



Guide to Vermont's Campaign Finance Law

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Secretary of State

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Note: The information in this guide is substantially the same as the July 2006 Guide, incorporating changes made by the U.S. Supreme Court's decision and also changes in the law made by the 2005 session of the General Assembly (changes effective July 1, 2005).



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REMINDER!

Vermont law sets limits on political contributions and prohibits indirect contributions.

As the campaign season approaches, we would like to remind all individuals, political parties and political committees that Vermont law limits the amount of contributions that a candidate, political party, or political committee may receive from a single source (individual, corporation, labor union) or PAC during any two-year election cycle.

It is against the law for a person or organization to circumvent or attempt to circumvent the contribution limitations established by Vermont law. This means that an individual or organization may not transfer or give money to another person or organization with the intent of having that person or organization contribute that money to a particular candidate or candidates. For example, John Jones cannot contribute \$1000 to a gubernatorial candidate and then give his friend, relative, or political party an additional \$1000 for the friend or relative to contribute to the same candidate for the same election.

Additionally, a political party or political committee may not accept a contribution that the donor directs to be expended for the benefit of a particular candidate. For example, John Jones cannot contribute \$1000 to a gubernatorial candidate and then contribute \$2000 to a political party directing or asking the party to make a contribution to the same gubernatorial candidate.

The Office of the Attorney General looks into written complaints of violations of the Vermont campaign finance law and can bring enforcement actions. There are also criminal penalties of intentional violations of §§ 2811-2832. Persons or organizations that violate the law are subject to a civil penalty of up to \$10,000.00 for each offense. Criminal penalties are available concerning violations of certain reporting requirements in the law.

More information concerning campaign finance laws and regulations is available at the Secretary of State's website at <http://www.sec.state.vt.us> and in Vermont Statutes Annotated, Title 17, Chapter 59 available at <http://www.leg.state.vt.us> or by calling the Elections Division at (802) 828-0771.

2008 Guide to Vermont's Campaign Finance Law

Introduction

The Secretary of State's Office is charged with administering the campaign finance law. Our Elections Division provides candidates, political committees, political parties and others with information on the requirements of the law. Our goal is to help you comply with Vermont's campaign finance requirements. In addition to publishing this Guide, we will answer your questions (by telephone or email) about the law. We also make as much information as possible available on our website at <http://www.sec.state.vt.us>, including copies of previously filed campaign finance reports.

This 2008 version of the Guide to Vermont's Campaign Finance Law should be read carefully.

☞ Note that the information herein represents a conservative approach that is intended to avoid violations of the law. You are free to consult with your own counsel to assess the risk of taking a different view on any of these issues.

This guide explains the requirements of Vermont's campaign finance law and answers some of the more frequently asked questions. For your convenience, a copy of the campaign finance law is included at the end of the pamphlet so that if you have a question about the requirements of the law, you can go right to the source. We have used the "strike through" format in the statutes to indicate the provisions that have been ruled unconstitutional by the August 2000 decision of Judge Sessions and the June 2006 decision of the U.S. Supreme Court. We have also included the Administrative Rule 2000-1 adopted in 2000 on Related Expenditures.

If after reading the law and this guide you have questions, please call us at (800) 439-8683 instate, or (802) 828-2363, email us at dcrossman@sec.state.vt.us or write to Kathleen DeWolfe, Director of Campaign Finance and Elections, 26 Terrace Street, Montpelier, Vermont 05609-1101.



Deborah L. Markowitz
Secretary of State

SUMMARY OF CHANGES IN VERMONT'S CAMPAIGN FINANCE LAW

CONTRIBUTION LIMITS

Contributions to candidates and candidate political committees:

- \$1,000 per ELECTION from individuals and single sources (which does not include political parties or political committees). (17 V.S.A. §2805(a) prior to amendment by Act 64)
- \$3,000 per ELECTION from political committees (PACs). (17 V.S.A. §2805(b) prior to amendment by Act 64)
- Unlimited contributions from political parties. (17 V.S.A. §2805 prior to amendment by Act 64)

Contributions to political parties

- \$2,000 per CYCLE from any individual, single source, political committee, or political party. (17 V.S.A. §2805(a) as added by Act 64 and found constitutional by the federal court of appeals)

Contributions to political committees (other than candidate political committees)

- \$2,000 per CYCLE from any individual, single source, political committee, or political party. (17 V.S.A. §2805(a) as added by Act 64 and found constitutional by the federal court of appeals)

REPORTING CHANGES

Contributions over \$2,000 made within 10 days of the primary or general election must be reported within 24 hours of receipt (CANDIDATES ONLY). This should only apply to contributions from political parties, political committees or immediate family members, because these are the only entities that may contribute more than \$2,000. You can use copies of the standard campaign finance reporting forms, but you cannot fax this report.

Subtotals of monetary and non-monetary contributions are now required. Non-monetary contributions would include in-kind contributions such as catering for events, donation of goods and/or services. The reporting forms have been adjusted accordingly.

Statement that candidate did not spend or raise \$500. Beginning in the 2005-06 election cycle, a candidate who has not spent or raised \$500 must file a statement to that effect with the office of the Secretary of State. This statement is due 10 days after the general election (November 14, 2008).

Campaign finance disclosure forms can now be signed by either the candidate or treasurer – both signatures are no longer required (CANDIDATES ONLY).

Corporations, labor organizations, incorporated or unincorporated associations, public interest groups, partnerships and other loosely formed groups are now expressly included in the definition of political committees if the committee solicits contributions in excess of \$500 and makes expenditures in excess of \$500 (PACS ONLY).

BECOMING A CANDIDATE & FUNDRAISING BASICS

Becoming a Candidate: A person becomes a “candidate” by taking an “affirmative action” [by]:

- **accepting contributions or making expenditures** totaling \$500.00 or more (or \$2000 or more prior to February 15 of the election year if seeking public finance under §2853); or
- **filing the requisite petition** for nomination or being nominated by primary or caucus; or
- **announcing** that he or she seeks an elected position as a state, county or local officer or a position as representative or senator in the general assembly.” 17 V.S.A. §2801(1)
 - ☞ **The term “candidate” includes the candidate’s political committee when used in campaign finance law discussions (for example, Friends of Joe Smith for State Rep).**

Candidate’s Obligations:

- **Bank and Treasurer Designation Form:** Once a candidate has made expenditures or has received contributions of \$500.00 or more the candidate must file a Bank and Treasurer designation form with the Secretary of State’s Elections Division. This form can be downloaded from our website at <http://www.sec.state.vt.us>. This form identifies the treasurer, and names the bank that will hold the single checking account from which all expenditures must be paid by check. 17 V.S.A. §2802 You do not need to file a new designation form for a new election cycle unless your bank or treasurer has changed. You may also file this form before the \$500 threshold has been reached.
- **Filing statement affirming \$500 was not raised or spent:** All candidates for statewide office or for the General Assembly who spend \$500 OR LESS in the election cycle must now file a statement to that effect within 10 days after the general election.
- **Recordkeeping:** All candidates must maintain records of campaign contributions and expenditures, loans and debts throughout the election cycle until the final report is filed. Although you do not need to track out-of-state and in-state information (except for candidates seeking public finance), all contributions of more than \$100 must be reported individually including the contributor’s address.
 - ☞ **“Two-year general election cycle” means the 24-month period that begins 38 days after the general election (beginning in 2006). Note: The beginning of the 2007-2008 election cycle is the day after the 2006 General Election (November 8).**

Spending Limits:

- Spending limits established for statewide, legislative, and county candidates in 17 V.S.A. §2805a were ruled unconstitutional by the U.S. Supreme Court on June 26, 2006. **THERE ARE NO SPENDING LIMITS FOR ANY CANDIDATES IN VERMONT SINCE THIS RULING.**

Fundraising Basics: The U.S. Supreme Court recently ruled that certain contribution limits in Vermont were too low. Certain contribution limits have reverted to the pre-Act 64 (1997) limits, while others remain in effect as amended by Act 64. Please review the information below carefully, and contact the Elections Division if you need clarification.

Contribution Limits:

Contributions to CANDIDATES AND CANDIDATE POLITICAL COMMITTEES:

- \$1,000 per ELECTION from any single source (which does not include political parties or political committees) (17 V.S.A. §2805(a) prior to Act 64).
- \$3,000 per ELECTION from political committees (17 V.S.A. §2805(b) prior to Act 64).
- Unlimited contributions from political parties.

Contributions to POLITICAL PARTIES

- \$2,000 per CYCLE from any single source, political committee, or political party (17 V.S.A. §2805(a) as added by Act 64 and found constitutional by the federal court of appeals).

Contributions to POLITICAL COMMITTEES (other than candidate political committees)

- \$2,000 per CYCLE from any single source, political committee, or political party (17 V.S.A. §2805(a) as added by Act 64 and found constitutional by the federal court of appeals).

- **Beginning in 2006, any contributions over \$2000.00 received in the 10 days prior to the primary or general election must be reported within 24 hours of receiving the contribution. This will only apply to contributions from PACs, political parties, family members, or the candidate him or her self.**
- **Over \$50.00 by check or electronic transfer.** All contributions in excess of \$50.00 must be made by check, credit card, debit card or other electronic transfer. (The law was changed in 2005.) This provision applies only to monetary contributions, not in-kind gifts.
- **Only direct contributions.** A candidate may not accept a contribution that was transferred to the contributor by another person for the purpose of circumventing the contribution limits. A single source cannot give money to a political party directing that the contribution be then given to a particular candidate.
- **Unlimited contributions from family.** A candidate or his or her immediate family may contribute an unlimited amount to his or her own campaign. For purposes of this subsection, “immediate family” means individuals related to the candidate in the first, second or third degree of consanguinity. **Although the amounts are unlimited, contributions from you or from family must be reported on your disclosure forms.** This includes the money that a candidate spends for mileage or gas when campaigning.

Legislators may not solicit from lobbyists or lobbyist employers during the session.

A legislator or administrative official may not solicit political campaign contributions from a registered lobbyist or registered lobbyist employer until final adjournment of the legislature (“adjournment sine die” which is at the end of the second or adjourned session in even-numbered years). 2 V.S.A. §266 A legislator may not accept a contribution, even if unsolicited, from a registered lobbyist or registered lobbyist employer until adjournment sine die which is at the end of the second or adjourned session in even-numbered years.

Contribution Defined:

- **Payment, gift or loan to influence an election:** “Contribution” means “a payment, distribution, advance, deposit, loan or gift of money or anything of value, paid or promised to be paid to a person for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates in any election . . .” (17 V.S.A. §2801 (2))
- **Volunteer service not included:** Contribution does not include “services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee or political party.”
- **Loan from a lending institution not included:** For the purpose of the campaign finance law, “contribution” does not include “a personal loan from a lending institution.”

