1.~~ 8.1. The treasurer of a political committee or receives all contributions and disburses all funds, and it is unlawful for a person or persons other than the treasurer to receive and disburse funds without the treasurer's knowledge and participation.

~~7.2.~~ 8.2. A candidate who does not appoint another person as financial agent or organize a candidate's committee and appoint a treasurer at least ~~sixty (60)~~ twenty-eight (28) days prior to the election at which he or she is to act shall be deemed to be the financial agent for his or her own campaign.

~~7.3.~~ 8.3. A financial report shall include all financial transactions occurring during the accounting period just completed, and any other financial transactions which have not been reported previously. Financial reports shall be in the form provided for in Addendum A of this rule

~~7.4.~~ 8.4. For the purpose of financial accounting and reporting, an election cycle is divided into accounting periods. The first accounting period brings on the date of the first financial transaction. The last day of each accounting period is the day before the next financial report may be filed. Accounting periods end of the following dates:

~~7.4.1.~~ 8.4.1. the day before the last Saturday in March of each year;

~~7.4.2.~~ 8.4.2. the eleventh day before the primary election;

~~7.4.3.~~ 8.4.3. the twenty-fourth day after the primary election;

~~7.4.4.~~ 8.4.4. the eleventh day before the general election; and

~~7.4.5.~~ 8.4.5. the twenty-fourth day after the general election.

8.5. Financial reports may be filed, pursuant to West Virginia Code §3-8-5b,

8.5.1. by mail; or,

8.5.2. in person; or,

8.5.3. by facsimile or other electronic means of transmission.

8.6. Filing dates for each method of delivery shall be determined as follows:

8.6.1. For mailings, the filing date shall be the date of the postmark of the United States Postal Service;

8.6.2. For hand delivery, the filing date, shall be the date of delivery to the proper reporting agency or entity during regular business hours of such office;

8.6.3. The facsimile or other electronic means of transmission, the filing date shall be the date of delivery to the property reporting agency or entity during regular business hours of such office.

8.7. Financial reports which are delivered by facsimile or other means of electronic transmission shall be limited in length to fifteen (15) pages, including a cover page. When delivered by a facsimile or other electronic means of transmission, original signed and sworn financial statements shall be postmarked or hand delivered to the property reporting agency or entity within twenty-four (24) hours of the date of the facsimile or other means of electronic transmission.

~~7.5.~~ 8.8. For the purpose of reporting contributions, a contribution occurs on the date the check, cash or other thing of value is received by the treasurer. No person acting as agent for the candidate, treasurer or committee shall knowingly withhold a contribution from the treasurer to prevent the reporting of the contribution until a later reporting period.

~~7.6.~~ 8.9. For the purpose of reporting unpaid bills, a liability is incurred on the date a bill for goods received or services rendered is received by the treasurer.

~~7.7.~~ 8.10. For the purpose of reporting expenditures, an expenditure is made on the date the treasurer writes the check or transfers cash to any person to pay for goods or services rendered. No transfer may be made to an intermediary to avoid reporting an expenditure in a particular reporting period.

~~§153-9-8.~~ §146-3-9. State and Local Activity by Federal Committees.

This rule clarifies the responsibilities and state reporting requirements of a political committee organized under the rules of the Federal Election Commission when that committee makes contributions to or direct expenditures on behalf of or in opposition to state or local candidates, political committees or ballot issues.

~~8.1.~~ 9.1. Nothing in this rule shall be construed to exempt a federal committee from the requirements of West Virginia Code §3-8-

1 et seq. as to monies or other things of value received and disbursed for election expenses on behalf of state and local candidates, political committees and ballot issues.

~~8.2.~~ 9.2. When a federal committee maintains a state account, the treasurer shall not place in its federal account funds which have been designated by the contributor for use in state, district, county and municipal election activities. Such funds shall be placed directly into the state account, and shall be subject to state reporting requirements and contribution limits.

~~8.3.~~ 9.3. The treasurer of a federal committee may not knowingly transfer into a state account or disburse on behalf of a state or local candidate or political committee any portion of an individual contributor's contribution which exceeds one thousand dollars (\$1,000) per election.

~~8.4.~~ 9.4. A federal committee which maintains a state account may comply with state reporting requirements by filing reports on the forms prescribed by the Secretary of State under the rules and at the times required by West Virginia Code and the Code of State Rules.

