Guide to Vermont's Campaign Finance Law

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2023-2024 Local, Primary and General Elections

This guide is published to assist people in understanding Vermont's Campaign Finance statutes, but it is not a substitute for the statute. It is not possible in this guide to anticipate all factual situations that could arise under the campaign finance laws. You may contact the Secretary of State's Office if you have questions about Vermont's campaign finance law. However, you are advised to read the statutes carefully and consult an attorney when appropriate.

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REPORTING ENTITIES

Candidates For Statewide, Legislative, County, and Local Office who spend OR raise $500 or more in an election cycle must register and file campaign finance reports with the Secretary of State on the filing deadlines detailed below. **Candidates who roll over a surplus from a previous campaign must file a report for each reporting period in the new cycle regardless of whether they have had any activity in their account.** A final report may be filed at any time, but no later than December 15 of the election year.

Political Action Committees (PACs) that spend AND raise $1000 or more in any election cycle must register and file campaign finance disclosure reports with the Secretary of State on the filing deadlines detailed below. In addition, any PAC that raises AND spends $1,000 or more to influence a local election must register and with the Secretary of State and file campaign finance reports. A final report may be filed at any time to close the PAC. An "end of cycle report" is due December 15th of election years.

Political Parties organized under chapter 45 of Title 17 of the Vermont Statutes Annotated that spend OR raise $1,000 or more in any election cycle must register and file campaign finance reports with the Secretary of State on the filing deadlines detailed below. A final report may be filed at any time. An "end of cycle report" is due December 15th of election years.

WHERE TO REGISTER AND REPORT

- All campaign finance filings must be submitted online at the following website:

www.campaignfinance.sec.state.vt.us

- Register an entity using an e-mail address
- Activate account by clicking on the link in the e-mail that is sent to you
- Transactions (Contributions and Expenditures) can be entered and tracked during the reporting period
- Enter ALL transactions prior to clicking on File Report. If you have none, then click on File Report.
- Each reporting period **cuts off 3 days prior to the report due date**. 17 V.S.A. §2963. All transactions dated after will appear on the next report.

OTHER REPORTS

In addition to the regular campaign finance disclosure reports, the following reports may be required:

Any candidate for statewide office that accepts a contribution over $2,000 within 10 days of an election must report that contribution to the Secretary of State within 24 hours. 17 V.S.A. § 2967

Any person who makes expenditures for any one mass media activity totaling $520 or more within 45 days of a primary, general, or local election - including candidates, PACs, political parties and corporations - files a Mass Media Report with the Secretary of State within 24 hours of the expenditures, activity or executing a contract for the activity whichever occurs first. A copy of the report shall also be sent to any candidate whose name or likeness was included in the activity without that candidate's knowledge. 17 V.S.A. § 2971

Any entity or formal or informal committee of two or more individuals (except a political party) that spends $1,000 or more in an election cycle for the purpose of advocating a position on a public question must file a report of its expenditures 30 days before, 10 days before, and two weeks after the election. 17 V.S.A. § 2970

REPORTING DEADLINES

Statewide Election Cycles (statewide candidates, House and Senate candidates, county candidates) Reports are due: July 1 in an off-election year; March 15, July 1, August 1, September 1, October 1, October 15, the Friday before the election, two weeks after the election, and December 15.

Local Election Cycles (candidates for any local office) begin 38 days after the previous election cycle and ends 38 days after the local election for the office. Reports are due: 30 days before the election, 10 days before the election, 4 days before the election, two weeks after the election, and a final report must be filed within 40 days of the election.

All reports **due by 11:59** pm on the due date.

Each reporting period cuts off **3 days prior to the report due dat**e. 17 V.S.A. §2963. All transactions dated after will appear on the next report.

2023-2024 CONTRIBUTION LIMITS

CONTRIBUTION LIMITS TO LOCAL CANDIDATES

-$1,120 per election cycle from a single source or PAC
-Unlimited contributions from political parties

CONTRIBUTION LIMITS TO STATE REPRESENTATIVE CANDIDATES

-$1,120 per election cycle from a single source or PAC
-Unlimited contributions from political parties

CONTRIBUTION LIMITS TO STATE SENATE AND HIGH BAILIFF

-$1,680 per election cycle from a single source or PAC
-Unlimited contributions from political parties

CONTRIBUTION LIMITS TO COUNTY OFFICE CANDIDATES

-$1,630 per election cycle from a single source or PAC
-Unlimited contributions from political parties
-Candidates for probate judge and assistant judge should also be aware of the Vermont Code of Judicial of Conduct