In-kind Contributions: In-kind contributions are gifts of “anything of value” given to a person for the purpose of influencing an election. In-kind contributions (such as donation of a computer, tee shirts, food, or space for a campaign office) must be reasonably valued (usually fair market value or cost to the donor). In-kind contributions (other than for personal services) are subject to the same contribution limits and reporting requirements as cash contributions. Obviously, the requirement that contributions over \$50 be made by check, credit or debit card does not apply to in-kind contributions. Joint in-kind contributions are permissible. For example, a husband and wife can jointly donate a computer worth up to \$2000 for use in both the Primary and General Election to a candidate for his campaign office.

Expenditure Defined:

- According to 17 V.S.A. §2801 (3), “expenditure” means a “payment, disbursement, distribution, advance, deposit, loan or gift of money or anything of value, paid or promised to be paid, for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates.”

Related Expenditures:

- 17 V.S.A §2809: A “related campaign expenditure made on the candidate’s behalf” means any expenditure intended to promote the election of a specific candidate or group of candidates, or the defeat of an opposing candidate or group of candidates, if intentionally facilitated by, solicited by or approved by the candidate or the candidate’s political committee. See also the Rules adopted by the Secretary of State for related expenditures (re-printed at the end of this Guide).
- **Related expenditures are contributions.** Related campaign expenditures made on a candidate’s behalf will be considered a contribution to the candidate on whose behalf it was made.
- **Related expenditures as candidate expenditures.** After the August 2000 federal court decision, related expenditures are no longer to be considered expenditures of the candidate.
- **Meet the candidate event exception:** Expenditures will not be treated as a “related campaign expenditure made on the candidate’s behalf” if all of the following apply: (1) The expenditures were made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet the candidate personally; (2) The expenditures were made only for refreshments and related supplies that were consumed at that event; (3) The total expenditure amount for the event was less than \$100.00.

☞ Any candidate can seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the superior court of the county in which either candidate resides. The law requires the court to schedule a hearing within 24 hours and to give expedited consideration to the matter.

BASICS FOR POLITICAL PARTIES AND POLITICAL COMMITTEES (PACS)

Definitions:

- **Political committee/Political action committee (PAC):** Any formal or informal committee of two or more individuals, or a corporation, labor organization, public interest group, or other entity, not including a political party, which receives contributions in excess of \$500 AND makes expenditures of more than \$500.00 in any one CALENDAR YEAR for the purpose of supporting or opposing one or more candidates, influencing an election or advocating a position on a public question, in any election or affecting the outcome of an election.
- **Political party:** A political party organized under Chapter 45 of Title 17 of the Vermont Statutes Annotated, or any committee established, financed, maintained or controlled by the party, including any subsidiary, branch or local unit thereof and including national or regional affiliates of the party.

Registration Requirements/Bank Designation & Treasurer Form. (17 V.S.A. §2831) Each political committee and political party that has accepted contributions and made expenditures of \$500.00 or more must register with the Secretary of State within ten days of reaching the \$500.00 threshold stating its name and address, treasurer's name, and the bank in which it maintains its campaign checking account. Any political committee or party that has filed a Bank Designation form in a previous election cycle does not need to file another one, UNLESS the committee/party is changing information on the form. You may also file this form before the \$500 threshold has been reached.

Contribution Limits:

- **Receipt.** A political committee shall not accept contributions totaling more than \$2,000.00 from a single source, political committee or political party in any two-year general election cycle.
 - **Donate.** A political committee may not contribute more than \$3000 per election to a candidate, or \$2000 per cycle to another political committee or political party. Based on the June 2006 decision of the U.S. Supreme Court, political parties can make unlimited contributions to candidates.
 - **No indirect contributions.** A political party or political committee may not accept a contribution which is not directly from the contributor, but was transferred to the contributor by another person for the purpose of transferring the same or otherwise circumventing the provisions of Vermont law.
- ☞ **The limitations on contributions do not apply to contributions made for the purpose of advocating a position on a public question, including a constitutional amendment.**

Federal PACs Please Note:

A political committee or political party may satisfy the filing requirements by filing with the secretary of state a copy of that portion of the campaign finance report applicable to candidates seeking election in this state which the committee or party has filed with the Federal Election Commission and by designating an in-state agent in the report or in a cover letter. (17 V.S.A. §2832) If this option is selected, then the FEC reports must be filed on the deadlines for filing with the FEC, instead of on the reporting deadlines listed in the next section.

REPORTING FOR STATEWIDE AND GENERAL ASSEMBLY CANDIDATES, POLITICAL PARTIES, AND POLITICAL COMMITTEES (PACS) (17 V.S.A §2811)

Basic Reporting Requirements:

- ☞ In calculating the \$500 that triggers reporting, candidates must include and report all expenditures of their own money as both contributions from self and also as expenditures.
- ☞ **Candidates for statewide office or General Assembly who spend \$500 or less must now file a statement 10 days after the general election (not later than November 14, 2008) stating that their contributions and expenditures did not exceed \$500.**
- ☞ **Candidates for statewide office or General Assembly who receive a monetary contribution in an amount over \$2,000 within 10 days of the primary or general election MUST report the contribution to the Secretary of State within 24 hours of receiving the contribution on a downloadable form from our website.** This is in addition to including the contribution on the next periodic campaign finance disclosure report deadline.
- ☞ When reporting the total of ALL contributions, you must also include a subtotal of all monetary contributions and all non-monetary (in-kind) contributions.
- ☞ A political committee can file the portion of the Federal Elections Commission report that discloses all Vermont contributions in lieu of the Vermont reports (See text box on page 8).

Candidates, political parties, and political committees (PACs) must file periodic campaign finance disclosure forms if they have spent or raised \$500 in an election cycle as follows:

- **Pre-election.** 40 days before the primary election and on August 25, September 25, October 25 (the 25th of each month until the general election).
- **New requirement - Not later than 10 days following the general election.** 17 V.S.A. §2811(a)
- **Post-election.** Not later than 40 days following the general election.
- **Final report.** Not later than 40 days after the general election, candidates must file a final report which lists a complete accounting of all contributions and expenditures and which shall constitute the termination of its campaign activities for that election cycle. A political committee or a political party may file a “final report” at any time that it wishes to terminate its activities.
- **July 15 in odd-numbered years.** A campaign finance disclosure form must be filed on July 15 in odd-numbered years for any open campaign accounts by any candidate, political party or political committee that has not filed a final report indicating the disposition of all assets and debts. (If a final report has already been filed with all debt or surplus accounted for, and the account was closed, you do not need to file this report.) You must continue to file reports until the account is closed and/or a final report disclosing all contributions and expenditures and the disposition of all debts and assets is filed. 17 V.S.A. §2807

Where to file campaign finance disclosure reports:

- Statewide Candidates, Political Parties, and Political Committees file the original reports with the Office of the Secretary of State, Elections Division.
- Candidates for the General Assembly (House or Senate) must file the original reports with the Elections Division of the Secretary of State’s office, and a copy to the clerk of the candidate’s representative or senate district. Forms can be downloaded from our website or requested from the Elections Division.

LOCAL AND COUNTY CAMPAIGN FINANCE REPORTING

- **County office** (probate judge, assistant judge, state's attorney, sheriff, high bailiff). Candidates who have spent or raised \$500 or more must file campaign finance disclosure forms with the county clerk 10 days before the primary election and 10 days before the general election. A "final report" must be filed within 40 days after the general election which lists a complete accounting of all contributions and expenditures, and disposition of surplus, and which will constitute the termination of his or her campaign activities for that election cycle. On July 15 of the following year if the campaign account has not been closed, another disclosure report must be filed. (17 V.S.A. §2821)
- **Local elections – Candidates.** Candidates for local office that spend or receive \$500 or more must file a bank designation and treasurer appointment form with the municipal clerk and file disclosure reports 10 days before and 10 days after the local election. (17 V.S.A. §2822).
- **Local elections – PACs or Parties.** Any PAC active in local elections or any political party that has accepted contributions or made expenditures of \$500 or more for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election must also file campaign finance reports 10 days before and 10 days after the local election with the municipal clerk and with the Secretary of State. (17 V.S.A. §2831(b))
- **Local elections – Other entities.** Any group of two or more individuals, or corporation, labor organization, public interest group or other entity – excluding a political party – that spends more than \$500 in a calendar year to influence a position on a public question must file a campaign finance report with the municipality 10 days before and 10 days after the election. (17 V.S.A. §2831(c))

IDENTIFYING SPONSORS OF ELECTIONEERING COMMUNICATIONS **(POLITICAL ADVERTISEMENTS)**

- 17 V.S.A. §2892 requires all electioneering communications that advocate the success or defeat of a clearly identified candidate to clearly designate the name and address of the person who paid for the advertisement. (Please see 17 V.S.A. §2891 on page 31 of this guide for a detailed definition of electioneering communications.)
- In the case of printed or written matter, the name and address must be printed or written large enough to be clearly legible.
- The identifying provisions do not apply to buttons, lapel stickers, or electioneering communications made by a single individual acting alone who spends no more than \$150.00 on such communications within a two-year election cycle.
- Note: This provision does not apply to advertisements that focus solely on issues and that do not both clearly identify a candidate for office, and promote, support, attack or oppose a candidate for that office.

Additional Reporting Requirements for Certain Mass Media Activities*:

*"Mass media activities" include, but are not limited to, television commercials, radio commercials, mass mailings, literature drops, central telephone banks and robotic phone calls, that include the name or likeness of a candidate for office.

Under 17 V.S.A. §2893, any person who spends a total of \$500.00 or more for mass media activities in support of a clearly identified candidate within 30 days of a primary or general election must report these expenditures to the Secretary of State, and to the candidate whose name or likeness was included, within 24 hours of making the expenditure. This mass media report is in addition to the periodic campaign finance disclosure forms. The report must identify the person, persons, or group who made the expenditure and include the name of the candidate or candidates involved. This mass media report applies whether or not the expenditure was made by a candidate for his or her own campaign, or by a third party. Forms for mass media reports are available on our website or upon request from the Elections Division. Note: For the purposes of mass media activities, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

Penalties and Enforcement:

17 V.S.A. §2806 and the new civil investigation powers set out in 2806a establish penalties and enforcement options for violations of the law as follows:

- The Vermont Attorney General or a state's attorney are now given very specific civil investigation authority if he or she has reason to believe any person has violated provisions in the campaign finance law.
- A person who knowingly and intentionally violates a provision of sections 2811 through 2832 of Title 17 (related to filing campaign finance reports) will be fined not more than \$1,000.00 or imprisoned not more than six months or both.
- A person who violates any provision of the campaign finance law will be subject to a civil penalty of up to \$10,000.00 for each violation and will refund the unspent balance of Vermont campaign finance grants received, if any, calculated as of the date of the violation.
- In addition to the other penalties, a State's Attorney or the Attorney General may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct or abate any violation of this chapter.