~~8.5.~~ 9.5. A federal committee which maintains only a federal account may comply with state reporting requirements by filing with the applicable federal report an addendum itemizing in the manner required by West Virginia State Code and the Code of State Rules:

~~8.5.1.~~ 9.5.1. all contributions and loans received from West Virginia residents;

~~8.5.2.~~ 9.5.2. all liabilities incurred or expenditures made to or on behalf of any state or local candidate, political committee or ballot issue; or

~~8.5.3.~~ 9.5.3. an oath given by the treasurer that the addendum contains a true and correct report of all financial transactions relating to state and local candidates, political committees or ballot issues in West Virginia.

~~§153-9-9.~~ §146-3-10. Solicitation for Political Purposes.

This section clarifies lawful and unlawful practices relating to solicitations for political purposes.

~~9.1.~~ 10.1. No person may lawfully solicit and accept funds for political purposes on behalf of any individual before that individual becomes a pre-candidate or a candidate as defined herein.

~~9.2.~~ 10.2. No person may lawfully solicit and accept funds on behalf of any political committee before that committee files a

statement of organization and the appointment of a treasurer.

10.3. No person may lawfully solicit and accept funds on behalf of any candidate or any elected official if no outstanding debt remains from a previous election, except in that a pre-candidate, candidate or political committee may solicit or accept funds if pre-candidacy papers have been filed for an upcoming primary or general election.

~~9.3.~~ 10.4. A person who solicits funds to retire a debt incurred for political purposes by a candidate or committee during a previous primary or general election is soliciting funds in connection with that campaign for nomination or election.

~~9.4.~~ 10.5. A solicitation which is broadcast by radio or television or published in a newspaper or other publication of general circulation shall not be deemed to violate any prohibition against solicitation of the members of specific groups.

~~9.5.~~ 10.6. A solicitation which is conducted randomly by such means as bulk mail to boxholders, broad literature distribution in a geographic area, or random-number telephone solicitations shall not be deemed to violate any prohibition against solicitation of the members of specific groups, providing solicitations of the members of specific groups are not knowingly and purposely included in the random solicitation.

~~9.6.~~ 10.7. A solicitation directed to individuals by name shall not be deemed to violate the prohibition against solicitation of public employees if that solicitation prominently contains the words "Please disregard if you are a public employee" or words to that effect, providing solicitations of members of prohibited groups are not knowingly and purposely included in the solicitation.

~~9.7.~~ 10.8. A solicitation specifically on behalf of one or more candidates for President, Vice President, U.S. Senate or U.S. House of Representatives is governed by the United States Code and the Code of Federal Regulations and is not subject to regulation by the state.

~~9.8.~~ 10.9. A solicitation within the state by a federal committee is subject to West Virginia Code and the West Virginia Code of State Rules, if all or part of any contribution received as a result of the solicitation is used to support one or more candidates in West Virginia.

§146-3-11. Procedures for Levying Civil Penalties

This rule clarifies the procedures to be used to determine the implementation of W. Va. Code §3-8-7.

11.1. A report shall not be found to be grossly incomplete or grossly inaccurate if:

11.1.1. the filing officer has notified the individual or committee responsible for filing such report that the report is incomplete or inaccurate;

11.1.2. corrections to such report are received by the filing officer no later than ten (10) days after the individual or committee has been notified of such inaccuracies; and

11.1.3. in the case of a financial statement due not less than seven nor more than ten days preceding each primary or other election, corrections to such report are received by the filing officer no later than twenty-four (24) hours after the individual or committee has been notified of such inaccuracies or deficiencies.

11.2. A report shall considered to be delinquent if:

11.2.1. It is received after the deadlines established by Article 8, Chapter 3, Section 5 of the West Virginia Code; and

11.2.2. bears a U.S. Postal Service postmark dated after such deadline.

11.3. A report shall not be considered delinquent if:

11.3.1. The report is filed late due to the death of the candidate, treasurer, or other individual responsible for filing such reports; or

11.3.2. The report is filed late due to a serious illness of the candidate, treasurer, or other individual responsible for filing such reports; and

11.3.3. A written notification of either death or illness is received by the filing officer no later than the last day the financial statement is due. Upon receipt of such notification, the filing officer may grant an extension of time for the filing of the financial statement.

