

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

400N0209

## CONFERENCE COMMITTEE ENGROSSED NO. **HB** **1048** - 03/03/2007

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: The Committee on State Affairs at the request of the Office of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to reform certain campaign finance requirements and to  
2 establish certain fines and penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Ballot question," any referendum, initiative, proposed constitutional amendment, or  
6 other measure submitted to voters at any election;

7 (2) "Ballot question committee," a person or organization that raises, collects, or  
8 disburses contributions solicited for the placement of a ballot question on the ballot  
9 or the adoption or defeat of any ballot question. A ballot question committee is not  
10 a person, political committee, or political party that makes a contribution to a ballot  
11 question committee. A ballot question committee is not an organization that makes  
12 a contribution to a ballot question committee from treasury funds;

13 (3) "Candidate campaign committee," any entity organized by a candidate to receive  
14 contributions and make expenditures for the candidate. Only one candidate campaign



committee may be organized for each candidate;

(4) "Candidate," any person who seeks nomination for or election to public office, and for the purpose of this Act a person is deemed a candidate if the person raises, collects, or disburses contributions in excess of five hundred dollars; has authorized the solicitation of contributions or the making of expenditures; or has created a candidate campaign committee for the purpose of obtaining public office. The person is also deemed a candidate if the person has taken all actions required by state law to qualify for nomination for or election to public office;

(5) "Clearly identified," the appearance of the name, nickname, a photograph or a drawing of a candidate or public office holder, or the unambiguous reference to the identity of a candidate or public office holder;

(6) "Contribution," any gift, advance, distribution, deposit, or payment of money or any other valuable consideration, or any contract, promise or agreement to do so; any discount or rebate not available to the general public; any forgiveness of indebtedness or payment of indebtedness by another person; or the use of services or property without full payment made or provided by any person, political committee, or political party whose primary business is to provide such services or property for the purpose of influencing:

(a) The nomination, election, or re-election of any person to public office; or

(b) The placement of a ballot question on the ballot or the adoption or defeat of any ballot question submitted.

The term does not include services provided by a person as a volunteer for or on behalf of any candidate, political committee, or political party, including the free or discounted use of a person's residence. Nor does the term include the purchase of any

1 item of value or service from any political committee or political party. The purchase  
2 price of the item may not exceed the fair market value and may not include an intent  
3 to contribute beyond the item's value. A contribution does not include administration  
4 and solicitation of a contribution for a political action committee established by an  
5 organization and associated expenses, nor the use of an organization's real or  
6 personal property located on its business premises for such purposes. A contribution  
7 does not include nominal use of a candidate's real or personal property or nominal  
8 use of resources available at a candidate's primary place of business;

9 (7) "County office," any elected office at a county in this state;

10 (8) "Election," any election for public office; any general, special, primary, or runoff  
11 election; and any election on a ballot question;

12 (9) "Expressly advocate," any communication which:

13 (a) In context has no other reasonable meaning than to urge the election or defeat  
14 of one or more clearly identified candidates, public office holders, or the  
15 placement of a ballot question on the ballot or the adoption or defeat of any  
16 ballot question by use of explicit words of advocacy of election or defeat. The  
17 following words convey a message of express advocacy: vote, re-elect,  
18 support, cast your ballot for, reject, and defeat; or

19 (b) When taken as a whole and with limited reference to external events, such as  
20 the proximity to the election, may only be interpreted by a reasonable person  
21 as containing advocacy of the election or defeat of one or more clearly  
22 identified candidates, public office holders, or the placement of a ballot  
23 question on the ballot or the adoption or defeat of any ballot question because:

24 (i) The electoral portion of the communication is unmistakable,

1 unambiguous, and suggestive of only one meaning; and

2 (ii) Reasonable minds could not differ as to whether it encourages actions  
3 to elect or defeat one or more clearly identified candidates, public office  
4 holders, or the placement of a ballot question on the ballot or the  
5 adoption or defeat of any ballot question or encourages some other kind  
6 of action;

7 (10) "Immediate family," a spouse of a candidate or public office holder, or a person under  
8 the age of eighteen years who is claimed by that candidate or public office holder or  
9 that candidate's or public office holder's spouse as a dependent for federal income tax  
10 purposes or any relative within the third degree of kinship of the candidate or the  
11 candidate's spouse, and the spouses of such relatives;