☞ **Contact the office of the Attorney General or your County State's Attorney to report any campaign finance law violations.**

On-Line and Printed Distribution of Candidate Information: (17 V.S.A. §2810)

- The website of the Secretary of State provides searchable files of all statewide candidates' campaign finance reports, and image files that can be read or printed of all candidates for the general assembly within ten days of each filing deadline. Campaign finance reports filed by candidates for federal office are available on the FEC website at <http://www.fec.gov>.
- Candidates who have been properly nominated in Vermont for federal or statewide offices may submit brief biographical sketches and short position statements to our office for publication as a newspaper insert and on our website at least one week before the General Election. We will mail forms and more detailed information to all federal and statewide candidates immediately after the September Primary.

CANDIDATES SEEKING PUBLIC FINANCING FOR GOVERNOR OR LT. GOVERNOR

Eligibility: Candidates for governor and lieutenant governor can seek public financing for their campaigns. In order to qualify for public funding the candidate must meet certain qualifications as described below:

- **No Early Raising or Spending Money.** Before February 15 of the general election year, a candidate for governor or lieutenant governor **CANNOT** accept contributions totaling \$2,000.00 or more, or spend a total of \$2,000.00 or more. (17 V.S.A. §2853)
- **No Announcement of Candidacy.** Any candidate who has announced that he or she seeks an elected position as governor or lieutenant governor prior to February 15 of the general election year is **INELIGIBLE** for public financing.
- **No Fundraising Except Qualifying Contributions*.** A candidate who seeks public funding may not solicit, accept or expend any contributions except qualifying contributions and Vermont campaign finance grants unless there is a shortfall in the Vermont campaign fund.

*A qualified individual contributor must be an individual who is registered to vote in Vermont. No candidate may accept more than one qualifying contribution from the same contributor in any Vermont campaign finance qualification period. No contributor may make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county. Each qualifying contribution must indicate the name and town of residence of the contributor, the date received, and the signature of the contributor must acknowledge the contribution. A candidate may retain and expend qualifying contributions. A candidate may expend the qualifying contributions for the purpose of obtaining additional qualifying contributions and may expend the remaining qualifying contributions during the primary and general election periods. Amounts expended to obtain qualifying contributions are expenditures of the candidate and will count toward the candidate's spending limits. (17 V.S.A. §2854)

- **Amount of Qualifying Contributions Required.** The candidate must collect qualifying contributions during the qualification period* in the following amount and number:
 - (1) **For governor**, a total amount of no less than \$35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than \$50.00 each.
 - (2) **For lieutenant governor**, a total amount of no less than \$17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than \$50.00 each.

*qualification period -- begins February 15 of each even-numbered year and ends on the third Monday of July (date that primary petitions must be filed).

- **Deadline for Application by filing the Vermont Campaign finance affidavit.** A candidate seeking Vermont campaign finance grants from the Vermont campaign fund must file a Vermont campaign finance affidavit on the second Thursday after the first Monday of June of the election year. "Affidavit" means the Vermont campaign finance affidavit prepared by the Secretary of State. This form is available from the Elections Division (www.sec.state.vt.us or 800 439-8683).

Dollar Amounts of Vermont Campaign Finance Grants for Governor and Lt. Governor.

To the extent funds are available, the Secretary of State shall make grants from the Vermont campaign fund in separate grants for the primary election period* and the general election period** to candidates who have qualified for Vermont campaign finance grants. (17 V.S.A. §2855)

*Primary election period begins the day after primary petitions must be filed and ends the day of the primary election.

**General election period begins the day after the primary election and ends the day of the general election.

Public Financing Continued:

- Whether a candidate has entered a primary or is an independent or minor party candidate, Vermont campaign finance grants shall be in the following amounts, except to incumbents, who shall be entitled to receive a grant in an amount equal to 85 percent of the amount listed below:

Governor: \$75,000.00, primary election period*; and \$225,000.00, general election period

Lt. Governor: \$25,000.00, primary election period*; and \$75,000.00, general election period

*The primary election period grant to all candidates shall be reduced by the amount of qualifying contributions received.

- The candidate may use grants awarded in a primary election period, but not spent, in the general election period.
- If the Vermont campaign fund does not have enough money in it to provide Vermont campaign finance grants to all candidates who qualify, the available funds shall be distributed proportionately among qualifying candidates. If grants are reduced, a candidate may solicit and accept additional contributions equal to the amount of the difference between the amount of the Vermont campaign finance grants authorized and the amount received under this section.
- Vermont campaign finance grants for a primary election period shall be paid to qualifying candidates within the first ten business days of the primary election period. Vermont campaign finance grants for a general election period shall be paid to qualifying candidates during the first ten business days of the general election period.

Depositing Qualifying Contributions and Campaign Finance Grants. A candidate who accepts Vermont campaign finance grants must:

- Deposit all qualifying contributions, Vermont campaign finance grants and any other permissible contributions in a federally insured non-interest-bearing checking account.
- Not later than 40 days after the general election, and after all permissible expenditures have been paid, deposit the balance in the campaign account in the Vermont campaign fund.

Disqualification from public financing:

- A candidate in an uncontested general election is not qualified to receive public funding.
- A candidate who loses a primary election but who remains eligible to run for office will not be eligible for a general election period grant.
- Candidates disqualified as described above may solicit and accept contributions subject to the normal limitations and expenditures shall be limited to an amount equal to the amount of the grant for the general election for the office being pursued.

FREQUENTLY ASKED QUESTIONS AND ANSWERS

The answers to these questions represent a conservative approach that will avoid violations of the law. All candidates, political committees, or political parties are free to consult with their own counsel to assess the risk of taking a different view on any of these issues. If you have additional questions that are not answered in this publication, please call David Crossman, 828-0771 or Kathy DeWolfe, 828-2304.

The contribution limits to candidates (and candidate political committees) for the 2008 election are \$1,000 per election. Does this mean I can only accept \$1,000 before the Primary and the remaining \$1,000 after the Primary? State law says that “no candidate...shall accept contributions totaling more than \$1,000 from a single source for any election.” “[F]or any election” we interpret as “for the purpose of any election.” A candidate may accept \$2,000 at any time under this reading, so long as it is with the intent of applying \$1,000 for use in paying for expenses related to the Primary and \$1,000 for the General Election. Candidates who do not win the Primary nomination, or who choose not to run in the General Election would then violate the law by keeping or spending the second \$1,000. The funds received in excess of \$1,000 should be returned to the donor. The timing of the contribution is not necessarily required to track the election itself.

Does a candidate who does not raise any money have to file a campaign finance report? Yes. The law was changed in 2005 so that any candidate who does not raise or spend \$500 must file a statement to that effect within 10 days following the general election. Candidates who do not raise money, but spend \$500 or more of the candidate’s own money, must file a bank designation and treasurer appointment form, and file regular disclosure reports throughout the election cycle or until the campaign is closed, whichever comes first.

Does an independent candidate have to file pre-primary campaign finance reports? Independent candidates should begin filing disclosure reports according to the reporting schedule, as soon as he or she becomes a candidate and has raised or spent \$500 or more. Nominees of political parties by caucus or write-in candidates should follow this same procedure.

Does a campaign finance report have to be current to the day that it is filed? No. The law states that contributions received after 5:00 p.m. on the third day before a reporting deadline shall be reported on the next report. The legislature acknowledged that accurate reporting of contributions and expenditures would be difficult if you were required to disclose campaign finance activity up to the deadline of the day reports are due. Contributions or expenditures after 5:00 p.m. on the third day before the deadline must be included in the next report. 17 V.S.A. §2803(b)

Who has to have a treasurer and designate a bank? All candidates who are required by law to file campaign finance disclosure forms, all political committees, and political parties are required by Vermont’s Campaign Finance Law to name a treasurer and designate a single checking account in a single bank from which all expenditures must be paid. Both the appointment and the bank designation should be filed in the office in which disclosure filings are made. Forms can be downloaded from our website. 17 V.S.A. §§2802 and 2831(a)

May the candidate or the candidate’s spouse be a treasurer for his/her campaign? Yes. Vermont’s campaign finance law permits any person designated by the candidate to act as the treasurer, including the candidate or the candidate’s immediate family.

What is the treasurer responsible for? The treasurer is responsible for maintaining the checking account and signing campaign finance reports.

Should the account be non-interest bearing? Candidates for governor and lieutenant governor who are seeking public financing must keep their money in a non-interest bearing account. 17 V.S.A. §2853(b)(2) Other candidates may use an interest bearing account if they wish, but must include any interest earned when reporting on campaign finance disclosure reports.

Do candidates for federal office have to file campaign finance reports? Candidates for U.S. President and Vice President, U.S. Senator, U.S. Representative and political committees making contributions exclusively to federal candidates need not file campaign finance reports under the Vermont Campaign Finance Law since they are governed by federal law. For more information on this process, contact the Federal Election Commission, 999 E Street, Washington, D.C. 20463 (toll free (800) 424-9530).

When determining the due dates of campaign reports, do we count weekends and holidays? No. If a filing would be due on a weekend or holiday, the due date becomes the next working day.

Who is considered immediate family for the purpose of the exemption from the contribution limits? Under 17 V.S.A. §2805(f), the limitations on contributions do not apply to the candidate or to the candidate's immediate family. "Immediate family" is defined as individuals related to the candidate in the first, second or third degree of consanguinity. There is no Vermont law that defines these degrees of consanguinity. However, a widely accepted law treatise provides that first degree is parents and children; second degree is grandparents and grandchildren, and brothers and sisters; and third degree is uncles, aunts, nephews, nieces and great-grandparents. 23 Am Jur 2d Descent and Distribution § 55. One's in-laws would not fall under this definition of consanguinity.

How must a candidate count anonymous contributions, or money raised by "passing the hat?" There is no prohibition against "passing-the-hat" at a fundraiser. Note that no individual can put more than \$50.00 in cash into the hat because contributions in excess of \$50.00 must be by check, credit card or debit card.