CONTRIBUTION LIMITS TO STATEWIDE CANDIDATES

-$4,480 per election cycle from a single source or PAC
-Unlimited contributions from political parties

CONTRIBUTION LIMITS TO POLITICAL COMMITTEES (PACS)

-$4,480 per election cycle from a single source or PAC
-$4,480 per election cycle from a political party

CONTRIBUTION LIMITS TO POLITICAL PARTIES

-$11,180 per election cycle from a single source or PAC
-$67,150 from a political party

****PLEASE NOTE** -** the campaign finance law no longer contains an exception to these limits for family members of a candidate. A candidate may still donate unlimited amounts to his or her own campaign, but contributions from family members must adhere to the limits described above. See 17 V.S.A. § 2947.

CONTRIBUTOR RESTRICTIONS FOR STATE OFFICE- CONTRACTORS WITH THE STATE

- A person (or his or her spouse or its principle or spouse) who makes a contribution to a state office candidate shall not negotiate or enter into a sole source contract with the state on behalf of the office valued at $50,000 or more, or multiple sole source contracts of over $100,000 within one year of the contribution or the beginning of a term if the officer is not an incumbent. 17 V.S.A. §2950(a)(1)

- A person (or that person's principal or spouse) who enters into a sole source contract valued at $50,000 or more, or multiple sole source contracts valued in the aggregate at $100,000 or more with the office of a State officer or with the State on behalf of that office, shall not make a contribution to a candidate for that State office or to that State officer. 17 V.S.A. §2950(b)(1)

Two-Year General Election Cycle:

A two year general election cycle begins 38 days after the general election and continues for 24 months (applies to offices with two year terms).

Four-Year General Election Cycle:

A four year general election cycle begins 38 days after the general election and continues for 48 months (applies to offices with a four year term).

Contributions Over $100.00 By Check Or Electronic Transfer:

All contributions in excess of $100.00 must be made by check, credit card, debit card or other electronic transfer. This provision applies only to monetary contributions, not in-kind gifts. Candidates are strongly advised to obtain the name and address of all contributors (even those contributing under $100) for purposes of tracking an individual's total contributions to your campaign over time such that the limitations on contributions are not exceeded.

No Spending Limits:

There are no spending limits for any candidates, PACs, or parties in Vermont since the U.S. Supreme Court's decision in *Randall v. Sorrell, 548 U.S. 230 (2006).*

Services That Are Not Considered Contributions:

The definition of "contribution" has thirteen exceptions listed in 17 V.S.A. § 2901(4)(A)-(M). Since the statute specifies that these activities and services are not contributions, they should not be reported as contributions. In addition, their value is not counted when determining whether a candidate has reached the limit on contributions he or she may accept.

A contribution does not include:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate;

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse;

(E) the use by a candidate or volunteer of his or her own personal property, including offices, telephones, computers, and similar equipment;

(F) the use of a political party's offices, telephones, computers, and similar equipment;

(G) the payment by a political party of the costs of preparation, display, or mailing or other distribution of a "party candidate listing;"

A "party candidate listing" is defined in 17 V.S.A. § 2901(12) and is any communication by a political party that:

(A) lists the names of at least three candidates for election to public office;

(B) is distributed through public advertising such as broadcast stations, cable television, newspapers, and similar media or through direct mail, telephone, electronic mail, a publicly accessible site on the Internet, or personal delivery;

(C) treats all candidates in the communication in a substantially similar manner; and

(D) is limited to:

(i) the identification of each candidate, with which pictures may be used;

(ii) the offices sought;

(iii) the offices currently held by the candidates;

(iv) the party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies;

(v) encouragement to vote for the candidates identified; and

(vi) information about voting, such as voting hours and locations.

(H) documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this title, lists of registered voters, and voter identification information created, obtained, or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party or to another political party;

(I) compensation paid by a political party to its employees whose job responsibilities are not for the specific and exclusive benefit of a single candidate in any election;

(J) compensation paid by a political party to its employees or consultants for the purpose of providing assistance to another political party;

(K) campaign training sessions provided to three or more candidates;

(L) costs paid for by a political party in connection with a campaign event at which three or more candidates are present; or

(M) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention or depict a clearly identified candidate.

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 or a PAC directing that the contribution be then given to a particular candidate.