STATE OF WEST VIRGINIA
CAMPAIGN FINANCIAL STATEMENT RELATING TO ELECTIONS HELD IN 19__

For Candidates and Candidate's Committees

Candidate Name _____

For Office Of _____ District/Division (if any) _____

Party _____ Phone Number _____

For Political Action Committees

Full Name of Political Committee _____

Acronym or Abbreviated Form of Committee Name (if used) _____

City & State in Which Committee is Based _____

**PLEASE FILL OUT ALL INFORMATION REQUESTED BELOW
(Required by WV Code §3-8-5a)**

Committee Treasurer or Financial Agent (Candidates: List your name if acting as your own financial agent)	Daytime Phone Number
---	----------------------

Mailing Address of Treasurer or Financial Agent (Candidates: List your mailing address if acting as your own financial agent)

Candidate Committee/Political Action Committee (PAC) Name	Daytime Phone Number
---	----------------------

Committee Address (if different from above)

GENERAL INSTRUCTIONS

who must file

All candidates for state, district, county and municipal public offices (except candidates for party executive committees).
All financial agents, treasurers for candidates' committees, political party committees, and political action committees.
All persons who spend personal funds independently and without a candidate or committee's knowledge, to advocate or oppose the nomination, election or defeat of any candidate, or the passage or defeat of any issue to be voted on.
All advertising agencies, consultants or other persons who receive lump sums from candidates or committees and then disburse those funds to others for political purposes.

what to report

All money and all in-kind (non-cash) contributions received by the campaign or committee.
All money and all things of value received as a loan to the campaign or committee, along with a copy of the loan agreement.
All money spent by the campaign or committee for permitted activities.
All required forms reporting employment of temporary election workers or campaign staff.

where to file

File with the **secretary of state** if you are a candidate (or a committee, person or agent supporting candidates) for office on the ballot in more than one county, or you are supporting or opposing an issue on the ballot in more than one county.
File with the **county clerk** if you are a candidate (or a committee, person or agent supporting candidates) for office entirely within a county, or you are supporting or opposing an issue on the ballot in only one county.
File with the **municipal recorder** if you are a candidate (or a committee, person or agent supporting candidates) running for city office or you are supporting or opposing an issue on the ballot only in the city.

when to file

Candidates, their agents or committees must file all reports in the election year in which they are on the ballot, and annual reports until they repay all loans or disburse excess funds and file a final report.
Political action committees and party executive committees must file all reports from the date they begin activity until they formally dissolve the committee by filing a final report and a Statement of Dissolution (Form F-6)
Consultants, advertising agents and persons who disburse money for candidates or committees, and persons making independent expenditures must file for any period in which they have received or spent money.

when it's over

To end your filing responsibilities after your campaign, you must have completed each of these steps:
1. Repay all loans or disburse any excess funds (see rules), bringing your campaign to a zero balance.
2. File a final report listing any contributions or expenditures since your last report, including the repayment of any loans or the disbursement of an ending balance.
3. For committees, file Form F-6, the Statement of Dissolution of a Committee.

WEST VIRGINIA LAW REQUIRES THIS REPORT TO BE NOTARIZED BEFORE FILING

INSTRUCTIONS FOR FRONT PAGE

1. Fill in the election year covered by this report. Campaigns cannot overlap, so keep finances from other election years separate. For candidates, an election reporting period starts when the candidate files a pre-candidacy form or files for office, and ends when all debts of that campaign are paid. Political action committees supporting several candidates or ballot issues and conducting fundraising events from year to year should begin the next election year with the last Saturday in March following an election year.
2. On the top of the front page, list the name of the candidate, the office the candidate is running for, district the candidate is running in, the party affiliation, and daytime phone number. If filing a PAC report, give the name of the committee, the acronym or name that the committee goes by, if any, and the city and state in which the committee is based.
3. If your campaign or PAC has a treasurer or financial agent, list the name of the treasurer, his or her daytime phone number, and mailing address. If you do not have a treasurer, list your own name, address, and daytime phone number. If you also have a campaign committee, or if you're filling out a PAC report, list the name, address, and daytime phone number of the committee.
If you changed treasurers since filing your last report, you must also fill out and file Form F-5 (Notice of Change of Treasurer) or send a written statement indicating that the previous treasurer resigned and giving the name, address, and phone number of the new treasurer. Until this is done, the former treasurer is still responsible for filing financial reports and can be held accountable if the reports are not filed or if there are any errors in the reports.

INSTRUCTIONS FOR REPORT SUMMARY

1. Check the box next to the description of the report being filed. You may only file a final report if you have a zero balance and have no outstanding loans or bills. PACs that file a final report must also include a Statement of Dissolution before their obligation to file financial reports ends.
2. Complete Schedules 1A-2B. AFTER you've completed the itemized report, fill in the totals from those schedules in Column A as follows:

RECEIPTS:

- Line 1: **CANDIDATE CONTRIBUTIONS:** Enter the total from Schedule 1A that represents the amount contributed to the campaign by the candidate.
- Line 2: **POLITICAL COMMITTEE CONTRIBUTIONS:** Enter the total from Schedule 2A that represents contributions received from political committees.
- Line 3: **ITEMIZED CONTRIBUTIONS:** Enter the total from Schedule 3A that represents individual non-candidate contributions.
- Line 4: **FUNDRAISING EVENTS:** Enter the total from Schedule 4A.
- Line 5: **TOTAL CONTRIBUTIONS:** Enter the total of lines 1 through 4 in Column A.
- Line 6: **MISCELLANEOUS INCOME:** Enter the total from Schedule 5A.
- Line 7: **LOANS RECEIVED:** Enter the total from Schedule 1B, Column B.
- Line 8: **TOTAL OTHER INCOME:** Enter the total of lines 6 through 7 in Column A.
- Line 9: **VALUE OF NON-CASH CONTRIBUTIONS:** Enter the total from Schedule 6A.