Is an expenditure made on behalf of a candidate without that candidate's knowledge a contribution to or an expense of the candidate's campaign? A person can spend as much money as he or she wants in support of a candidate if it is a truly independent expenditure and not a related campaign expenditure or a campaign contribution. So long as the expenditure is not a related expenditure as defined below, it will not count as a contribution or as an expenditure of the candidate. A "related campaign expenditure made on the candidate's behalf" is "any expenditure intended to promote the election of a specific candidate or group of candidates, or the defeat of an opposing candidate or group of candidates, if intentionally facilitated by, solicited by or approved by the candidate or the candidate's political committee." 17 V.S.A. §2809(c) Based on existing federal court orders, related expenditures are not currently treated as expenditures of candidates. They are considered candidate contributions, however.

When does an expense have to be reported – when it is accrued or when it is paid? "Expenditure" is defined as a payment, disbursement, distribution, advance, deposit, loan or gift of money or anything of value, paid or promised to be paid. Under this definition, an expenditure occurs on both a cash basis and an accrual basis, whichever occurs first. This is because expenses must be counted when promised to be paid, and expenses must also be counted when disbursed, even before the items or services purchased have been delivered.

When does an expense have to be reported as a mass media expense? Mass media activities include television commercials, radio commercials, mass mailings, literature drops and central telephone banks that include the name or likeness of a candidate for office. 17 V.S.A §2893(a) The requirement to report mass media activities is triggered when a person makes expenditures totaling \$500 or more for mass media activities within 30 days of a primary or general election. Therefore, it is not how many pieces of mail or number of commercials, but rather, the cost that makes a media activity a "mass media activity." Mass media reports are required only when the expenditure is within 30 days of a primary or general election. The report must be filed with the Secretary of State within 24 hours of the expenditure and also mailed to any candidate whose name or likeness is included in the ad. (We accept faxes of mass media filings.)

May a candidate accept contributions by credit card? The law was changed in 2005 to explicitly allow for the use of credit or debit cards (or other electronic transfers) from a single checking account. The fee for use of the credit card should be reported as an expenditure.

Does use of cable access programming have to be reported as an in-kind contribution? No. Candidates

utilizing public access programming opportunities are not receiving in-kind contributions. Public access is available to any citizen, so its services are not considered a political contribution.

Can a candidate accept contributions from foreign nationals? Federal law prohibits the acceptance of campaign contributions made by foreign nationals. It also prohibits acceptance of contributions in the name of another. This provision also applies to political action committees and political parties. 2 U.S.C. §§441e, 441f

How should a candidate handle a surplus in a campaign account? The law prohibits candidates from converting any surplus to personal use. Candidates, however, may use these surplus funds to reduce personal campaign debts. 17 V.S.A. §2804. A candidate can open a new campaign finance account and roll the surplus into the new account. A candidate may contribute a surplus to a favorite charity, another candidate or a political party, so long as the donating candidate observes the contribution limitations. A candidate can open a new campaign finance account and roll the surplus into the new account. If money remains in a campaign account, the candidate must continue to file reports on that account until it is closed.

Are loans to a campaign subject to the contribution limits? Personal loans to a candidate or political committee are considered contributions at the end of the campaign if they are not repaid. Accordingly, a loan that is not repaid will be subject to the limitations on contributions from a single source. There are two exceptions to this rule. A personal loan from a lending institution is not considered a contribution, 17 V.S.A. §2801(2), and is not subject to the limitations on contributions. Loans from immediate family members are contributions, but they are not subject to the limitations. 17 V.S.A. §2805(e). All loans must be listed on the disclosure report as a debt, including the amount, date incurred, to whom owed and for what purpose.

May a candidate deduct the cost of a fundraiser when it determines the amount of a particular contribution? Yes. Allocating specific contributions can be a confusing business. Dinners, for instance, sometimes provide for a contribution of \$25.00 to a candidate or party, in exchange for a meal and a debate or speech. The question then arises whether \$25.00 should be allocated between the actual cost of the meal, with the overage considered a contribution, or whether the entire \$25.00 should be listed as a contribution. You can deduct the cost of the meal based on the definition of contribution. However, if the caterer makes a contribution of the meal the amount paid by the individual diner must be considered a contribution in its entirety. Note also that the cost of the fundraiser is considered an expense to the campaign unless it is paid for separately by the attendees.

Can political parties use a raffle to fundraise? Yes. This is an exception to the general rules prohibiting gambling. 13 V.S.A. §2143a.

Can parties or candidates use an auction to fundraise? Auctions are frequently used for fundraising. Be sure that the person you use as an auctioneer is licensed with the Secretary of State's Office. There is no charitable exception in this case. Disclosure of the funds raised depends on the arrangement. If people have donated goods for the auction, these are reportable contributions and are subject to the applicable contribution limits. If the goods were purchased by the campaign, the money received would amount to a contribution in an amount over and above the fair market value of the goods. Note that the cost of the goods sold in this case would count as an expense to the campaign.

Also note that the person who purchases an item at an auction is buying the item from the campaign. That income would be reflected on the filing as income from the sale of the item. A person who pays more than the in-kind value for the item has made a donation to the campaign in the amount that exceeds the assigned value (i.e. picture valued at \$200 – you pay \$250 – you made a \$50 contribution to the campaign).

How should a candidate count mileage? It is acceptable practice to either include mileage (X cents per mile) or to simply charge for gasoline. Car rental rates should also be charged as an expenditure of a campaign.

Who has access to campaign finance reports? All filings are public records, and are open to the examination of any person once they are filed. Copies of campaign finance disclosure reports must be filed with the Secretary of State, as well as in applicable town representative district, senatorial district and county clerks' offices.

Does a candidate accept a contribution when he or she takes check or cash in hand? What constitutes acceptance has caused problems in the past. The penalty section of the law provides possible fines and terms of imprisonment for "accepting" more than a prescribed amount. Acceptance should be distinguished from receipt. A check for \$10,000.00 from a single source that arrives in the mail is received, but not accepted if you take positive steps to return or repudiate the check as a contribution. Before acceptance, any contribution may be returned without fear of accusation of actual or constructive violation of the campaign finance law.

How is an infraction of the campaign finance law enforced? Complaints about whether a candidate, contributor, PAC or party has complied with the requirements of Vermont law go to the Attorney General's office or the county State's Attorney. The office investigates the complaint, and a decision is made whether to file a court action to enforce the law. Note that if a person is not a resident or has no principal place of business in Vermont, proceedings shall take place in Washington County court. The law was also changed in 2005 to allow the attorney general or a state's attorney to pursue civil investigations "whenever he or she has reason to believe any to be or to have been in violation" of the campaign finance law. Ultimately, it is up to the Office of the Attorney General to decide whether to pursue an enforcement action.

May a partnership, as a single source, contribute its full amount to a candidate without exhausting the contribution limits of individual partners as single sources of their own? The definition of "single source" in 17 V.S.A. §2801(6) treats individuals and partnerships as separate entities. For that reason, individuals who happen to be partners may contribute their limit, and the partnership of which they are partners may also contribute up to the limit, without risking a breach in the limit for a single source.

How can a candidate correct an error on a prior report? Occasionally a candidate or political committee discovers in horror that one of the disclosures filed earlier was in error. Mistakes will happen, and all the law expects from filers is full disclosure of the error in writing, corrective reports and a promise not to do it again.

What must a candidate do when he or she mistakenly accepts a contribution that is over the limit? A candidate who accepts a campaign contribution (in-kind or monetary) that exceeds the limit must reimburse the donor. Until the reimbursement is made, the excess contribution must be reported as a debt of the campaign.

Is distributing note pads or other items with a candidate's name printed on them acceptable? Is this bribery, in violation of Section 55 of the Vermont Constitution? No, as long as it is done as part of a general campaign strategy and is available to everyone who asks for one. More expensive items will inevitably be seen more as attempts to buy a vote than to keep the candidate's name in front of the voters.

Are there distinctions in the law for political committees that are organized and headquartered out of state? There is no distinction in the definition of political committees. Once a political committee has received contributions and made expenditures of \$500 or more to Vermont candidates, political committees, or political parties, they must designate a bank and treasurer, appoint an instate agent and file disclosure reports. The one difference is that federal political committees that are active and already file reports with the FEC can satisfy the Vermont reporting requirement by filing that portion of the FEC report that includes Vermont contributions and expenditures instead of also filing the Vermont disclosure forms.

Are there any limits on totally independent expenditures? The campaign finance law sets no limits on expenditures that are made totally independently from a campaign; and that are not “related expenditures” as defined in 17 V.S.A. §2809. If a person or single source, acting alone and independently, chooses to make expenditures to urge support or defeat of a candidate or group of candidates, there are no regular campaign finance filings required and there are no limits on the amount that can be spent. If the individual’s independent expenditure is an electioneering communication supporting or urging defeat of a clearly identified candidate, then the advertisement must typically include “paid for by [name and address].” 17 V.S.A. §§2891,2892

When a political committee or political party makes an independent expenditure that is not a related expenditure, the expenditure must be reported by the political party or political committee, but will not be reported by the candidate or candidates involved.

The campaign finance law defines related expenditures. To be an independent expenditure, the expenditure must not have been intentionally facilitated, solicited or approved by the candidate. 17 V.S.A. § 2809 When you analyze whether an expenditure was intentionally facilitated, solicited or approved, we advise you to apply Vermont agency law, and assume that if an expenditure was facilitated, solicited or approved by an agent, whether staff or volunteer, that it will count as a related expenditure. For example, when a candidate is represented by staff or a volunteer on a coordinating committee for a political party, if that committee plans a direct mail activity in support of the candidate, that candidate will likely have facilitated the mailing through the staff person’s involvement.

In addition, when a candidate and a single source, political committee, or political party use the same consultant or vendor, great care needs to be exercised so that the independence of an expenditure is not compromised. Each activity and relationship will be examined on a case by case basis. The analysis will turn on whether the consultant also fits the definition of agent of the candidate; and if the consultant would be considered an agent, then whether the consultant/agent has intentionally facilitated, solicited or approved an expenditure that could be imputed to the candidate.

What limits or reporting requirements apply if single sources, political committees or political parties spend money to urge support or defeat of a “public question,” that is, an issue that is before the voters for a binding decision? There are no limits on contributions or spending for the purpose of advocating a position on a public question, including a constitutional amendment. The name and address of the person or entity paying for the advertisement does not need to be included in an advertisement that ONLY advocates for or against a public question. However, if the advertisement clearly identifies a candidate and urges support or defeat of a candidate, then all of the relevant limits and reporting requirements apply. 17 V.S.A. §§2805(g), 2805a, and 2891.

If an entity of two or more individuals work together, even informally, and receive contributions and make expenditures of more than \$500, this meets the definition of a political committee. So if you and another individual discuss, plan and receive contributions in excess of \$500 and spend more than \$500 on a public question, you must form a political committee and must report all contributions and expenditures including those made for the purpose of advocating a position on a public question in their disclosure reports.

