

ARTICLE 45
Fair Campaign Practices Act
(2000 Update)

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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, encouraging voluntary campaign spending limits, full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.

1-45-103. Definitions. As used in this article:

(1) "Appropriate officer" means the individual with whom a candidate, candidate committee, political committee, or issue committee must file pursuant to section 1-45-109 (1).

(1.3) "Authorized committee" means an authorized committee as defined under the "Federal Election Campaign Act of 1971", 2 U.S.C. sec. 431 (6), as amended.

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

(2) "Candidate Committee" means a person, including the candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A

candidate shall have only one candidate committee. A candidate committee shall be considered open and active until affirmatively closed by the candidate or by action of the secretary of state.

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

(4) (a) "Contribution" means:

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

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

(III) (Deleted by amendment, L. 2000, p. 122, § 2, effective March 15, 2000.)

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

(V) 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.

(b) "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, issue committee, or political party.

(4.5) (a) "Contribution in kind" means the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate committee, issue committee, political committee, or political party for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election, or defeat of any candidate. Personal services are a contribution in kind by the person paying compensation therefor. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used.

(b) "Contribution in kind" does not include an endorsement of a candidate or an issue by any person.

(c) "Contribution in kind" does not include the payment of compensation for legal and accounting services rendered to a candidate if the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of this article.

(5) "Election cycle" means either:

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

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

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

(6) "Expenditure" means the payment, distribution, loan, or advance of any money by any candidate committee, political committee, issue committee, or political party. "Expenditure" also includes the payment, distribution, loan, or advance of any money by a person for the benefit of a candidate committee, political committee, issue committee, or political party that is made with the prior knowledge and consent of an agent of the party or committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined.

(7) "Independent expenditure" means payment of money by any person for the purpose of advocating the election or defeat of a candidate, which expenditure is not controlled by, or coordinated with, any candidate or any agent of such candidate. "Independent expenditure" includes expenditures for political messages which unambiguously refer to any specific public office or candidate for such office, but does not include expenditures made by persons, other than political parties and political committees, in the regular course and scope of their business and political messages sent solely to their members.

(8) (a) "Issue committee" means:

(I) Two or more persons who are elected, appointed, or chosen, or have associated themselves, for the purpose of accepting contributions and making expenditures to support or oppose any ballot issue or ballot question; or

(II) Any partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons that has accepted total contributions in excess of five hundred dollars or made total expenditures in excess of five hundred dollars to support or oppose any ballot issue or ballot question. For purposes of this subparagraph (II), the term "expenditure" does not include expenditures made by persons in the regular course and scope of their business or in connection with communications sent solely to their members. The term "expenditure" also does not include a contribution, as defined in subsection (4) of this section.

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

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

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

(10) (a) "Political committee" means two or more persons who are elected, appointed, or chosen, or have associated themselves, for the purpose of making contributions to candidate committees, issue committees, political parties, or other political committees, or for the purpose of making independent expenditures. "Political committee" does not include political parties, issue committees, or candidate committees as otherwise defined in this section.

(b) (Deleted by amendment, L. 2000, p. 122, § 2, effective March 15, 2000.)

(11) "Political message" means a message delivered by telephone, any print or electronic media, or other written material which advocates the election or defeat of any candidate or which unambiguously refers to such candidate.

(12) "Political party" means any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. A political party at the state, county, district, or local level is a separate political party for purposes of this article.

(13) "State candidate" means candidates for governor, lieutenant governor, secretary of state, attorney general, state treasurer, state senate, state house of representatives, state board of education, and regent of the University of Colorado.

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

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

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

1-45-105.3. Contribution limits. (1) No natural person, corporation, labor organization, authorized committee, or political committee shall make a combined total of contributions and contributions in kind during an election cycle, or for a special legislative election, in excess of the following amounts:

(a) Five thousand dollars to any one governor candidate committee;

(b) Two thousand five hundred dollars to any one lieutenant governor, secretary of state, state treasurer, or attorney general candidate committee;

(c) One thousand five hundred dollars to any one state senate or district attorney candidate committee;

(d) One thousand dollars to any one state house of representatives, state board of education, or regent of the university of Colorado candidate committee.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), no political party at the state, county, district, or local level shall accept a combined total of contributions and contributions in kind from any person, other than a political party, in excess of twenty-five thousand dollars per year.

(b) No political party at the state, county, district, or local level shall knowingly accept contributions from any natural person who is not a citizen of the United States, from a foreign government, or from any foreign corporation that does not have authority to transact business in this state pursuant to article 115 of title 7, C.R.S.

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

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), no political committee shall accept a combined total of contributions and contributions in kind from any person in excess of twenty-five thousand dollars per year.