12 (11) "Independent expenditure," an expenditure made by a person, organization, political  
13 committee, or political party to expressly advocate the election or defeat of a clearly  
14 identified candidate or the placement of a ballot question on the ballot or the  
15 adoption or defeat of any ballot question, but which is not made to, controlled by,  
16 coordinated with, requested by, or made upon consultation with a candidate, political  
17 committee, or agent of a candidate or political committee. The term does not include  
18 administration and solicitation of any contribution for a political action committee  
19 established by an organization and associated expenses, nor the use of an  
20 organization's real or personal property located on its business premises for such  
21 purposes. The term does not include any communication by a person made in the  
22 regular course and scope of the person's business or ministry or any communication  
23 made by a membership organization solely to any member of the organization and  
24 the member's family;

1       (12) "In-kind," a good or service provided at no charge or for less than its fair market  
2             value. The term does not include the value of services provided by a person as a  
3             volunteer for or on behalf of any candidate, political committee, or political party,  
4             including the free or discounted use of any person's residence or office;

5       (13) "Legislative office," the Senate and the House of Representatives of the South  
6             Dakota Legislature;

7       (14) "Loan," a transfer of money, property, guarantee, or anything of value in exchange  
8             for an obligation, conditional or not, to repay in whole or part;

9       (15) "National political party," the organization which is responsible for the day-to-day  
10            operation of a political party at the national level, as determined by the Federal  
11            Election Commission;

12       (16) "Organization," any business corporation, limited liability company, nonprofit  
13            corporation, limited liability partnership, limited partnership, partnership,  
14            cooperative, business trust, association, club, labor union, collective bargaining  
15            organization, local, state, or national organization to which a labor organization pays  
16            membership or per capita fees, based upon its affiliation and membership, trade or  
17            professional association that receives its funds from membership dues or service fees,  
18            whether organized inside or outside the state, any entity organized in a corporate  
19            form under federal law or the laws of this state, or any group of persons acting in  
20            concert which is not defined as a political committee or political party in the Act;

21       (17) "Person," a natural person;

22       (18) "Political action committee," a person or organization that raises, collects or  
23            disburses contributions to influence the outcome of an election and who is not a  
24            candidate, candidate campaign committee, ballot question committee, or a political

1 party. A political action committee is not any:

2 (a) Person that makes a contribution to a political committee or political party; or

3 (b) Organization that makes a contribution to a ballot question committee from  
4 treasury funds;

5 (19) "Political committee," any candidate campaign committee, political action  
6 committee, or ballot question committee;

7 (20) "Political party," any state or county political party qualified to participate in a  
8 primary or general election, including any auxiliary organization of such political  
9 party. An auxiliary organization is any organization designated as an auxiliary  
10 organization in the political party's bylaws or constitution except any secondary or  
11 post-secondary student organization that only accepts contributions to support  
12 volunteer student activities of the organization and does not make monetary  
13 contributions to any political committee;

14 (21) "Public office," any statewide office, legislative office, or county office;

15 (22) "Qualified nonprofit corporation," any nonprofit corporation, subject to the  
16 provisions of chapters 47-22 to 47-28, inclusive, that was organized for the purpose  
17 of promoting political ideas and cannot engage in business activities, has no  
18 shareholders or other persons affiliated so as to have a claim on the assets or  
19 earnings, was not established by a corporation, and has not accepted more than de  
20 minimus amount of funds from any corporation;

21 (23) "Statewide office," the offices of Governor, lieutenant governor, secretary of state,  
22 attorney general, state auditor, state treasurer, commissioner of school and public  
23 lands, and public utilities commissioner;

24 (24) "Volunteer," a person who provides services free of charge.

1       Section 2. A political committee shall have a chair and a treasurer, which may be the same  
2       person. The chair and treasurer for a candidate campaign committee shall be appointed by the  
3       candidate, and the candidate may serve as either, or both, such officers. No political committee  
4       may receive or make contributions or pay expenses while the office of treasurer is vacant. A  
5       violation of this section is a Class 2 misdemeanor.

6       Section 3. A political committee shall file a statement of organization with the secretary of  
7       state not later than fifteen days after the date upon which the committee made contributions,  
8       received contributions, or paid expenses in excess of five hundred dollars unless such activity  
9       falls within thirty days of any statewide election in which case the statement of organization  
10      shall be filed within forty-eight hours. Any candidate for public office shall organize a candidate  
11      campaign committee not later than fifteen days after becoming a candidate and shall file a  
12      statement of organization with the secretary of state. A political committee that regularly files  
13      a campaign finance disclosure statement with the Federal Election Commission is not required  
14      to file a statement of organization. A violation of this section is a Class 2 misdemeanor.