How will labor unions be treated for purposes of the campaign finance law? Labor organizations, along with corporations, public interest groups, and other entities besides political parties, that receive contributions in excess of \$500 AND make expenditures in excess of \$500 in any one CALENDAR year are now expressly included in the definition of a political committee/political action committee. Labor organizations that receive member contributions that exceed \$500 in a calendar year and are making contributions to candidates, committees or parties in Vermont should consult the earlier section dealing with PACs. The same is true of corporations and public interest groups that receive and make contributions exceeding \$500 in a calendar year.

Can subsidiary corporations and the parent corporation contribute to candidates, political parties, or political committees in Vermont? Yes. As long as the various subsidiaries and corporation contribute directly, each subsidiary has its own contribution limits. However, money cannot be transferred from one company to another for the purpose of circumventing the contribution limits.

Can a manufacturer, distributor, or any individual distribute gifts, such as golf balls, to attendees at a political event without creating a contribution or expenditure under the campaign finance law?

Every citizen has a first amendment right of association which allows him to attend events and to distribute gifts if these gifts are made on his own behalf and not for the benefit of a candidate or group of candidates. However, if the goods are donated to a political committee, political party, or candidate to be distributed or used for door prizes at an event, then the donated goods are “in-kind” contributions to the party or campaign and the fair market value of the donated goods must be considered a contribution by the donor and included in the contribution limit calculation. For example, if Sam Sports, owner of a golf store in Brattleboro, attends an event at the Brattleboro Country Club and gives out golf balls to attendees of the event, this is not a contribution to the sponsor of the event. If, however, the Southern Vermont Political Committee asks Sam Sports for golf balls to distribute at the event, or if Sam Sports donates golf balls to the Southern Vermont Political Committee, then the political committee distributes the golf balls, then the golf balls are an “in-kind contribution” and must be considered a contribution by Sam Sports for purposes of calculating his \$2000 limit on contributions to that political committee.

If a political committee (PAC), individual, or any other organization asks a candidate to respond to a survey by explaining his or her (the candidate’s) position or views on an issue or any number of issues, will the response to the survey ALONE trigger any reporting of a “related expenditure” under 17 V.S.A. §2809? No. If a candidate ONLY responds to a survey, letter, or questionnaire from any individual, organization, or political committee, by stating his or her position or views on an issue or a number of issues and providing routine information, this response alone will not trigger a related expenditure. This is true even if the candidate knows that the survey will be used by the organization or political committee as part of the information on which to base an endorsement by the group. The completion of a survey alone is not intentionally facilitating, soliciting or approving a related expenditure as defined in §2809 but is providing information to a constituent, political committee, or organization regarding the candidates positions or views.

However, if in addition to the survey response, the group requests a photograph, written presentation, or other assistance or information and informs the candidate that the requested information will be used in a publication or in any other way to promote the election of a candidate that may trigger a related expenditure. If so, the candidate would need to report the expenditure as a contribution on the campaign disclosure form.

The law does not provide guidance on how to calculate the amount of the expenditure. We are suggesting that each political committee or organization that will be seeking information in addition to the survey (photo, statement etc.) from candidates to use in a voter guide or mailing to members, provide to the candidates the amount of the related expenditure.

The office of the Attorney General concurs in this advice. However, all candidates need to understand that the statute allows an opponent to seek a determination in Superior Court regarding related expenditures that could challenge the amount included, or the failure to include a related expenditure. As always, you may seek your own counsel to advise you in these matters.

Any candidate who accepts public funding cannot accept any contributions except the qualifying contributions listed in their affidavit. Therefore, if publicly funded candidates respond to groups beyond the survey alone, and are included in a publication, the publicly funded candidate will need to pay the political committee or organization for their share and include that payment in his list of expenditures when reporting.

What is the status of mass media reporting requirements? In 2005, the Legislature enacted revised requirements for electioneering communications and mass media reporting requirements. They may be found at 17 V.S.A. § 2891-93. Mass media activities involving expenditures of over \$500 within the last 30 days before a primary or general election must be reported to the Secretary of State within 24 hours. (Faxes are accepted for mass media reports only.) Reporting forms can be downloaded from our website or requested from our office.

Does a newspaper story count as a contribution to a candidate?

No. The 2005 Legislature made explicit in 17 V.S.A. § 2801a that the definitions of “contribution,” “expenditure,” and “electioneering communication” shall not apply to any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication which has not been paid for, or such facilities are not owned or controlled, by any political party, committee or candidate.

TITLE 17: Elections

CHAPTER 059: CAMPAIGN FINANCE

Please Note: As a reference aid, we have struck through language in the statute that has been held unconstitutional by the courts or eliminated by the legislature in Act 62 of the 2005 legislative session. Legislative additions to the law are underscored. We have added notes in italics to indicate the current status of the law and the status of the relevant court decision. These notes are added to assist in understanding the law as it stands in 2006.

§ 2801. Definitions

As used in this chapter,

(1) "Candidate" means an individual who has taken affirmative action to become a candidate for state, county, local or legislative office in a primary, special, general or local election. An affirmative action shall include one or more of the following:

(A) accepting contributions or making expenditures totaling \$500.00 or more; or

(B) filing the requisite petition for nomination under this title or being nominated by primary or caucus; or

(C) announcing that he seeks an elected position as a state, county or local officer or a position as representative or senator in the general assembly.

(2) "Contribution" means a payment, distribution, advance, deposit, loan or gift of money or anything of value, paid or promised to be paid to a person for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates in any election, but shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee or political party. For purposes of this chapter, "contribution" shall not include a personal loan from a lending institution.

(3) "Expenditure" means a payment, disbursement, distribution, advance, deposit, loan or gift of money or anything of value, paid or promised to be paid, for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates.

(4) "Political committee" or "political action committee" means any formal or informal committee of two or more individuals, or a corporation, labor organization, public interest group, or other entity, not including a political party, which receives contributions ~~of more than \$500.00~~ and makes expenditures of more than \$500.00 in any one calendar year for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question, in any election or affecting the outcome of an election. (Amended 2005, No. 62 (Adj. Sess.), § 1.)

(5) "Political party" means a political party organized under chapter 45 of this title or any committee established, financed, maintained or controlled by the party, including any subsidiary, branch or local unit thereof and including national or regional affiliates of the party.

(6) "Single source" means an individual, partnership, corporation, association, labor organization or any other organization or group of persons which is not a political committee or political party.

(7) "Election" means the procedure whereby the voters of this state or any of its political subdivisions select a person to be a candidate for public office or fill a public office, or to act on public questions including voting on constitutional amendments. Each primary, general, special, run-off or local election shall constitute a separate election.

(8) "Public question" means an issue that is before the voters for a binding decision.

(9) "Two-year general election cycle" means the 24-month period that begins ~~the day~~ 38 days after a general election. Expenditures related to a previous campaign and contributions to retire a debt of a previous campaign shall be attributed to the earlier campaign cycle. (Amended 2005, No. 62 (Adj. Sess.), § 1.)

(10) "Full name" means an individual's full first name, middle name or initial, if any, and full legal last name, making the identity of the person who made the contribution apparent by unambiguous reference. (Added 1981, No. 197 (Adj. Sess.), § 1; amended 1987, No. 263 (Adj. Sess.), § 1; 1997, No. 64, § 5, eff. Nov. 4, 1998.)

(11) “Telephone bank” means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period. (Added 2005, No. 62 (Adj. Sess.), § 1.)

§ 2801a. Exceptions

The definitions of “contribution”, “expenditure” and “electioneering communication” shall not apply to any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication which has not been paid for, or such facilities are not owned or controlled, by any political party, committee or candidate. (Added 2005, No. 62 (Adj. Sess.), § 2.)

§ 2802. Checking account; treasurer

Candidates who have made expenditures or received contributions of \$500.00 or more and political committees shall be subject to the following requirements:

(1) All expenditures shall be paid by either a credit card, or a debit card, check or other electronic transfer from a single checking account in a single bank publicly designated by the candidate or political committee. (Amended 2005, No. 62 (Adj. Sess.), § 3.)

(2) Each candidate and each political committee shall name a treasurer, who may be the candidate or spouse, who is responsible for maintaining the checking account. (Added 1981, No. 197 (Adj. Sess.), § 1.)

§ 2803. Campaign reports; forms; filing

(a) The secretary of state shall prescribe and provide a uniform reporting form for all campaign finance reports. The reporting form shall be designed to show the following information:

(1) the full name, town of residence and mailing address of each contributor who contributes an amount in excess of \$100.00, the date of the contribution, and the amount contributed;

(2) the total amount of all contributions of \$100.00 or less and the total number of all such contributions;

(3) each expenditure listed by amount, date, to whom paid and for what purpose;

(4) the amount contributed or loaned by the candidate to his or her own campaign during the reporting period; and

(5) each debt or other obligation, listed by amount, date incurred, to whom owed and for what purpose, incurred during the reporting period.

(b) The form shall require the reporting of all contributions and expenditures accepted or spent during the reporting period and during the campaign to date and shall require full disclosure of the manner in which any indebtedness is discharged or forgiven. Contributions and expenditures for the reporting period and for the campaign to date also shall be totaled in an appropriate place on the form. The total of contributions shall include a subtotal of nonmonetary contributions and a subtotal of all monetary contributions. The form shall contain a list of the required filing times so that the person filing may designate for which time period the filing is made. Contributions and expenditures received or spent during the 48 hour period after 5 p.m. on the third day prior to the filing deadline shall be reported on the next report. (Amended 2005, No. 62 (Adj. Sess.), § 4.)

(c) The form described in this section shall contain language of certification of the truth of the statements and places for the signature of the candidate ~~and his treasurer~~ or the treasurer of the campaign. (Amended 2005, No. 62 (Adj. Sess.), § 4.)

(d) All reports filed under this section shall be retained in an indexed file by the official with whom the report is filed and shall be subject to the examination of any person.

(e) Disclosure shall be limited to the information required ~~by this section to administer this chapter.~~ (Added 1981, No. 197 (Adj. Sess.), § 1; amended 1985, No. 198 (Adj. Sess.), §§ 14, 15; 1987, No. 263 (Adj. Sess.), § 2; 1997, No. 64, § 11, eff. Nov. 4, 1998; Amended 2005, No. 62 (Adj. Sess.), § 4.)

§ 2804. Surplus campaign funds

(a) No member of a political committee which has surplus funds after all campaign debts have been paid shall convert the surplus to personal use.

(b) No candidate who has surplus funds after all campaign debts have been paid shall convert the surplus to personal use, other than to reduce personal campaign debts.