In-Kind Contributions:

In-kind contributions are gifts of "anything of value" given to a candidate, PAC or political party for the purpose of influencing an election. In-kind contributions – such as donations of a computer, tee shirts, or space for a campaign office – must be reasonably valued, usually either fair market value or cost to the donor. The requirement that contributions over $100 be made by check, credit or debit card does not apply to in-kind contributions; however, all other statutes regarding contributions – including contribution limits – do apply.

Foreign Nationals:

Federal law prohibits the acceptance of campaign contributions from foreign nationals, except when they are lawful permanent residents of the United States. This provision also applies to PACs and parties. 2 U.S.C. §§441e, 441f & 11 CFR 110.20

Surplus Campaign Funds:

No entity may convert surplus campaign funds to personal use. Surplus funds may be donated to another candidate, PAC or political party subject to the relevant contribution limits; to a charity; to the Secretary of State Services Fund; or carried over to the next election cycle for a new campaign.

When filing their "final report", candidates, PACs and parties must indicate the amount of surplus and how it is to be liquidated or, in the case of a candidate, if the surplus is being rolled over into a campaign account for the next election cycle. All candidates who roll over any amount of surplus into a campaign account for the next election cycle must continue to file campaign finance disclosure reports on all applicable deadlines, regardless of whether they have had any new activity in the account during the new election cycle. A candidate who rolls over surplus into an account for the next election cycle only needs to file a new registration with the Secretary of State if there has been a change in the bank account or the treasurer that that candidate will be using for the current election cycle.

A PAC must continue to file disclosure reports on all relevant deadlines until it has filed a final report indicating liquidation of any surplus.

Expenditure Defined:

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." 17 V.S.A. § 2901(7). This means an expenditure must be reported when promised to be paid, when paid, or whenever goods or services are delivered – whichever comes first. Expenditure also includes "those expenses that are necessary to allow a candidate to campaign, such as expenses for the care of a dependent family member that are incurred as a direct result of campaign activity". 17 V.S.A. § 2901(7).

Single Sources:

A single source in Vermont is defined as "an individual, partnership, corporation, association, labor organization or any other organization or group of persons which is not a political committee or political party." 17 V.S.A. §2901(16). Each single source contributes directly to a candidate and money cannot be transferred from one source to another for the purpose of circumventing the contribution limits.

Unions:

If a labor organization spends money from its general member dues to make contributions to a Vermont candidate, political party or PAC, then the labor organization is considered a single source. The labor organization does not file disclosure reports.

However, if a labor organization spends money from member contributions (i.e. paycheck "checkoffs") to make contributions to a Vermont candidate, PAC, or political party, and both raises and spends more than $1,000 in any two-year general election cycle for purposes of supporting or opposing Vermont candidates or influencing an election in Vermont, then the labor organization is considered a PAC under Vermont law and must register with the Secretary of State.

Corporations, Partnerships and Associations:

Any corporation, partnership or association that raises and spends more than $1,000 in a two-year general election cycle for purposes of supporting or opposing Vermont candidates or influencing an election in Vermont is considered a PAC under Vermont law and must comply with Vermont law on contribution limits and disclosure.

If a corporation, partnership or association that is not a PAC under Vermont law spends money from its profits or general revenue to contribute money to Vermont candidates, political parties or PACs, then the corporation, partnership or association making the contribution is considered a single source and does not have to file campaign finance disclosure reports.

Fundraisers – Auctions and Raffles:

When an auction is used for fundraising, be sure that the person you use as an auctioneer is licensed with the Vermont Secretary of State's Office of Professional Regulation; there is no charitable exception in this case. Disclosure of the funds raised depends on the arrangement. If people have donated goods or services for the auction, these are reportable in-kind 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. The cost of the goods bought by the campaign in this case would count as an expense to the campaign.

Political parties may use a raffle to fundraise, as there is an exception to the general rules prohibiting gambling in 13 V.S.A. §2143a.

Fundraisers – Donated Goods and Services:

If goods or services are donated as in-kind contributions for a fundraiser, then the fair market value of the goods or services is a contribution by the person or entity donating the goods or services. When the donated goods or services are purchased, then the difference between the fair market value and the purchase price is considered a donation by the person or entity making the purchase.

For example, if a fundraising dinner charges $50 a plate and the caterer has donated the meals at the fair market value of $20 per plate, then the caterer is making a $20 contribution and the person purchasing the $50 ticket is making a $30 contribution. However, if the caterer is not donating the cost of the meal, then the campaign has made a $20 expenditure per plate; the person purchasing the ticket to the dinner is still making a $30 contribution.