(b) No political committee shall knowingly accept contributions from any natural person who is not a citizen of the United States, from a foreign government, or from any foreign corporation that does not have authority to transact business in this state pursuant to article 115 of title 7, C.R.S.

(4) (a) No candidate committee shall make a contribution or contribution in kind to or accept a contribution or contribution in kind from a candidate committee of another candidate.

(b) Except as provided in paragraph (c) of this subsection (4), no candidate committee shall accept a combined total of contributions and contributions in kind in excess of twenty-five thousand dollars during such candidate committee's election cycle from a candidate committee of the same candidate that was established for a different public office.

(c) No candidate committee for a state candidate shall accept a contribution or contribution in kind from a candidate committee of the same candidate that was established for a public office other than a state office. As used in this paragraph (c), "state office" means any office described in section 1-45-103 (13).

(4.5) No candidate committee shall accept a contribution or contribution in kind from an authorized committee of the same candidate that was established or maintained for a federal election campaign or office.

(5) Each limit on contributions to candidate committees described in subsection (1) of this section shall be increased by an amount equal to ten percent, rounded up to the nearest fifty dollars, of such limit on January 1, 2003, and on January 1 every four years thereafter. The secretary of state shall calculate such an increase in each limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S.

(6) No later than ten business days after receiving a contribution in excess of the limits set forth in this section, the candidate committee that received the contribution shall remit the excess to the contributor.

(7) Notwithstanding any other section of this article to the contrary, a state candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule.

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

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

(10) No person shall make a contribution to a candidate committee, issue committee, political committee, or political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee, political committee, or political party, nor shall any person make such reimbursement except as provided in subsection (7) of this section.

(11) An undeclared candidate who is an elected and serving state officeholder that is subject to the provisions of this article may maintain a candidate committee during such person's term of office and accept contributions, subject to the contribution limits that apply to such office, for the uses and purposes set forth in section 1-45-106.

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

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

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

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

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

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

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

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

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

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

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

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

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

1-45-106. Unexpended campaign contributions. (1) (a) (I) Unexpended campaign contributions to a candidate committee may be:

(A) Contributed to a political party;

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

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

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

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

(III) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in subsection (1) of this section, 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.

1-45-107. Independent expenditures. (1) Any person making an independent expenditure in excess of one thousand dollars shall deliver notice in writing of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure, within twenty-four hours after obligating funds for such expenditure. Such notice shall be delivered to all candidates in the affected race and to the secretary of state. The notice shall specifically state the name of the candidate whom the independent expenditure is intended to support or oppose. Each independent expenditure shall require the delivery of a new notice.

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

(3) Expenditures by any person on behalf of a candidate for public office that are coordinated with or controlled by the candidate or the candidate's agent shall be considered a contribution to the candidate and subject the candidate and the contributor to any applicable penalties contained in this article.

1-45-108. Disclosure. (1) (a) All candidate committees, political committees, issue 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.

(b) For purposes of complying with the requirements of this subsection (1), an issue committee that is described in section 1-45-103 (8) (a) (II) but not in section 1-45-103 (8) (a) (I) shall report only those contributions accepted, expenditures made, and obligations entered into for the purpose of supporting or opposing a ballot issue or ballot question. Such issue committee shall not be required to report donations, membership dues, or any other payments received unless such amounts are used or to be used for the purpose of supporting or opposing a ballot issue or ballot question.

(2) (a) (I) Except as provided in subsections (2.3) and (2.5) of this section, such reports that are required to be filed with the secretary of state shall be filed:

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

(B) On the first Monday in July and on each Monday every two weeks thereafter before the primary election if reports can be filed electronically through a website on the internet with the secretary of state by July 1, 2000; except that nothing in this sub-subparagraph (B) shall require filing by such means;

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

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

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

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

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

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

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

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

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

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

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

(2.3) A candidate committee, political committee, issue committee, or political party that utilizes the electronic filing system described in section 1-45-109 (6) to file reports with the secretary of state shall have two additional days after each due date prescribed in paragraph (a) of subsection (2) of this section in which to file such reports.

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

(3) All candidate committees, political committees, issue committees, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

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

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

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

(d) All affiliated candidates and committees;

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

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

(5) The registration and reporting requirements of this section shall not apply to that part of the organizational structure of a political party which is responsible for only the day-to-day operations of such political party at the national level if copies of the reports required to be filed with the Federal Election

Commission pursuant to the "Federal Election Commission Act of 1971", as amended, are filed with the secretary of state and include the information required by this section.

(6) Any political committee whose purpose is the recall of any elected official shall file a statement of organization with the appropriate officer within ten business days of receiving its first contribution. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the statement of organization 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.