(c) Surplus funds in a political committee's or candidate's account after payment of all campaign debts may be contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter or may be contributed to a charity. (Added 1981, No. 197 (Adj. Sess.), § 1; Amended 2005, No. 62 (Adj. Sess.), § 5.)

(d) The "final report" of a candidate shall indicate the amount of the surplus and how it has been or is to be liquidated. (Added 2005, No. 62 (Adj. Sess.), § 5.)

§ 2805. Limitations of contributions

~~(a) A candidate for state representative or local office shall not accept contributions totaling more than \$200.00 from a single source, political committee or political party in any two-year general election cycle. A candidate for state senator or county office shall not accept contributions totaling more than \$300.00 from a single source, political committee or political party in any two-year general election cycle. A candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, auditor of accounts, or attorney general shall not accept contributions totaling more than \$400.00 from a single source, political committee or political party in any two-year general election cycle. A political committee, other than a political committee of a candidate, or a political party shall not accept contributions totaling more than \$2,000.00 from a single source, political committee or political party in any two-year general election cycle. (Added 1997, No. 64)~~

~~(b) A single source, political committee or political party shall not contribute more to a candidate, political committee or political party than the candidate, political committee or political party is permitted to accept under subsection (a) of this section. (Added 1997, No. 64)~~

(In June 2006, the U.S. Supreme Court struck Vermont's contribution limits to candidates and candidate political committees as too low. The contribution limits to candidates prior to amendment of §2805(a) and (b) by Act 64 in 1997 are in effect for the 2006 elections. However, contributions to political parties and political committees were not addressed by the U.S. Supreme Court, leaving the contribution limits in subsection (a) above in currently in effect..)

~~(a) No candidate or political committee shall accept contributions totaling more than \$1,000.00 from a single source for any election. (Added 1981 (Adj. Sess.), No. 197, §1)~~

~~(b) No candidate or political committee shall accept contributions totaling more than \$3,000.00 from a political committee for any election. (Added 1981 (Adj. Sess.), No. 197, §1; Amended 1987 (Adj. Sess.), No. 263, §3)~~

~~(c) A candidate, political party or political committee shall not accept, in any two-year general election cycle, more than 25 percent of total contributions from contributors who are not residents of the state of Vermont or from political committees or parties not organized in the state of Vermont.~~

(After the August 2000 federal district court decision, contributions may come from in-state or out-of-state without distinction, except that "qualifying contributions" for public finance grants must still come only from Vermont residents.)

(d) A candidate shall not accept a monetary contribution in excess of \$50.00 unless made by check, credit or debit card, or other electronic transfer. (Amended 2005, No. 62 (Adj. Sess.), § 6.)

(e) A candidate, political party, or political committee shall not knowingly accept a contribution which is not directly from the contributor, but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this subsection. (Amended 2005, No. 62 (Adj. Sess.), § 6.)

(f) This section shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means individuals related to the candidate in the first, second or third degree of consanguinity.

(g) The limitations on contributions established by this section shall not apply to contributions made for the purpose of advocating a position on a public question, including a constitutional amendment.

(h) For purposes of this section, the term "candidate" includes the candidate's political committee. (Added 1981, No. 197 (Adj. Sess.), § 1, eff. date, see note set out below; amended 1987, No. 263 (Adj. Sess.), § 3, eff. Jan. 1, 1989; 1997, No. 64, § 6, eff. Nov. 4, 1998.)

§ 2805a. Campaign expenditure limitations; amounts *(After the June 26, 2006 U.S. Supreme Court decision, there are NO CAMPAIGN EXPENDITURE LIMITS IN VERMONT.)*

~~(a) The following campaign expenditure limitations shall apply to all candidates, for all primary, general and local elections, whether or not a candidate accepts Vermont campaign finance grants under subchapter 6 of this chapter, is financing his or her campaign from private contributions, or from the candidate's own resources or that of his or her immediate family.~~

~~(1) A candidate for governor shall limit campaign expenditures to no more than \$300,000.00 in any two-year general election cycle.~~

~~(2) A candidate for lieutenant governor shall limit campaign expenditures to no more than \$100,000.00 in any two-year general election cycle.~~

~~(3) A candidate for secretary of state, state treasurer, auditor of accounts or attorney general shall limit campaign expenditures to no more than \$45,000.00 in any two-year general election cycle.~~

~~(4) A candidate for state senator or county office shall limit campaign expenditures to no more than \$4,000.00 plus, in the case of state senator, an additional \$2,500.00 for each additional seat in the senate district, in any two-year general election cycle.~~

~~(5) A candidate for state representative in a single member district shall limit campaign expenditures to no more than \$2,000.00, and in a two-member district to no more than \$3,000.00, in any two-year general election cycle.~~

~~(b) Recognizing the jurisdiction of the Congress of the United States to enact expenditure limitations and campaign finance reforms for candidates for federal office, the general assembly of the state of Vermont expects candidates for the United States House of Representatives and Senate to observe the contribution and expenditure limitations that apply to candidates for the office of governor.~~

~~(c) If a candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, auditor of accounts or attorney general is an incumbent of the office being sought, the candidate shall be permitted to expend only 85 percent of the amount allowed for that office under this section. If a candidate for the general assembly is an incumbent of the office being sought, the candidate shall be permitted to expend only 90 percent of the amount allowed for that office under this section.~~

~~(d) For purposes of this section, the term "candidate" includes the candidate's political committee. (Added 1997, No. 64, § 7, eff. Nov. 4, 1998.)~~

~~(e) The expenditure limitations contained in this section shall be adjusted for inflation by increasing them based on the Consumer Price Index. Increases shall be rounded up to the nearest \$100.00. Increases shall be effective for the first campaign cycle beginning after the general election held on November 2, 2004. The adjustments shall be calculated retroactively to January 1, 2001. On or before July 1, 2005, the secretary of state shall calculate and publish the amount of each limitation that will apply to the election cycle in which July 1, 2005 falls. On July 1 of each subsequent odd-numbered year the secretary shall publish the amount of each limitation for the election cycle in which that publication falls. (Added 2005, No. 62 (Adj. Sess.), § 7.)~~

§ 2806. Penalties

(a) A person who knowingly and intentionally violates a provision of subchapters 2 through 4 of this chapter shall be fined not more than \$1,000.00 or imprisoned not more than six months or both.

(b) A person who violates any provision of this chapter shall be subject to a civil penalty of up to \$10,000.00 for each violation and shall refund the unspent balance of Vermont campaign finance grants received, if any, calculated as of the date of the violation.

(c) In addition to the other penalties herein provided, a state's attorney or the attorney general may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct or abate any violation of this chapter. (Added 1981, No. 197 (Adj. Sess.), § 1; amended 1991, No. 156 (Adj. Sess.), § 3, eff. Jan. 1, 1993; 1997, No. 64, § 3.)

§ 2806a. Civil Investigation

(a) The attorney general or a state's attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule or regulation made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, and physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation. The attorney general or state's attorney may require the attendance of such person or of any other person having knowledge in the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the state and may take testimony and require proof material for his or her information and may administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum. The attorney general or a state's attorney shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses personally or by certified mail upon such person at his or her principal place of business, or, if such place is not known, to his or her last known address. Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this state for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general or a state's attorney or another law enforcement officer engaged in legitimate law enforcement activities, unless with the consent of the person producing the same. This subsection shall not be applicable to any criminal investigation or prosecution brought under the laws of this or any state.

(b) A person upon whom a notice is served pursuant to the provisions of this section shall comply with the terms thereof unless otherwise provided by the order of a court of this state. Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice, or mistakes or conceals any information, shall be fined not more than \$5,000.00.

(c) Whenever any person fails to comply with any notice served upon him or her under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general or a state's attorney may file, in the superior court in which such person resides or has his or her principal place of business or in Washington County if such person is a nonresident or has no principal place of business in this state, and serve upon such person a petition for an order of such court for the enforcement of this section. Whenever any petition is filed under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect the provisions of this section. Any disobedience of any order entered under this section by any court shall be punished as a contempt thereof.

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the superior court in the county in which the aggrieved person resides. Except for cases the court considers to be of greater importance, proceedings before superior court as authorized by this section shall take precedence on the docket over all other cases. (Added 2005, No. 62 (Adj. Sess.), § 8.)

§ 2807. New campaign accounts

Candidates who choose to ~~open~~ roll over any surplus contributions into a new campaign account for public office may close out their former campaign by filing a final report with the secretary of state converting all debts and assets to the new campaign. ~~This final report shall disclose all contributions and expenditures and the disposition of all debts and assets attributable to the former campaign as of the date of the filing of the final report. A candidate shall be required to file a new bank designation form only if there has been a change in the treasurer or the location of the campaign account.~~ (Added 1987, No. 263 (Adj. Sess.), § 4; Amended 2005, No. 62 (Adj. Sess.), § 9.)

§ 2808. Preparation of list of campaign expenditures. Repealed. 2005, No. 62 (Adj. Sess.), § 14.

~~Not later than five days after receipt of campaign finance reports under this chapter, the secretary of state shall prepare a list of the accumulated amount of expenditures reported by each candidate. (Added 1991, No. 156 (Adj. Sess.), § 2, eff. Jan. 1, 1993.)~~

§ 2809. Accountability for related expenditures *(Please note: The Office of the Secretary of State has adopted Rules for Related Expenditures that are included at the end of the campaign finance law.)*

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) A related campaign expenditure made on a candidate's behalf shall be considered an expenditure by the candidate on whose behalf it was made. However, if the expenditure did not exceed \$50.00, the expenditure shall not be considered an expenditure by the candidate on whose behalf it was made. *(This provision was deemed*

unconstitutional by the federal district court in 2000.)

(c) For the purposes of this section, a “related campaign expenditure made on the candidate’s behalf” means any expenditure intended to promote the election of a specific candidate or group of candidates, or the defeat of an opposing candidate or group of candidates, if intentionally facilitated by, solicited by or approved by the candidate or the candidate’s political committee.

(d) An expenditure made by a political party or by a political committee that recruits or endorses candidates, that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure, is presumed to be a related expenditure made on behalf of those candidates. An expenditure made by a political party or by a political committee that recruits or endorses candidates, that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion or organizational capacity shall not be presumed to be a related expenditure made on a candidate’s behalf. In addition, an expenditure shall not be considered a “related campaign expenditure made on the candidate’s behalf” if all of the following apply:

(1) The expenditures were made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet the candidate personally.

(2) The expenditures were made only for refreshments and related supplies that were consumed at that event.

(3) The amount of the expenditures for the event was less than \$100.00.