EXPENDITURES

- Line 10: **ITEMIZED EXPENDITURES:** Enter the total from Schedule 2B, Column B.
- Line 11: **REPAYMENT OF LOANS:** Enter the total from Schedule 1B, Column C.
- Line 12: **TOTAL EXPENDITURES:** Enter the total of lines 10 and 11.

3. After entering the figures in Column A, add them to the Column B figures from your *previous* report and enter them in Column B for your year-to-date summary. If you're filing your first report, the figures in both Column A and B should be identical. The figures in Column A and B should be identical only in the first report.

CASH BALANCE SUMMARY

- Line 13: **BEGINNING BALANCE:** Enter the ending balance from your previous report. If this is your first report, the amount should be zero. If you are using money left over from another campaign, show this amount as a contribution under Schedule 1A.
- Line 14: **TOTAL RECEIPTS:** Enter the total of lines 5 and 8, Column A.
- Line 15: **TOTAL EXPENDITURES:** Enter the amount from line 12, Column A.
- Line 16: **ENDING BALANCE:** Enter the difference between line 15 and the total of lines 13 and 14. This figure should equal your funds in your checkbook.

DEBTS:

- Line 17: **UNPAID BILLS:** Enter the total from Schedule 2B, Column A
- Line 18: **LOANS OUTSTANDING:** Enter the total from Schedule 2A, Column D
- Line 19: **TOTAL DEBTS:** Enter the total of lines 17 and 18.

GENERAL RULES GOVERNING CONTRIBUTIONS AND THEIR REPORTING

When a person, political committee, association or firm contributes money:

- a. Whatever the amount, you must report the full name of the person or group and the amount;
- b. If the amount totals more than \$50.00 (\$50.01 and up), it must be by check or money order;
- c. If the amount of contributions received from one person or group relating to this election year totals more than \$250.00 (\$250.01 and up), you must also report the residence and mailing address, and in the case of a person, the major business affiliation (or employer) and occupation;
- d. The maximum contribution allowed in connection with any campaign for nomination or election to any elected office is \$1000.00 (\$1000.00 for the primary and \$1000.00 for the general election), except that a candidate may contribute any amount to his or her individual campaign committee.
- e. If a candidate spends his or her own money in the campaign, that amount must be listed as a contribution (see instructions for Schedule 1A).

When a contribution is anonymous:

- a. If you can identify the donor, you must either properly report his or her identity or return the contribution to the donor.
- b. If you cannot identify the donor, report the contribution in Schedule 3A. You must then send an amount equal to the total of the anonymous contribution(s) to the State of West Virginia General Fund, c/o Secretary of State, Bldg. 1, Suite 157-K, 1900 Kanawha Blvd. East, Charleston WV 25305-0770. When this is done, you should list the transaction under Schedule 2B as an expenditure to make your records balance.
- c. Do not spend anonymous contributions for your campaign.

When a corporation wants to contribute:

Corporations cannot make direct political contributions. They can, however, set up a separate, segregated fund called a Political Action Committee (PAC) for the purpose of soliciting political contributions from officers, stockholders, and administrative personnel. These PACs can make political contributions in support or opposition to candidates or issues. Corporations can make contributions in ballot issue elections.

Contributions made to membership organizations:

Some political action committees may be considered to be "membership organizations" under state law. A membership organization is a group that grants certain rights and privileges to its members, such as the right to vote or hold an office within that organization, or uses a majority of its membership dues for purposes other than political purposes.

Contributions made to membership organizations often take the form of payroll deductions. If the deduction (or portion of dues) which goes to the PAC or is used for political purposes equals \$25.00 or less per member during a calendar year, it can be reported by showing the amount each member paid and the number of members. For example, if the payroll deduction is \$3.00 per calendar year for 25 employees, it would be listed as : "25 employees @ \$3.00 each = \$75.00".

If the payroll deductions or dues exceed \$25.00 per member, the contributions are reported individually, the same as any other type of contribution. Also, if members make contributions independent of a payroll deduction or other assessment, the contribution must be listed the same as any other type of contribution.