Loans To A Campaign:

Personal loans to a candidate, PAC, or party are considered contributions. As a loan is repaid, the amount that the creditor has contributed to the campaign, for purposes of enforcing the contribution limits, is reduced accordingly. As such, 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 if not repaid, and is therefore not subject to contribution limits. Also, loans from the candidate him or herself are considered contributions if not repaid, but are not subject to contribution limits. Under changes to the law, loans from family members that are not repaid will be subject to the limits.

Candidates Not Reaching Reporting Threshold:

Any candidate for State office, General Assembly, or county office that does not spend or raise $500 or more in a campaign must file with the Secretary of State within 10 days of the election stating that the candidate did not reach the reporting threshold for campaign finance reports.

ADVERTISEMENTS AND MEDIA ACTIVITY

Electioneering Communication:

"Any communication 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, including communications published in any newspaper or periodical or broadcast on radio or television or over the Internet or 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 contained in any direct mailing, robotic phone calls, or mass e-mails." 17 V.S.A. §2901(6).

Identifying Sponsors of Electioneering Communications (Political Advertisements):

All electioneering communications must contain the name and mailing address of the person, candidate, PAC, or party that paid for the communication. The name and address shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made. 17 V.S.A. §2972(a) If it is not practicable to meet the identification requirements for an Internet ad, a link may be used to take a reader to the full disclosure. 17 V.S.A. 2972(c)(2). If the communication was paid for by a person acting on behalf of another person, candidate, PAC, or party it shall clearly designate the name and address of the person, candidate, PAC, or party on whose behalf the communication was made.

In addition to the standard identification requirements described above, an electioneering communication paid for by or on behalf of a PAC or political party shall contain the name of any contributor who contributed more than 25 percent of all contributions and more than $2,000.00 to that PAC or party since the beginning of the two-year general election cycle in which the electioneering communication was made to the date on which the expenditure for the electioneering communication was made. 17 V.S.A. §2972(c)

Exceptions To Identifying Sponsors Of Electioneering Communication:

The provisions regarding identification do not apply to buttons, lapel stickers, or electioneering communications made by a single individual acting alone who spends no more than $150 on such communications within the two-year general election cycle. Furthermore, 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.

Mass Media Activity:

"A television commercial, radio commercial, mass mailing, mass electronic or digital communication, literature drop, newspaper or periodical advertisement, robotic phone call, or telephone bank, which includes the name or likeness of a clearly identified candidate for office." 17 V.S.A. §2901(11)

Mass Media Reporting Requirements:

Any person who spends a total of $560 or more for mass media activities in support of a clearly identified candidate within 45 days of a primary or general election must report these expenditures to the Secretary of State and to any candidate whose name or likeness was included without the candidate's knowledge, within 24 hours of the expenditure activity or execution of contract for the activity. 17 V.S.A. §2971. If the amount of the expenditure is unknown, entities are encouraged to file a Mass Media Report with an estimated cost, which can be updated once the expense is known.

Identification Requirements For Radio, TV, Or Internet Communications:

A person, candidate, PAC, or political party that transmits a communication through radio, TV, or online video, must include an **audio statement** of the name and title of the person who paid for the communication. 17 V.S.A. §2973

CANDIDATE BASICS

Becoming A Candidate:

A person becomes a candidate by:

- Accepting contributions or making expenditures of $500 or more during an election cycle, or
- Filing the requisite petition for nomination or being nominated by primary, party caucus or party committee, 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. § 2901(1).

Legislators And Administrative Officials May Not Solicit From Lobbyists, Lobbyist Employers, Or Lobbying Firms During The Legislative Session:

A legislator or administrative official may not solicit political campaign contributions from a registered lobbyist, lobbying firm 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 the even-numbered year.

A legislator may not accept a political contribution – even if unsolicited – from a registered lobbyist, lobbying firm or registered lobbyist employer until adjournment sine die. While an administrative official can accept unsolicited political contributions before adjournment sine die, it is recommended that candidates who are administrative officials proceed cautiously. 2 V.S.A. §266(3)

It is also important to remember that conduct prohibited by 2 V.S.A. §266(3) specifically pertains to registered lobbyists, registered lobbyist employers and lobbying firms engaged by an employer. It is the opinion of the Office of the Vermont Secretary of State that a "registered lobbyist employer" does not include individuals who are members of a trade association unless the individual is a registered lobbyist.