1-45-109. Filing - where to file - timeliness. (1) For the purpose of meeting the filing and reporting requirements of this article, candidates for state wide office, the general assembly, district attorney, district court judge, or any office representing more than one county, except candidates for school district director; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; and issue committees in support of or in opposition to an issue on the ballot in more than one county shall file with the secretary of state. Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, and an issue committee supporting or opposing a municipal ballot issue shall file with the municipal clerk. All other candidates, candidate committees, issue committees and political committees shall file with the county clerk and recorder of the county of their residence.

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

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

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

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

(5) (a) The secretary of state shall establish, operate, and maintain a web site on the internet, or modify, operate, and maintain an existing web site, 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 on said web site within forty-eight hours after filing. In addition, the web site shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to the reporting period, date, name of the person making a contribution or expenditure, candidate, and committee. 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) No later than September 1, 2000, or as near to such date as is practicable, the secretary of state shall establish, operate, and maintain a system that enables electronic filing of the reports required by this article by utilizing the internet. The rules for use of the electronic filing system shall be promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(b) In addition to any other method of filing, any person may use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article.

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.

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

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

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

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

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

1-45-111. Duties of the secretary of state - enforcement. (1) The secretary of state shall:

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

(a.5) Promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any provision of this article.

(b) (Deleted by amendment, L. 2000, p. 126, § 8, effective March 15, 2000.)

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

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

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

(2) (a) Any person who believes that a violation of section 1-45-105.3, 1-45-105.5, 1-45-106, 1-45-108, 1-45-114, 1-45-115, or 1-45-117 has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The secretary of state shall refer the complaint to an administrative law judge. The person filing the complaint shall bear the burden of proof. If the administrative law judge determines that such violation has occurred, such decision shall include any appropriate order, sanction, or relief authorized by this article. The decision of the administrative law judge shall be final and subject to review by the court of appeals, pursuant to section 24-4-106 (11), C.R.S. The decision may be enforced by the secretary of state or by the person filing the complaint.

(b) (Deleted by amendment, L. 2000, p. 126, § 8, effective March 15, 2000.)

(c) The attorney general shall investigate complaints made against any candidate for the office of secretary of state using the same procedures set forth in paragraph (a) of this subsection (2).

(d) A subpoena issued by an administrative law judge requiring the production of documents by an issue committee that is described in section 1-45-103 (8) (a) (II) but not in section 1-45-103 (8) (a) (I) shall be limited to documents pertaining to contributions to, or expenditures from, the committee's separate account established pursuant to section 1-45-105.3 (8) to support or oppose a ballot issue or ballot question.

A subpoena shall not be limited in this manner where such issue committee fails to form a separate account through which a ballot issue or ballot question is supported or opposed.

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

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

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

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

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

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

(f) Report apparent violations of law to appropriate law enforcement authorities.

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

1-45-113. Sanctions. (1) It shall be a class two misdemeanor for any person to willfully and intentionally violate section 1-45-105.3, 1-45-105.5, 1-45-106, 1-45-108, 1-45-114, 1-45-115, or 1-45-117. It shall be a class two misdemeanor for any person to willfully and intentionally fail to disclose any contribution or expenditure on any report filed pursuant to this article.

(2) In addition to the criminal penalty provided for in subsection (1) of this section, any person who intentionally violates any provision of this article relating to contribution limits shall be subject to a civil penalty of double the amount contributed or received in violation of the applicable provision of this article. Candidates shall be personally liable for fines imposed against the candidate's committee.

(3) (Deleted by amendment, L. 2000, p. 127, § 9, effective March 15, 2000.)

(4) The appropriate officer, after proper notification by mail, shall impose a penalty of ten dollars per day for each day that a statement or other information required to be filed pursuant to section 1-45-107, 1-45-108, 1-45-109, or 1-45-110 is not filed by the close of business on the day due. If an electronic mail address is on file with the secretary of state, the secretary of state may also provide such notification by electronic mail. Revenues collected from fees and penalties assessed by the secretary of state pursuant to this article shall be deposited in the department of state cash fund created in section 24-21-104 (3), C.R.S.

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

(6) (a) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be immune from criminal prosecution of a class 2 misdemeanor described in subsection (1) of this section and from any liability for a fine or penalty imposed pursuant to this section in any proceeding that is based on an act or omission of such volunteer if:

(I) 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

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

(b) Paragraph (a) of this subsection (6) shall be administered in a manner that is consistent with the legislative declaration set forth in section 1-45-102.

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 in kind 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 which 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).

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

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

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

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

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

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

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

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

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

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

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

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

(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.

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.