Report contributions from:

- ✓ Candidates in Schedule 1A
- ✓ PACs in Schedule 2A
- ✓ Individuals in Schedule 3A
- ✓ Fundraising events in Schedule 4A

INSTRUCTIONS FOR SCHEDULE 1A (CANDIDATE CONTRIBUTIONS)

This section is to be completed only if the report is made by a candidate or candidate's campaign committee or financial agent. **CAUTION: ONCE A CANDIDATE CONTRIBUTES MONEY TO HIS OR HER CAMPAIGN FUND, THAT MONEY CANNOT BE RETURNED.** If a candidate hopes to recover part of the money at the end of the campaign, a loan must be executed in writing. **REPORT LOANS ONLY IN SCHEDULE 2B.**

The campaign fund (regardless of whether or not a committee has been established) is separate and does not "belong" to the candidate. Therefore, if a candidate spends his or her own money in an election, that amount is also considered a contribution to the campaign fund. To properly report candidate contributions, enter the information as follows:

- a. The full name of the candidate, address and business affiliation or occupation;
- b. The date of the contribution;
- c. The amount of the contribution.

Total all contributions for the period and carry the total to line 1 of the Report Summary.

SCHEDULE 1A

ITEMIZED CONTRIBUTIONS FROM THE CANDIDATE: CASH AND CHECK RECEIPTS

Candidate:	Date	Amount
Address:		
Occupation & Business Affiliation:		
Total contributions from candidate:		

**ITEMIZED INDIVIDUAL CONTRIBUTIONS: CHECK RECEIPTS
OVER \$250.00**

Date	Amount	Date	Amount
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Full Name: Address: Occupation/ Business Affiliation:		Full Name: Address: Occupation/ Business Affiliation:	
Subtotal contributions of more than \$250.00			
Subtotal contributions of \$250.00 or less			
Total			

FUNDRAISING EVENTS
General Rules and Instructions for Schedule 4A

Definition

A fundraising event is "an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received by such means as purchase of a ticket, payment of an attendance fee or through the purchase of goods or services." (WV Code §3-8-5b). This definition also covers sales of food at bake sales or fair booths, memorabilia, T-shirts, buttons, and other items. Raffles are also considered to be fundraisers; however, candidates are prohibited by §47-21-2 of the WV Code from holding raffles. Other organizations, such as political action committees, must have 501 (c) status with the WV Department of Tax and Revenue, and must have a license to conduct raffles. "Passing the hat" at meet-the-candidate dinners or other types of fundraisers is not permissible, since contributions cannot be accounted for.

What must be reported?

Unless the exceptions described below apply, money brought in through a fundraiser is subject to exactly the same rules as other contributions. The name of the contributor (or purchaser, if tickets, services, or merchandise is sold) and amount of each contribution, no matter how small, are always listed. The mailing and residence address, occupation and major business affiliation are listed only when the amount is more than \$250.00. Contributions over \$50.00 must be by check.

The information in the event summary is required by law.

Exceptions:

In 1994, the West Virginia Legislature passed a law that would allow political party committees to hold certain fundraisers without necessarily reporting contributions of monies received at those fundraisers. Only fundraisers that involve the sale of food, beverages, services, novelty items, raffle tickets, or memorabilia may take advantage of this exception, as long as the total profits from such fundraisers do not exceed \$5000 in a calendar year. The names of individuals who spend less than \$50.00 a year do not need to be reported. Organizations that hold fundraisers need not report itemized contributions if the total profit is less than \$5000. If individuals or organizations make purchases of more than \$50.00, or if the total profits from all such fundraisers exceed \$5000, the normal reporting requirements apply, and all names of all contributors must be reported.

What if I don't report all my contributors?

If the names of your contributors are not listed as part of your fundraiser, they are considered to be anonymous contributors. Anonymous contributions are prohibited by state law and must be turned over to the WV General Revenue Fund.

1. For each fundraising event, fill out:
 - a. An event summary, giving all information requested.
 - b. An itemized receipts list, giving all contributors' names and the amounts received (and other information when required), along with total receipts.
 - c. Use separate summary form for each fundraising event.
2. List all itemized expenses (such as invitations, food, hall rentals) relating to any fundraising events on Schedule 2B. Include the total of those specific expenses in the event summary.
3. Total the gross receipts from all fundraising events and carry the total to line 4 of the Report Summary.

DUPLICATE AS MANY PAGES AS YOU WILL NEED TO COMPLETE YOUR REPORT. If you use plain paper or attach a computer printout, include all required information and label the pages "Schedule 4A."