15      Section 4. A political committee may incorporate and not be subject to the provisions of  
16      section 18 of this Act if the political committee incorporates for liability purposes only.  
17      Notwithstanding the corporate status of the political committee, the treasurer of an incorporated  
18      political committee remains personally responsible for carrying out the treasurer's duties under  
19      this Act.

20      Section 5. A political committee created prior to the effective date of this Act that has not  
21      filed a termination statement shall file a statement of organization with the secretary of state not  
22      later than fifteen days after this Act becomes effective. A violation of this section is a Class 2  
23      misdemeanor.

24      Section 6. The statement of organization shall include:

- 1       (1)    The name, street address, postal address, and daytime telephone number of the  
2           committee;
- 3       (2)    The name, street address, postal address, and daytime telephone number of the chair  
4           and the treasurer of the committee;
- 5       (3)    A statement of the type of political committee that has been or is being organized;
- 6       (4)    In the case of a candidate campaign committee, the name, street address, and postal  
7           address of the candidate;
- 8       (5)    In the case of a political action committee or ballot question committee, a concise  
9           statement of its purpose and goals, and the full name, street address, and postal  
10          address of the organization with which the committee is connected or affiliated, or  
11          if the committee is not connected or affiliated with any one organization, the trade,  
12          profession, or primary interest of the committee;
- 13      (6)    If the committee is organized as a corporation under federal or state laws for liability  
14          purposes only as authorized by section 4 of this Act, a statement affirming such  
15          organization; and
- 16      (7)    The name, street address, postal address, and telephone number of each financial  
17          institution where an account or depository is maintained.

18       The statement shall be signed by the candidate and treasurer for a candidate campaign  
19       committee and by the chair and treasurer for other political committees. A political committee  
20       continues to exist until a termination statement is filed pursuant to sections 25 and 26 of this  
21       Act.

22       The candidate or treasurer of a political committee shall file an updated statement of  
23       organization not later than fifteen days after any change in the information contained on the  
24       most recently filed statement of organization.



1       Section 7. If the contributor is a person, no candidate for statewide office or the candidate's  
2 campaign committee may accept any contribution which in the aggregate exceeds four thousand  
3 dollars during any calendar year. A candidate campaign committee may accept contributions  
4 from any candidate campaign committee, political action committee, or political party. The  
5 limitation on any contribution from a person in this section does not apply to any contribution  
6 by the candidate or the candidate's immediate family. A violation of this section is a Class 1  
7 misdemeanor.

8       Section 8. If the contributor is a person, no candidate for legislative or county office or the  
9 candidate's campaign committee may accept any contribution which in the aggregate exceeds  
10 one thousand dollars during any calendar year. A candidate campaign committee may accept  
11 contributions from any candidate campaign committee, political action committee, or political  
12 party. The limitation on any contribution from a person in this section does not apply to any  
13 contribution by the candidate or the candidate's immediate family. A violation of this section  
14 is a Class 1 misdemeanor.

15       Section 9. If the contributor is a person, no political action committee may accept any  
16 contribution which in the aggregate exceeds ten thousand dollars during any calendar year. A  
17 political action committee may accept contributions from any candidate campaign committee,  
18 political action committee, or political party. A violation of this section is a Class 1  
19 misdemeanor.

20       Section 10. If the contributor is a person, no political party may accept any contribution  
21 which in the aggregate exceeds ten thousand dollars during any calendar year. A political party  
22 may accept contributions from any candidate campaign committee, political action committee,  
23 or political party. A violation of this section is a Class 1 misdemeanor.

24       Section 11. No person, organization, candidate, political committee, or political party may

1 give or accept a contribution unless the name and residence address of the contributor is made  
2 known to the person receiving the contribution. Any contribution, money, or other thing of value  
3 received by a candidate, political committee, or political party from an unknown source shall  
4 be donated to a nonprofit charitable organization. A violation of this section is a Class 2  
5 misdemeanor.

6 Section 12. No person may make a contribution in the name of another person, make a  
7 contribution disguised as a gift, make a contribution in a fictitious name, make a contribution  
8 on behalf of another person, or knowingly permit another to use his or her name to make a  
9 contribution. No candidate may accept a contribution disguised as a gift. A violation of this  
10 section is a Class 1 misdemeanor.