(e) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the superior court of the county in which either candidate resides. Within 24 hours of the filing of a petition, the court shall schedule the petition for hearing. Except as to cases the court considers of greater importance, proceedings before the superior court, as authorized by this section, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way. The findings and determination of the court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(f) The secretary of state may adopt rules necessary to administer the provisions of this section. (Added 1997, No. 64, § 8, eff. Nov. 4, 1998.)

§ 2810. Candidate information publication; on-line database

(a) For each two-year general election cycle, the secretary of state shall develop and continuously update a publicly accessible campaign database. The database shall contain at least the following information for all candidates for statewide and county office and for the general assembly: for candidates receiving public financing grants, the amount of each grant awarded; the information contained in campaign finance reports filed under this chapter; and all reports of mass media activity expenditures filed under section 2883 of this title. The database shall also include campaign finance reports filed by candidates for federal office. The information in the database, together with any biographical sketches and position statements submitted to the secretary of state by such candidates, shall be made available to the public through the Vermont state home page on-line service, or through printed reports from the secretary in response to a public request within 14 days of the date of the request.

(b) Any candidate for statewide office and any candidate for federal office qualified to be on the ballot in this state may submit to the secretary of state a photograph, biographical sketch and position statement of a length and format specified by the secretary for the purposes of preparing a candidate information publication. Without making changes in the material presented, the secretary shall prepare a candidate information publication for statewide distribution prior to the general election, which includes the candidates’ photographs, biographies and position statements, a brief explanation of the process used to obtain candidate submissions, and, with respect to offices for which public financing is available, an indication of which candidates are receiving Vermont campaign finance grants and which candidates are not receiving Vermont campaign finance grants. The secretary shall prepare, publish and distribute the candidate information publication throughout the state no later than one week prior to the general election. The secretary shall also seek voluntary distribution of the candidate information publication in weekly and daily newspapers and other publications in the state. The candidate information publication shall also be available in large type, audiotape and Internet versions. (Added 1997, No. 64, § 9, eff. Nov. 4, 1998.)

§ 2810a. Administration

The secretary of state shall administer this chapter and shall perform all duties required under this chapter. The secretary may employ or contract for the services of persons necessary for performance of these duties.

§ 2811. Campaign reports; candidates for state office, the general assembly, political committees and political parties

(a) Each candidate for state office, each candidate for the general assembly who has made expenditures or received contributions of \$500.00 or more, and each political committee and each political party required to register under section 2831 of this title shall file with the secretary of state campaign finance reports on July 15th and on the 15th of each month thereafter until and including December 15th.

(b) At any time, but not later than December 15th following the general election, a candidate for state office and each candidate for the general assembly who has made expenditures or received contributions of \$500.00 or more shall file with the secretary of state a “final report” which lists a complete accounting of all contributions and expenditures, and disposition of surplus, and which shall constitute the termination of his or her campaign activities. (Amended 2010, No. 73, §10.)

(c) A political committee or political party shall file a campaign finance report not later than 40 days following the general election. At any time, a political committee or a political party may file a “final report” which lists a complete accounting of all contributions and expenditures and which shall constitute the termination of its campaign activities.

(d) In odd-numbered years campaign finance reports shall be filed on July 15.

(e) Each candidate for the general assembly required to file campaign finance reports under this section shall also file such reports with the clerk of the candidate's respective senate or house district. (Added 1981, No. 197 (Adj. Sess.), § 1, eff. date, see note set out below; amended 1997, No. 64, § 12, eff. Nov. 4, 1998.)

(f) In addition to any other reports required to be filed under this chapter, a candidate for state office or for the general assembly who receives a monetary contribution in an amount over \$2,000.00 within 10 days of a primary or general election shall report the contribution to the secretary of state within 24 hours of receiving the contribution. The report shall include all information that is required to be disclosed under the provisions of subsections 2803(a) and (b) of this title. (Added 2005, No. 62 (Adj. Sess.), § 10.)

(g) Each candidate for state office and each candidate for the general assembly who has made expenditures or received contributions of \$500.00 or less shall file with the secretary of state, 10 days following the general election, a statement that the candidate has not made expenditures or received contributions of more than \$500.00 during the two-year general election cycle. (Added 2005, No. 62 (Adj. Sess.), § 10.)

§ 2821. Campaign reports; county office candidates

(a) Each candidate for county office who has made expenditures or accepted contributions of \$500.00 or more shall file campaign finance reports with the officer with whom his or her nomination papers are filed as follows:

(1) 10 days before the primary election;

(2) 10 days before the general election;

(3) further campaign reports shall be filed on the 15th day of July and annually thereafter or until all contributions and expenditures have been accounted for and any indebtedness and surplus have been eliminated.

(b) Within 40 days after the general election, each candidate for county office who has made expenditures or accepted contributions of \$500.00 or more shall file a “final report” which lists a complete accounting of all contributions and expenditures, and disposition of surplus, and which shall constitute the termination of his or her campaign activities.

(c) Copies of reports filed under this section shall be forwarded by the officer to the secretary of state within five days of receipt. (Added 1981, No. 197 (Adj. Sess.), § 1; amended 1987, No. 263 (Adj. Sess.), §§ 5, 6; amended 1997, No. 64, § 13, eff. Nov. 4, 1998.)

§ 2822. Campaign reports; local candidates

Each candidate for local office who has made expenditures or accepted contributions of \$500.00 or more shall file with the officer with whom his nomination papers are filed campaign finance reports ten days before and ten days after the local election. (Added 1981, No. 197 (Adj. Sess.), § 1.)

§ 2823. Non-filing

The failure of a legislative, county or local candidate to file a campaign finance report shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of \$500.00 or more. (Added 1981, No. 197 (Adj. Sess.), § 1.)

§ 2831. Campaign reports; political committees and parties

(a) Each political committee and each political party which has accepted contributions or made expenditures of \$500.00 or more shall register with the secretary of state stating its full name and address, the name of its treasurer, and the name of the bank in which it maintains its campaign checking account within ten days of reaching the \$500.00 threshold.

(b) A political committee or political party which has accepted contributions or made expenditures of \$500.00, or more, for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall, ~~in addition to other filings required by this chapter,~~ file campaign finance reports ten days before and ten days after the local election with the clerk of the municipality in which the election is held and with the secretary of state. (Added 1981, No. 197 (Adj. Sess.), § 1; amended 1985, No. 198 (Adj. Sess.), §§ 16, 17; 1997, No. 64, § 14, eff. Nov. 4, 1998; Amended 2005, No. 62 (Adj. Sess.), § 11.)

(c) Any formal or informal committee of two or more individuals, or a corporation, labor organization, public interest group, or other entity, not including a political party, which makes expenditures of more than \$500.00 in any one calendar year for the purpose of advocating a position on a public question in any election or affecting the outcome of an election on a public question shall file a report of its expenditures 10 days before and 10 days after the election with the clerk of the municipality in which the election is held and with the secretary of state. (Added 2005, No. 62 (Adj. Sess.), § 11.)

§ 2832. Filing with federal election commission

A political committee or political party may satisfy the filing requirements of this subchapter and subchapter 2 of this chapter by filing with the secretary of state a copy of that portion of the campaign finance reports applicable to candidates seeking election in this state which the committee or party has filed with the Federal Election Commission and by designating an in-state agent in the report. (Added 1981, No. 197 (Adj. Sess.), § 1; amended 1997, No. 64, § 15, eff. Nov. 4, 1998.)

§ 2851. Definitions

As used in this subchapter:

- (1) "Affidavit" means the Vermont campaign finance affidavit required under section 2852 of this title.
- (2) "General election period" means the period beginning the day after the primary election and ending the day of the general election.
- (3) "Primary election period" means the period beginning the day after primary petitions must be filed under section 2356 of this title and ending the day of the primary election.
- (4) "Vermont campaign finance qualification period" means the period beginning February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title.
- (5) "Secretary" means the secretary of state. (Added 1997, No. 64, § 2, eff. Nov. 4, 1998.)

§ 2852. Filing of Vermont campaign finance affidavit

(a) A candidate for the office of governor or lieutenant governor who intends to seek Vermont campaign finance grants from the Vermont campaign fund shall file a Vermont campaign finance affidavit on the date on or before which primary petitions must be filed, whether the candidate seeks to enter a party primary or is an independent candidate.

(b) The secretary of state shall prepare a Vermont campaign finance affidavit form, informational materials on procedures and financial requirements and notification of the penalties for violation of this subchapter. The Vermont campaign finance affidavit shall set forth the conditions of receiving grants under this subchapter and provide space for the candidate to agree that he or she will abide by such conditions and all expenditure and contribution limitations, reporting requirements, and other provisions of this chapter. The affidavit shall also state the candidate's name, legal residence, business or occupation, address of business or occupation, party affiliation, if any, the office sought and whether the candidate intends to enter a party primary. The affidavit shall also contain a list of all the candidate's qualifying contributions together with the name and town of residence of the contributor and the date each contribution was made. The affidavit may further require affirmation of such other information as deemed necessary by the secretary for the administration of this subchapter. The affidavit shall be sworn and subscribed to by the candidate. (Added 1997, No. 64, § 2, eff. Nov. 4, 1998.)

§ 2853. Vermont campaign finance grants; conditions

(a) A person shall not be eligible for Vermont campaign finance grants if, during a two-year general election cycle, he or she becomes a candidate by announcing that he or she seeks an elected position as governor or lieutenant governor, or by accepting contributions totaling ~~\$500.00~~ \$2,000.00 or more or by making expenditures totaling ~~\$500.00~~ \$2,000.00 or more, prior to February 15 of the general election year. (Amended 2005, No. 62 (Adj. Sess.), § 12.)

(b) A candidate who accepts Vermont campaign finance grants, shall:

(1) Not solicit, accept or expend any contributions except qualifying contributions, Vermont campaign finance grants and contributions authorized under section 2855 of this title, which contributions may be solicited, accepted or expended only in accordance with the provisions of this subchapter.

(2) Deposit all qualifying contributions, Vermont campaign finance grants and any contributions accepted in accordance with the provisions of section 2855 of this title in a federally insured noninterest bearing checking account.

(3) Not later than 40 days after the general election, deposit in the Vermont campaign fund, after all permissible expenditures have been paid, the balance of any amounts remaining in the account established under subdivision (2) of this subsection. (Added 1997, No. 64, § 2, eff. Nov. 4, 1998.)

§ 2854. Qualifying contributions

(a) In order to qualify for Vermont campaign finance grants, a candidate for the office of governor or lieutenant governor must obtain during the Vermont campaign finance qualification period the following amount and number of qualifying contributions for the office being sought:

(1) For governor, a total amount of no less than \$35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than \$50.00 each.