INSTRUCTIONS FOR SCHEDULE 5A (OTHER RECEIPTS)

Receipts which are not classified as contributions must also be reported. These include refunds on bills paid, contributions to other candidates or PACs returned, interest on investments, checking accounts or savings accounts, sale of equipment, or any income not reported in Schedule 1A, 2A, 3A, or 4A.

1. Enter the date the funds were received, the source of funds, the type of receipt (interest, refund, equipment sale, return of contribution, etc.), and the amount.
2. Total all such receipts for the period and carry the total to line 6 of the Report Summary.

IN-KIND CONTRIBUTIONS General Rules and Instructions for Schedule 6A

Contributions of things of value, other than money, must be reported as in-kind contributions. This would include such things as the use of a car, an office or building, office equipment or telephones for campaign purposes.

1. Enter the name of the contributor and the date this item was received.
2. Assign a reasonable value to the contribution, then treat the address/occupation reporting requirements the same as with any other contribution. (Remember, the \$1000 limit applies, no matter what type of contribution.)
3. Total all such receipts for the period and carry the total to line 9 of the Report Summary.

SCHEDULE 5A

OTHER RECEIPTS: MISCELLANEOUS, INTEREST, REFUNDS, ETC.

Date	Source of Income	Type of Receipt	Amount
Total			

SCHEDULE 6A

IN-KIND CONTRIBUTIONS

Date	Full Name Address & Occupation (if aggregate contribution exceeds \$250.00)	Description of Contribution	Value (Amount)
Total			

GENERAL RULES GOVERNING LOANS

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon who receives money or any other thing of value as a loan toward election expenses shall execute, in writing, an agreement with the individual, lending institution or organization making the loan. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement required by this statute must include all items asked for in the statute. There is no certain format for a loan agreement; generally, if all the required information is listed, any format is acceptable.

Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that entity. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case.

Any money a candidate loans to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate in Schedule IA. These loans must be executed in writing.

Caution: Candidates may not carry over outstanding loans from one campaign to the next. Each campaign is separate, and funds from one campaign cannot be used to repay a loan from a previous campaign.

INSTRUCTIONS FOR COMPLETING SCHEDULE 1B

1. Give the required information for:
 - a. balance of any loans made in a prior reporting period (Column A);
 - b. amount of each new loan received during reporting period (Column B);
 - c. each loan for which repayment was made during the period (Column C);
 - d. each loan for which a balance is outstanding at the end of the period (Column D).
2. Add the amounts of all new loans received and carry the total of Column B to line 7 of the Report Summary.
3. Add the amounts of all repayments made and carry the total of Column C to line 11 of the Report Summary.
4. Add the amounts of all balances outstanding and carry the total of Column D to line 18 of the Report Summary.
5. Attach a copy of the loan agreement for each loan received during the reporting period.

SCHEDULE 1B

LOANS

(A copy of a loan agreement for each loan executed during the filing period must accompany this report)

Bank Loans: List name & address of financial institution Individual loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A	Column B		Column C		Column D
	Balance of previous loan at end of period	Amount of new loan received during period		Repayments during period		Balance Outstanding at end of period
	Amount	Date	Amount	Date	Amount	Amount
Totals						

EXPENDITURES

General Rules and Instructions for Schedule 2B

All expenditures made or liabilities incurred by a campaign must be reported. This requirement covers both actual payment and promises of payment.

For example, a candidate who has received a bill for \$500 worth of printing but has not paid the bill by the time that the financial report was due would report this as an unpaid bill. If the bill was paid by the time the report was due, the transaction would be listed as an expenditure.

§3-8-9 of the West Virginia Code lists what are considered to be permissible expenditures by candidates and committees. In 1986, the WV Supreme Court ruled that this statute must be interpreted strictly. This means that if the item cannot be classified under §3-8-9 as a permissible expenditure, it is not allowed.

You must give ALL the information specified in the column headings in order for your form to be complete.

When a lump sum payment is made to an advertising or campaign management firm which will disburse the money on behalf of the candidate, the agency must file a separate financial report under the same rules. If the lump sum payment is made to an individual who is not required to file (for example, a campaign organizer who pays others to work outside the polls or to haul voters), the breakdown of who finally received the money as payment for goods or services must be included in this report.

If you are paying people for time or expenses for your campaign, you must follow WV CSR §153-10 Election Expenditures. Workers and volunteers must fill out separate forms and return them to you before they can be paid. The following forms must be used: F-8 (For campaign staff), F-9 (For temporary campaign workers), F-10 (For election day drivers), and F-11 (For reimbursement of volunteers). These forms must then be attached to the report that lists the expenditures made to these workers.