11 Section 13. Equipment, supplies, and materials purchased with contributions are property  
12 of the political committee or political party, and are not property of the candidate or any other  
13 person.

14 Section 14. The sale of any property shall be reported in the campaign finance disclosure  
15 statement. A violation of this section is a Class 1 misdemeanor.

16 Section 15. Any printed material or communication made, purchased, paid for, or authorized  
17 by a candidate, political committee, or political party which expressly advocates for or against  
18 a candidate, public office holder, ballot question, or political party shall prominently display or  
19 clearly speak the statement: "Paid for by (Name of candidate, political committee, or political  
20 party)." This section does not apply to buttons, balloons, pins, pens, matchbooks, clothing, or  
21 similar small items upon which the inclusion of the statement would be impracticable. A  
22 violation of this section is a Class 1 misdemeanor.

23 Section 16. Any person or qualified nonprofit corporation that makes an independent  
24 expenditure for a communication which expressly advocates for or against a candidate, public

1 office holder, ballot question, or political party totaling one thousand dollars or more shall file  
2 a statement with the secretary of state that is received within forty-eight hours of the time that  
3 the communication is disseminated, broadcast, or otherwise published.

4 Any organization that makes an independent expenditure for a communication which  
5 expressly advocates for or against a public office holder, ballot question, or political party  
6 totaling one thousand dollars or more shall file a statement with the secretary of state that is  
7 received within forty-eight hours of the time that the communication is disseminated, broadcast,  
8 or otherwise published.

9 The statement shall include the name of the person, qualified nonprofit corporation, or  
10 organization and its street address, city, and state, the name of each candidate, public office  
11 holder, ballot question, or political party mentioned in the communication, the amount spent on  
12 the communication, and a description of the content of the communication.

13 Further, if the independent expenditure is made by an organization comprised of twenty or  
14 fewer members or shareholders, the statement shall include the name and address of each  
15 shareholder or member who owns ten percent or more of the organization.

16 For the purposes of this section, the term, communication, does not include:

- 17 (1) Any news articles, editorial endorsements, opinion, or commentary writings, or letter  
18 to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical  
19 not owned or controlled by a candidate, political committee, or political party;
- 20 (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or  
21 controlled by a candidate, political committee, or political party;
- 22 (3) Any communication by a person made in the regular course and scope of the person's  
23 business or ministry or any communication made by a membership organization  
24 solely to members of the organization and the members' families; and

- 1       (4)   Any communication that refers to any candidate only as part of the popular name of  
2           a bill or statute.

3       Section 17. Any person, political committee, political party, or organization that makes a  
4   payment or promise of payment totaling one thousand dollars or more for a communication that  
5   clearly identifies a candidate or public office holder, but does not expressly advocate the  
6   election or defeat of the candidate or public office holder, and that is disseminated, broadcast,  
7   or otherwise published within sixty days of an election, shall file a statement with the secretary  
8   of state disclosing the name, street address, city, and state of such person, political committee,  
9   political party, or organization. The statement shall also include the name of the candidate or  
10   public office holder mentioned in the communication, the amount spent on the communication,  
11   and a description of the content of the communication. The statement shall be received and filed  
12   within forty-eight hours of the time that the communication is disseminated, broadcast, or  
13   otherwise published.

14      For the purposes of this section, the term, communication, does not include:

- 15      (1)   Any news articles, editorial endorsements, opinion or commentary writings, or letter  
16           to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical  
17           not owned or controlled by a candidate, political committee, or political party;
- 18      (2)   Any editorial endorsements or opinions aired by a broadcast facility not owned or  
19           controlled by a candidate, political committee, or political party;
- 20      (3)   Any communication by a person made in the regular course and scope of the person's  
21           business or ministry or any communication made by a membership organization  
22           solely to members of the organization and the members' families; and
- 23      (4)   Any communication that refers to any candidate only as part of the popular name of  
24           a bill or statute.

Section 18. No organization may make a contribution to a candidate committee, political action committee, or political party or make an independent expenditure expressly advocating the election or defeat of a candidate. An organization may make a contribution to a ballot question committee organized solely for the purpose of influencing an election on a ballot question and independent expenditures regarding the placement of a ballot question on the ballot or the adoption or defeat of a ballot question. The prohibitions of this section do not apply to independent expenditures expressly advocating the election or defeat of a candidate by a qualified nonprofit corporation from its treasury funds. An organization may create a political action committee. A violation of this section is a Class 1 misdemeanor.