(2) For lieutenant governor, a total amount of no less than \$17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than \$50.00 each.

(b) No candidate may accept more than one qualifying contribution from the same contributor and no contributor may make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

(c) Each qualifying contribution must indicate the name and town of residence of the contributor, the date received, and be acknowledged by the signature of the contributor.

(d) A candidate may retain and expend qualifying contributions obtained under this section. A candidate may expend the qualifying contributions for the purpose of obtaining additional qualifying contributions and may expend the remaining qualifying contributions during the primary and general election periods. Amounts expended under this subsection shall be considered expenditures for purposes of this chapter.

§ 2855. Vermont campaign finance grants; amounts; timing

(a) To the extent funds are available, the secretary of state shall make grants from the Vermont campaign fund in separate grants for the primary and general election periods to candidates who have qualified for Vermont campaign finance grants under this subchapter.

(b) Whether a candidate has entered a primary or is an independent candidate, Vermont campaign finance grants shall be in the following amounts:

(1) For governor, \$75,000.00 in a primary election period and \$225,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions.

(2) For lieutenant governor, \$25,000.00 in a primary election period and \$75,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions.

(3) A candidate who is an incumbent of the office being sought shall be entitled to receive a grant in an amount equal to 85 percent of the amount listed in subdivision (1) or (2) of this subsection.

(c) In an uncontested general election and in the case of a candidate who enters a primary election and is unsuccessful in that election, an otherwise eligible candidate shall not be eligible for a general election period grant. However, such candidate may solicit and accept contributions and make expenditures as follows: contributions shall be subject to the limitations of section 2805 of this title and expenditures shall be limited to an amount equal to the amount of the grant set forth in subsection (b) of this section for the general election for that office.

(d) Grants awarded in a primary election period, but not expended by the candidate in the primary election period, may be expended by the candidate in the general election period.

(e) If the Vermont campaign fund contains insufficient revenues to provide Vermont campaign finance grants to all candidates under this section, the available funds shall be distributed proportionately among all qualifying candidates. If grants are reduced under this subsection, a candidate may solicit and accept additional contributions equal to the amount of the difference between the amount of the Vermont campaign finance grants authorized and the amount received under this section. Additional contributions authorized under this subsection shall be governed by the provisions of sections 2805 and 2853 of this title.

(f) Vermont campaign finance grants for a primary election period shall be paid to qualifying candidates within the first ten business days of the primary election period. Vermont campaign finance grants for a general election period shall be paid to qualifying candidates during the first ten business days of the general election period. (Added 1997, No. 64, § 2, eff. Nov. 4, 1998.)

§ 2856. Vermont campaign fund

(a) A Vermont campaign fund is created for distribution of Vermont campaign finance grants to candidates for the offices of governor and lieutenant governor. The fund shall be administered by the state treasurer, and payments shall be made under warrants issued by the secretary of state.

(b) The fund shall consist of revenues from the following sources:

(1) Any amounts required to be deposited in the fund under section 2853 of this title.

(2) All penalties and fines levied for violations of this chapter.

(3) Forty percent of the amounts paid as annual report fees by domestic corporations under subdivision 1.22(a)(17) of Title 11A and 33 percent of the amounts paid as annual report fees by foreign corporations under subdivision 1.22(a)(16) of Title 11A.

(4) ~~All amounts collected from the tax on lobbying expenditures imposed under 2 V.S.A. § 264a. (Please note: The tax on lobbying expenditures was held unconstitutional by the Vermont Supreme Court in June 2001. All taxes paid in 1998 and 1999 were refunded.)~~

(5) All amounts collected under section 5862c of Title 32, the Vermont campaign fund add-on.

(6) Any gifts received by the fund.

(7) Any amounts appropriated to the Vermont campaign fund by act of the general assembly.

(c) All principal and interest remaining in the fund at the close of any fiscal year shall not revert but shall remain in the fund for use in succeeding fiscal years. (Added 1997, No. 64, § 2, eff. Jan. 1, 1998.)

§§ 2881-2883. Definitions. Repealed. 2005, No. 62 (Adj. Sess.), § 14.

~~As used in this subchapter, "political advertisement" means any communication, including communications published in any newspaper or periodical or broadcast on radio, television or over any public address system, placed on any billboards, outdoor facilities, buttons or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers or other circulars, or in any direct mailing, which expressly or implicitly advocates the success or defeat of a candidate. (Added 1997, No. 64, § 4.) (Please note: After the ruling of the federal district court in September 2000, the requirement for identification on political advertisements ONLY applies to political advertisements that expressly advocate the success or defeat of a candidate.)~~

§ 2882. Identification

~~All political advertisements shall contain the name and address of the person who paid for the advertisement. The advertisement shall clearly designate the name of the candidate, party or political committee by or on whose behalf the same is published or broadcast. In the case of printed or written matter, the name and address shall be printed or written large enough to be clearly legible, except that this shall not apply to buttons or any written or printed matter attached to or displayed on any motor vehicle. (Added 1997, No. 64, § 4.)~~

§ 2883. Notice of expenditure

~~(a) For purposes of this section, "mass media activities" includes television commercials, radio commercials, mass mailings, literature drops and central telephone banks which include the name or likeness of a candidate for office.~~

~~(b) In addition to any other reports required to be filed under this chapter, a person who makes expenditures totaling \$500.00 or more for mass media activities within 30 days of a primary or general election shall report such expenditures to the secretary of state, and to the candidate whose name or likeness is included in the activity, within 24 hours of making the expenditure. The report shall identify the person who made the expenditure with the name of the candidate involved in the activity and any other information relating to the expenditure that is required to be disclosed under the provisions of subsections (a) and (b) of section 2803 of this title. (Added 1997, No. 64, § 4.)~~

Subchapter 8. Electioneering Communications (Added 2005, No. 62 (Adj. Sess.), § 13.)

§ 2891. Definitions

As used in this chapter, "electioneering communication" means any communication, including communications published in any newspaper or periodical or broadcast on radio or television or over any public address system, placed on any billboards, outdoor facilities, buttons or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars, or in any direct mailing, robotic phone calls, or mass e-mails that refers to a clearly identified candidate for office and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate.

§ 2892. Identification

All electioneering communications shall contain the name and address of the person, political committee, or campaign who or which paid for the communication. The communication shall clearly designate the name of the candidate, party, or political committee by or on whose behalf the same is published or broadcast. The identification requirements of this section shall not apply to lapel stickers or buttons, nor shall they apply to electioneering communications made by a single individual acting alone who spends, in a single two-year general election cycle, a cumulative amount of no more than \$150.00 on those electioneering communications.

§ 2893. Notice of Expenditure

(a) For purposes of this section, “mass media activities” includes television commercials, radio commercials, mass mailings, literature drops, newspaper and periodical advertisements, robotic phone calls, and telephone banks which include the name or likeness of a clearly identified candidate for office.

(b) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling \$500.00 or more within 30 days of a primary or general election shall, for each activity, file a mass media report with the secretary of state and send a copy of the mass media report to each candidate whose name or likeness is included in the activity within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure. The report shall identify the person who made the expenditure with the name of the candidate involved in the activity and any other information relating to the expenditure that is required to be disclosed under the provisions of subsections 2803(a) and (b) of this title.

ADMINISTRATIVE RULE 2000-1

VERMONT CAMPAIGN FINANCE LAW REGULATION OF RELATED EXPENSES

1. Pursuant to the rulemaking authority given to the Secretary of State in 17 V.S.A. § 2809(f), the following rules are necessary for the proper administration of provisions of section 2809.
2. For purposes of section 2809(c), which states “for the purposes of this section, a related campaign expenditure made on the candidate's behalf means any expenditure intended to promote the election of a specific candidate or group of candidates, or the defeat of an opposing candidate or group of candidates, if intentionally facilitated by, solicited by or approved by the candidate or the candidate’s political committee:”
 - a) A campaign expenditure may be a “related campaign expenditure” even if the candidate or the candidate’s political committee did not have a specific intent to make an activity or expense a “related campaign expenditure on a candidate’s behalf.” However, some knowledge of the fact, or willful blindness toward the fact that the action will be used in connection with an activity or expenditure on the candidate's behalf is necessary.
 - b) “Intentionally facilitated” means for a candidate or the candidate's political committee to consciously, and not accidentally, have done an action to make the activity or expenditure possible.
 - c) “Solicited” means for the candidate or the candidate’s political committee to appeal or ask directly or by an intermediary or by any other means, procure the activity.
 - d) “Approved” means for the candidate or the candidate’s political committee to have consciously, and not accidentally, taken any prior action or inaction that indicates permission or approval. Simply knowing that an activity or expenditure is taking place does not, alone, constitute approval.
3. For purposes of section 2809(d) which states, in pertinent part, that “an expenditure made by a political party or by a political committee that recruits or endorses candidates, that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure, is presumed to be a related expenditure made on behalf of those candidates. As expenditure made by a political party or by a political committee that recruits or endorses candidates, that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion or organizational capacity shall not be presumed to be a related expenditure made on a candidate’s behalf”:
 - a) An expenditure “primarily benefits” six or less candidates when the principal purpose of the expenditure is to promote six or fewer specific candidates.
 - b) The fact that an activity may incidentally benefit all candidates of the same party, for example, by increasing voter participation of a particular party, or by some other means, will not prevent an activity from being presumed to be a related campaign expenditure.
 - c) While an expenditure or activity does not have to equally benefit all candidates, it will “primarily benefit” more than six candidates if a reasonable person receiving the mailing or seeing the advertisement will believe that its purpose is to promote more than six candidates.

- d) When an expenditure is presumed to be a related expenditure, the presumption can be overcome by evidence that the elements of the definition in section 2809(c) were not met or that the elements in 2809(d)(1-3) apply. When an expenditure is not presumed to be a related expenditure because it substantially benefits more than six candidates, the expenditure may still be treated as a related expenditure made on behalf of each candidate if the elements of the definition in section 2809(c) were met and the elements of (d)(1-3) apply.
4. For purposes of section 2809(d) which states, in pertinent part, that “an expenditure shall not be considered a related campaign expenditure made on the candidate's behalf” if all of the following apply:
- a) The expenditures were made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet the candidate personally;
 - b) The expenditures were made only for refreshments and related supplies that were consumed at that event; and
 - c) The amount of the expenditures for the event was less than \$100.00

An expenditure that meets the requirements above will not be a related expenditure on a candidate’s behalf even if the expenditure was intentionally facilitated by, solicited by, or approved by the candidate.

5. For the purpose of section 2809(c) & (e), “opposing candidate” means any person who seeks the same office that the candidate seeks.

For Additional Information, Please Contact:

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