Enter the correct information for each transaction in the columns in Schedule 2B. Total all unpaid bills and transfer the amount to line 17 of the Report Summary. Total all expenditures and transfer the amount to Line 10 of the Report Summary.

DUPLICATE AS MANY PAGES AS YOU WILL NEED TO COMPLETE YOUR REPORT. If you use plain paper or attach a computer printout, include all required information and label the pages "Schedule 2B".

ITEMIZED EXPENDITURES AND UNPAID BILLS

Date	Full Name, residence address (if a person) or business address (if a firm), mailing address	Purpose	Column A Amount Unpaid Bill	Column B Amount Expenditure
Totals				

CONTINUED ON NEXT PAGE

ITEMIZED EXPENDITURES AND UNPAID BILLS (CONTINUED)

Date	Full Name, residence address (if a person) or business address (if a firm), mailing address	Purpose	Column A Amount Unpaid Bill	Column B Amount Expenditure
Totals				
Totals, All Pages				

OATH OR AFFIRMATION

State of West Virginia, County of _____

I, _____, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement.

_____ Signature of Candidate, Agent or Treasurer

Subscribed and sworn to before me this _____ day of _____, 19_____.

My commission expires _____

Notary Seal

_____ Signature of Notary Public

Note: All notaries must use a rubber stamp or seal when notarizing any document. Failure to do so may lead to the revoking of the notary's commission.

Office Use Only

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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WILLIAM H. HARRINGTON
Chief of Staff

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Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

July 31, 1995

FIVE COMMENTS WERE RECEIVED AND THESE CHANGES WERE MADE:

PAGE 1, SECTION 2.3 - (") WAS ADDED TO Pre-candidate"

PAGE 4, - SECTION 2.8 "Grossly incomplete or grossly inaccurate" shall mean that a financial statement as defined under Article 8, Chapter 3, Section 5 of the West Virginia Code is missing information required by Article 8, Chapter 3 of the Code and Title 146 of the West Virginia Code of State Rules. WAS ADDED

PAGE 9, SECTION 6.7 - "ten dollars (\$10.00)" WAS CHANGED TO "five dollars (\$5.00) AND AFTER "specific issues" "within sixty (60) days of an election, or monies expended to distribute more than fifty (50) copies of such materials" WAS ADDED

PAGE 10, SECTION 7.5.1 - "written request" WAS CHANGED TO "statement of dissolution"

PAGE 11, SECTION 7.5.2 - "written request" WAS CHANGED TO "statement of dissolution"

PAGE 12, SECTION 8.3 - "Financial reports shall be in the form provided for in Addendum A of this rule" WAS ADDED

PAGE 15, - Section 11 "Procedures for Levying Civil Penalties" WAS ADDED

ADDENDUM A WAS ADDED AT THE END OF THE RULE

Chuck Hamsher
114 Lakeshore Drive
Charleston, West Virginia 25313
(304) 776-0566

July 28, 1995

The Honorable Ken Hechler
Secretary of State
Capitol Complex
Charleston, West Virginia 25305

Dear Mr. Hechler:

This letter is intended to serve as comment on proposed Rules for changes to West Virginia Election Law brought about by passage by the West Virginia Legislature of S.B. 573, The Code of Fair Campaign Practices.

The proposed Rules state in §153-6-7:

Monies exceeding ten dollars (\$10.00) in amount expended by any person for printing, duplicating, or distributing of a scorecard, voter guide, or other written analysis of a candidate's position or votes on specific issues are an expense incurred for political purposes and shall be properly reported pursuant to West Virginia Code §3-8-1 et seq. The provisions of this subsection shall not apply to those exceptions as set forth in West Virginia Code §3-8-5(e).

I would strongly urge this section to be changed as follows:

Printing, duplicating or distribution by any person, persons, or organization of more than 25 individual pieces of literature that serves as a scorecard, voter guide or other written analysis of a candidate's or candidates' position or votes on specific issues; or monies exceeding three dollars (\$3.00) in amount expended by any person, persons or organization for printing, duplicating, or distributing of a scorecard, voter guide, or other written analysis of a candidate's or candidates' position or votes on specific issues are an expense incurred for political purposes and shall be properly reported pursuant to West Virginia Code §3-8-1 et seq. The provisions of this subsection shall not apply to those exceptions as set forth in West Virginia Code §3-8-5(e).

I believe these changes are needed to truly reflect the intent of this legislation. At the \$10.00 limit proposed it would be possible, utilizing desktop publishing and the like, to produce several thousand pieces of literature. The intent of the Legislature in passing this section of S.B. 573 was to insure that wide distribution of such materials be reported pursuant to West Virginia Code §3-8-1. I believe the changes I propose better reflect that intent while providing for de minimis activities of this sort by individuals.