Section 19. Any organization that makes a contribution to a ballot question committee pursuant to section 18 of this Act shall:

- (1) Be filed as a domestic or foreign entity in good standing with the Office of the Secretary of State of this state, or
- (2) If the organization is not filed as a domestic or foreign entity in good standing with the Office of the Secretary of State of this state, the organization shall include with any contribution to a ballot question committee a statement providing the following information:
  - (a) The name of the organization;
  - (b) The name of the state or country under whose law the organization is incorporated or organized; and
  - (c) The street address of the organization's principal office; or
- (3) However, if subdivisions 1 and 2 do not apply to the organization, then the organization shall include with any contribution to a ballot question committee a statement providing the following information:

- 1           (a)    The name of the organization;
- 2           (b)    The street address of the organization's principal office; and
- 3           (c)    The names and street addresses of any owners, directors, or officers of the
- 4                   organization including the name and street address of the person authorizing
- 5                   the contribution.

6           Further, if any contribution from an organization to a ballot question committee exceeds ten  
7   thousand dollars in the aggregate, and the organization is comprised of twenty or fewer  
8   members or shareholders, the contribution shall include a statement with the name and address  
9   of each shareholder or member who owns ten percent or more of the organization. The ballot  
10   question committee shall disclose all information provided in the statement in the applicable  
11   campaign financial disclosure statement or supplemental statement.

12          If any of the information required by this section is not delivered to the treasurer of the ballot  
13   question committee, the treasurer shall return the contribution. A violation of this section is a  
14   Class 1 misdemeanor.

15          Section 20. The state, an agency of the state, and the governing body of a county,  
16   municipality, or other political subdivision of the state may not expend or permit the  
17   expenditure of public funds for the purpose of influencing the nomination or election of any  
18   candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any  
19   ballot question. This section may not be construed to limit the freedom of speech of any officer  
20   or employee of the state or such political subdivisions in his or her personal capacity. This  
21   section does not prohibit the state, its agencies, or the governing body of any political  
22   subdivision of the state from presenting factual information solely for the purpose of educating  
23   the voters on a ballot question.

24          Section 21. No candidate, political committee, or political party may accept any contribution

1 from any state, state agency, political subdivision of the state, foreign government, Indian tribe,  
2 federal agency, or the federal government. A violation of this section is a Class 1 misdemeanor.

3 Section 22. A campaign financial disclosure statement shall be filed with the secretary of  
4 state by every:

- 5 (1) Candidate or candidate campaign committee for any statewide or legislative office;
- 6 (2) Political action committee;
- 7 (3) Political party; and
- 8 (4) Ballot question committee.

9 The statement shall be signed by the treasurer of the political committee or political party.  
10 The statement shall be received by the secretary of state and filed by 5:00 p.m. each February  
11 first and shall cover the contributions and expenditures for the preceding calendar year.  
12 However, no statement is required to be filed by a candidate campaign committee for legislative  
13 or county office on February first following a year in which there is not an election. A statement  
14 shall also be received by the secretary of state and filed by 5:00 p.m. on the second Friday prior  
15 to each primary and general election complete through the fifteenth day prior to that election.  
16 No county, local, or auxiliary committee of any political party qualified to participate in a  
17 primary or general election is required to file a campaign financial disclosure statement prior  
18 to a statewide primary election. No candidate without opposition in a primary election is  
19 required to file a campaign financial disclosure statement prior to a primary election. Any  
20 statement filed pursuant to this section shall be consecutive and shall cover contributions and  
21 expenditures since the last statement filed. A political committee that regularly files a campaign  
22 finance disclosure statement with the Federal Election Commission is not required to file a  
23 campaign finance disclosure statement. A violation of this section is a Class 1 misdemeanor.

24 Section 23. A campaign finance disclosure statement shall be received by the secretary of

1 state and filed by any statewide ballot question committee by 5:00 p.m. on the fifth day of July  
2 during the year in which the ballot question is to be voted on complete through the month of  
3 June. A violation of this section is a Class 1 misdemeanor.

4 Section 24. A campaign finance disclosure statement shall include the following  
5 information:

- 6 (1) Political committee or political party name, street address, postal address, city, state,  
7 zip code, daytime and evening telephone number, and e-mail address;
- 8 (2) Type of campaign statement (pre-primary, pre-general, mid-year, year-end,  
9 amendment, supplement, or termination);
- 10 (3) If a ballot question committee, the ballot question number and whether the committee  
11 is for or against the measure;
- 12 (4) The balance of cash and cash equivalents on hand at the beginning of the reporting  
13 period;
- 14 (5) The total amount of all contributions received during the reporting period;
- 15 (6) The total amount of all in-kind contributions received during the reporting period;
- 16 (7) The total of refunds, rebates, interest, or other income not previously identified  
17 during the reporting period;
- 18 (8) The total of contributions, loans, and other receipts during the reporting period;
- 19 (9) The total value of loans made to any person, political committee, or political party  
20 during the reporting period;
- 21 (10) The total of expenditures made during the reporting period;
- 22 (11) The total amount of all expenditures incurred but not yet paid. An expenditure  
23 incurred but not yet paid shall be reported on each report filed after the date of receipt  
24 of goods or services until payment is made to the vendor. A payment shall be listed



1 as an expenditure when the payment is made;

2 (12) The statement shall state the cash balance on hand as of the close of the reporting  
3 period;

4 (13) The total amount of contributions of one hundred dollars or less in the aggregate  
5 from one source received during the reporting period;

6 (14) The name, residence address, city, and state of each person contributing a  
7 contribution of more than one hundred dollars in the aggregate during the reporting  
8 period and the amount of the contribution. Any contribution from any political  
9 committee or political party shall be itemized. Any contribution from a federal  
10 political committee or political committee organized outside this state shall also  
11 include the name and internet website address of the filing office where campaign  
12 finance disclosure statements are regularly filed for the committee. If all of the  
13 information required is not on file, the political committee or political party may not  
14 deposit the contribution;

15 (15) The statement shall contain the same information for in-kind contributions as for  
16 monetary contributions, and shall also include a description of the in-kind  
17 contribution;

18 (16) Upon the request of the treasurer, a person making an in-kind contribution shall  
19 provide all necessary information to the treasurer, including the value of the  
20 contribution;

21 (17) Any monetary or in-kind contribution made by the reporting political committee or  
22 political party to any political committee, political party, or nonprofit charitable  
23 organization shall be itemized;

24 (18) A categorical description and the amount of the refunds, rebates, interest, sale of

- 1 property, or other receipts not previously identified during the reporting period;
- 2 (19) A categorical description and the amount of funds or donations by any organization
- 3 to its political committee for establishing and administering the political committee
- 4 and for any solicitation costs of the political committee;
- 5 (20) The total balance of loans owed by the political committee or political party;
- 6 (21) The balance of loans owed by the political committee or political party, itemized by
- 7 lender's name, street address, city, and state, including the terms, interest rate, and
- 8 repayment schedule of each loan;
- 9 (22) The total balance of loans owed to the political committee or political party;
- 10 (23) The amount of each loan made during the reporting period. The name, street address,
- 11 city, and state of the recipient of the loan;
- 12 (24) The balance of each loan owed to the political committee or political party, itemized
- 13 by name, street address, city, and state;
- 14 (25) The expenditures made during the reporting period shall be categorized.
- 15 Disbursements to consultants, advertising agencies, credit card companies, and
- 16 similar firms shall be itemized into expense categories. Any contribution made by the
- 17 reporting political committee or political party that is not in exchange for any item
- 18 of value or service shall be itemized;
- 19 (26) The expenditures incurred but not yet paid during the reporting period and to whom
- 20 the expenditure is owed;
- 21 (27) The amount of each independent expenditure, as defined in this Act, made during the
- 22 reporting period, the name of the candidate, public office holder, or ballot question
- 23 related to the expenditure and a description of the expenditure;
- 24 (28) The information contained in any statement provided under section 19 of the Act; and

1       (29) The statement shall include a certification that the contents of the statement is true  
2             and correct signed by the treasurer of the political committee or political party.

3       Section 25. The last campaign finance statement filed shall be a termination statement. The  
4       termination statement shall be filed within thirty days following disposition of all funds and  
5       property and the payment of all obligations.

6       Section 26. A political committee may not dissolve until the political committee has settled  
7       all of its debts, disposed of all of its assets, and filed a termination statement.