July 28, 1995
The Honorable Ken Hechler
Page 2

The additional changes I propose are intended to further clarify that the requirements of this section apply to groups of individuals and/or organizations and if the literature pertains to one candidate or multiple candidates.

The other area I wish to address is the lack of specific procedures in proposed Rules regarding the assessment of civil penalties for failure to file financial disclosure statement or for filing of delinquent or incomplete statement as required in §3-8-7(4). It was clearly the intent of the Legislature that these procedures be part of the Rules promulgated by the Election Commission.

Thank you for the opportunity to comment on these proposed Rules. I hope you and the Election Commission will consider and adopt the changes I propose. If I can be of any assistance or provide any information please feel free to contact me at 345-6046.

Sincerely,

Chuck Hamsher

CTH/s

Carroll County
Carolyn Taft
P. O. Box 4120
Ft. Ashby, WV 26719
(304) 298 3917

July 23, 1995

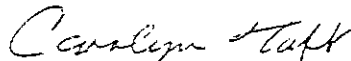
Secretary of State,
Election Division
Bldg. 1, Room 157-K
Charleston, WV 25305

Dear Mr. Secretary:

I would like to comment on Rule 6.7, page 9 of the Election Commission rules to implement the Code of Fair Campaign Practices (SB 573).

I believe that an expenditure limit of \$10 as a threshold for reporting distribution of campaign literature does not take into consideration the large number of flyers or leaflets which can be produced and distributed in this age of personal computers. I would think that \$10 could provide up to 1,000 items. Perhaps a better solution would be to limit the production and distribution of campaign items to around 25 with an expenditure limit of \$3 before reporting is required.

Sincerely,



Carolyn Taft

FAX COVER

July 31, 1995

To: Bill Harrington

Fax#: 558-0900

From: Chuck Hamsher

Comments: Example of election piece. Staple has 500 sheet reams of paper at \$4.49 each. 1000 sheets = \$8.98. 1000 x 4 = 4000 pieces.

Call 304-345-6046 if you have questions regarding this transmission.

This fax is 2 pages in length including cover

**URGENT
FOR ELECTIONS COMMISSION
MEETING**

Ken Hechler &
The Elections
Commission

APPROVED

The Code of Fair
Campaign Practices Rules

Remember this
when you Vote!

4,000 pieces of this SAMPLE campaign
piece can be produced for under \$10.00!!
Paid for by Chuck Hamsher

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To: Sec. of State
From: Eleanor S. Stough
Burlington, WV 26710

7/26/45

Concerning: S. 573 "Fair Campaign Practices"
Rules pertaining to WV Code, Chap 3-1A-5
and 1A-6.

I urge you and the Commission to
limit the number of leaflets to 25
at a cost not to exceed \$3.00 without
required reporting. Voters need to know
who is distributing campaign literature.
Since up to 1000 leaflets can be easily
reproduced on computers and printers for
less than \$1.00 it is essential to alter
the above code in the law. Thank you,
E. S. Stough

JULY 27, 1995

To Secretary of State
Election Division
Charleston, WV. 25305

From J. M. Mike Withers
Government Relation Specialist
Common Cause/WV
P.O.Box 3263
Charleston, WV. 25332

Honorable Ken Hechler,

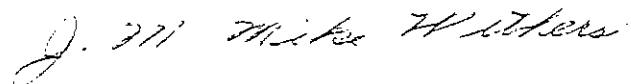
I have prepared comments on the legislative rules proposed by the State Election Commission. I wish to address my comments to the rules titled number 146 cited in Ch 3-1A-5, 3-1A-6. On page nine the commission proposed a new rule designated 6.7 which would establish ten dollars as the legal limit citizens could expend in duplicating or printing scorecards, voters guides or other written analysis of a candidate's position before they would have to report said expenditures to your office.

The sum of ten dollars may seem to be a small insignificant amount. However, many citizens own computers and printers. I can purchase two reams of paper for less than ten dollars. If I would cut each page into halves or even quarters, I can duplicate and distribute two or three thousand copies and not exceed the ten dollar limit. This would be a gross abuse of the legislative intent of this proposal.

I would suggest that the proposed rule 6.7 be changed to use a combination of cost incurred and/or the number of pieces of literature printed as the legal threshold for the filing political expenditure reports. I suggest that the printing or distribution of more than twenty five copies and/or expenditure of more than three dollars become the legal threshold for filing political expenditure reports.

I feel that twenty five copies and/or an expenditure of three dollars will meet the legislative intent of allowing citizens to copy and distribute political materials to there family and close friends without offering opportunity for widespread abuse of this statute.

Sincerely,



J.M. Mike Withers