8       Section 27. Any candidate, treasurer, or other person filing a statement pursuant to this Act,  
9       shall file an amended statement within three days of discovering any omission, inaccuracy, or  
10       other change necessary to make the statement accurate. A person responsible for filing a  
11       statement pursuant to this Act, who willfully fails to report a material change or correction, is  
12       guilty of a Class 1 misdemeanor. A person responsible for filing a statement pursuant to this  
13       Act, who willfully fails to file an amendment pursuant to this section is subject to the civil  
14       penalty in section 30 of this Act beginning on the first day following the third day after the  
15       candidate, treasurer, or other person is notified of the omission, inaccuracy, or other change  
16       necessary to make the statement accurate.

17       Section 28. If any candidate campaign committee for statewide office, political action  
18       committee, ballot question committee, or political party required to file a campaign finance  
19       disclosure statement pursuant to this Act receives a contribution of five hundred dollars or more  
20       within the fourteen days immediately prior to an election for which a campaign finance  
21       disclosure statement may be filed, a supplemental statement shall be filed. The statement shall  
22       state the name, street address, city, and state of the contributor and the amount and date of the  
23       contribution, and information contained in any statement provided under section 19 of this Act,  
24       if applicable. The statement shall be filed within forty-eight hours of the receipt of the

1 contribution. A violation of this section is a Class 1 misdemeanor.

2 Section 29. The treasurer of a political committee and political party shall maintain and  
3 preserve detailed and accurate records of the following:

- 4 (1) Each contribution and in-kind contribution received by the political committee or  
5 political party;
- 6 (2) In the case of a ballot question committee, the information required by section 19 of  
7 this Act for any organization contribution;
- 8 (3) Each loan received or made by the political committee or political party;
- 9 (4) Each refund, rebate, interest, or other income received by the political committee or  
10 political party;
- 11 (5) All receipts, invoices, bills, canceled checks, or other proofs of payment, with an  
12 explanation of each, for each expenditure;
- 13 (6) The name and address of any financial institution where an account or depository for  
14 the political committee or political party is maintained including the account number.

15 The treasurer shall maintain and preserve the records for a period of seven years or three  
16 years past the date of filing the termination statement for the election for which the contribution  
17 or expenditure was made, whichever is earlier. A violation of this section is a Class 1  
18 misdemeanor.

19 Section 30. Notwithstanding the provisions of § 12-25-33, the failure to timely file any  
20 statement, amendment, or correction required by this Act subjects the treasurer responsible for  
21 filing to a civil penalty of fifty dollars per day for each day that the statement remains  
22 delinquent. The civil penalty shall be in addition to any criminal sanctions and shall be paid to  
23 the secretary of state and deposited in the state general fund.

24 Section 31. The secretary of state shall adopt forms for statements of organization and

1 campaign finance disclosure statements. Each person filing a statement of organization or  
2 campaign finance disclosure statement shall subscribe to an oath or affirmation verifying that  
3 the contents of the statement are true and correct to the best of the knowledge and belief of the  
4 signer.

5 Section 32. The secretary of state shall endorse the date of the filing on each statement filed  
6 pursuant to this Act, and shall preserve the statement among the public records of the office.  
7 However, the statement may be destroyed if the Records Destruction Board, acting pursuant to  
8 § 1-27-19, declares the records to have no further administrative, legal, fiscal, research, or  
9 historical value.

10 Section 33. No information copied, or otherwise obtained, from any statement, or copy,  
11 reproduction, or publication thereof, filed with the secretary of state, county auditor, or other  
12 person in charge of conducting the election under this Act may be sold or utilized by any person  
13 for any commercial purpose or for the purpose of soliciting contributions. Any violation of this  
14 section is a Class 2 misdemeanor.

15 Section 34. Any person who intentionally makes any false, fraudulent, or misleading  
16 statement or entry in any statement of organization, campaign finance disclosure statement,  
17 other statement, or amendment filed pursuant to this Act is guilty of a Class 5 felony.

18 Section 35. The attorney general shall investigate violations of the provisions of this Act  
19 relating to a legislative office, statewide office, or statewide ballot question and prosecute any  
20 violation thereof. In lieu of bringing a criminal action, the attorney general may elect to file a  
21 civil action. In a civil action, in addition to other relief, the court may impose a civil penalty in  
22 the amount provided by statute, or if not provided, in an amount not to exceed ten thousand  
23 dollars for each violation. Any civil penalty recovered shall be paid to the state general fund. A  
24 civil action brought by the attorney general shall be commenced in Hughes County, in the

1 county where the person resides, or in the county where the organization, political party, or  
2 political committee has its principal office.

3 Section 36. The attorney general may, for the purpose of enforcing the provisions of this  
4 Act, inspect or examine any political committee or political party records required to be  
5 maintained by this Act. It is a Class 1 misdemeanor for any person having charge, control, or  
6 possession of political committee or political party records to neglect or refuse the attorney  
7 general reasonable access to any records required to be maintained by this Act which are  
8 necessary to enforce the provisions of this Act.

9 Section 37. The attorney general shall keep each record inspected or examined confidential  
10 except when the records are used to enforce provisions of this Act associated with a criminal  
11 or civil action.

12 Section 38. If any candidate is proved in a contest of an election or is proved to have  
13 violated any provision of this Act punishable by a felony, the candidate may not be certified for  
14 election or the candidate shall forfeit his or her office. The office shall be declared vacant and  
15 shall be filled in the manner provided by law for filling vacancies occasioned by death or  
16 resignation.

17 Section 39. The provisions of this Act apply to each statewide office, legislative office,  
18 statewide ballot question, county offices and ballot questions in counties with population greater  
19 than five thousand according to the most recent Federal census, and school district offices and  
20 ballot questions in school districts with more than two thousand average daily membership. Any  
21 school district election covered by this Act shall conform to the contribution limits applicable  
22 to legislative offices. This Act does not apply to the unified judicial system, nor does this Act  
23 apply to any township, municipal, or special purpose district offices or ballot questions.  
24 However, the governing body of any county, township, municipality, school district, or special

1 purpose district not otherwise covered by this Act may adopt an ordinance or resolution to make  
2 the provisions of this Act, with or without amendments, applicable to county, township,  
3 municipal, school district, or special purpose district elections.

4 Section 40. The state's attorney shall investigate any violation of the provisions of this Act  
5 relating to elections for county and school district office or ballot questions, and prosecute any  
6 violation thereof. In lieu of bringing a criminal action, the state's attorney may elect to file a civil  
7 action for any violation of this Act. In a civil action, in addition to other relief, the court may  
8 impose a civil penalty in the amount provided by statute, or if not provided, in an amount not  
9 to exceed one thousand dollar for each violation. Any civil penalty recovered shall be paid to  
10 the county general fund if the violation arose out of a county office or ballot question or the  
11 school district general fund if the violation arose out of a school district office or ballot question.  
12 A civil enforcement action for a violation of the Act concerning a school district office or ballot  
13 question may, with the consent of the state's attorney, be brought by the school district's  
14 attorney. A civil action brought under this section shall be commenced in the county where  
15 filings under the Act are required, in the county where the person resides or in the county where  
16 the organization, political party, or political committee has its principal office.

17 Section 41. Any statement required to be filed under this Act may be filed by facsimile  
18 device or electronic mail in accordance with the methods approved by the secretary of state. To  
19 be timely filed, any statement received by facsimile device or electronic mail shall be legible  
20 and readable when received by the means it was delivered. The original shall be filed with the  
21 secretary of state within one week following the date the facsimile or electronic mail  
22 transmission was received.

23 Section 42. Any statement, form, or filing required by this Act shall be filed with the  
24 secretary of state in the case of a statewide office or legislative office election. Any statement,

1 form, or filing required by this Act shall be filed with the county auditor in the case of a county  
2 office election, with the school business manager in the case of a school district office election,  
3 or with the person in charge of the election in the case of other political subdivisions or special  
4 purpose districts.

5 Section 43. That §§ 12-25-1 to 12-25-26, inclusive, be repealed.

6 Section 44. The attorney general may bring an action for a civil penalty against any person,  
7 political committee, political party, or organization that violates section 16 or 17 of this Act, in  
8 addition to any other penalties provided by law. The civil penalty may not exceed two thousand  
9 dollars for each violation.

10 Section 45. Any candidate or candidate campaign committee for legislative office that has  
11 spent less than ten thousand dollars and has received less than ten thousand dollars in  
12 contributions and loans by the fifteenth day before any primary or general election is only  
13 required to file a campaign finance disclosure statement containing the information required in  
14 subdivisions (1), (2), (8), (10), and (29) of section 24 of this Act before any election.