Candidates For Federal Office:

Candidates for U.S. President and Vice President, U.S. Senator, U.S. Representative and federal political committees (PACs) making contributions exclusively to federal candidates do not need to file campaign finance reports under Vermont's campaign finance law since they are governed by federal law. For more information on federal campaign finance laws, contact the Federal Election Commission, 999 E Street, Washington, DC, 20463, (800) 424-9530, www.fec.gov.

Unlimited Contributions From Self:

A candidate may contribute or loan an unlimited amount to his or her campaign. 17 V.S.A. § 2947. Although the amount of contributions from a candidate are unlimited, these contributions must be reported in campaign finance disclosure reports. This includes money that a candidate spends for mileage or gas when campaigning. Contributions from family members of a candidate must adhere to the relevant limits.

Treasurers:

A candidate's treasurer may be anyone selected by the candidate, including the candidate's spouse or the candidate him or herself.

Candidates Spending Less Than $500:

All candidates for statewide office or general assembly (state senate and state representative) who receive and spend less than $500 must file a campaign finance statement 10 days after the general election stating that the candidate did not roll over any surplus from a previous election cycle and that their contributions and expenditures did not exceed $500.

Monetary Contributions Over $2,000 Within 10 Days Of An Election:

Candidates for statewide office who receive a monetary contribution over $2,000 within 10 days of a primary or general election must report the contribution to the Vermont Secretary of State within 24 hours of receiving the contribution. This is in addition to including the contribution on the next scheduled campaign finance disclosure report. 17 V.S.A. §2967

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 during the election cycle or have carried forward surplus, must file campaign finance disclosure forms with the Vermont Secretary of State on July 1 of each non-election year, and on the following dates in an election year March 15, July 1, August 1, September 1, October 1, October 15, the Friday before the election, and two weeks after the general election.

POLITICAL ACTION COMMITTEE (PAC) BASICS

Under Vermont law, a political action committee (PAC) is "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 accepts contributions of $1,000.00 or more and makes expenditures of $1,000.00 or more in any two-year general election cycle 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, and includes an independent expenditure-only political committee and a legislative leadership political committee." 17 V.S.A. §2901(13).

Any PAC that raises $1,000 or more and spends $1,000 or more within any two-year general election cycle must register with the Secretary of State and file all regularly required disclosure reports.

Vermont law requires that entities meeting the definition of a PAC under 17 V.S.A. §2901(13), except independent expenditure-only PACs, comply with all of Vermont's contribution limits. This includes both the limits on contributions to PACs and contributions by PACs.

Campaign Finance Reports for PACs:

PACs must file campaign finance reports under the schedule laid out above. The December 15th report is an "end of cycle report". If a PAC does not file a final report on or before December 15, then they must file an "end of cycle report" that lists a complete accounting of all contributions and expenditures since the last report. 17 V.S.A. § 2965(b).

Independent Expenditure-Only PACs:

Vermont law defines an Independent Expenditure-only PAC as "a political committee that conducts its activities entirely independent of candidates; does not give contributions to candidates, political committees, or political parties; does not make related expenditures; and is not closely related to a political party or to a political committee that makes contributions to candidates or makes related expenditures." 17 V.S.A. §2901(10)

Although the contribution limits do not apply to Independent Expenditure-only PACs, these PACs must register with the Secretary of State within 10 days of reaching the threshold and must file all regularly required disclosure reports.

Independent Expenditure-Only PACs Mass Media Reporting:

"IE-only" PACs are required to file the standard Mass Media reports for any Mass Media expenditures totaling $500 (is adjusted by the CPI every two years) or more made within 45 days of an election.

In addition, for any Mass Media expenditure made within 45 days of an election by an "IE-only PAC" that totals $5,110 or more, the "IE-only" PAC must file a Mass Media Report that includes all of the standard information required on those reports, as well as the names of the contributors, dates, and amounts for all contributions in excess of $100.00 accepted since the filing of the PAC's last disclosure report. 17 V.S.A. §2971(d)(1)

Legislative Leadership Political Action Committee- A legislative leadership PAC may not accept a political contribution – even if unsolicited – from a registered lobbyist, lobbying firm or registered lobbyist employer until adjournment sine die. A legislative leadership PAC means a political committee established by or on behalf of a political party caucus within a chamber of the General Assembly. A legislative leadership PAC must register as such when registering with the Secretary of State for campaign finance purposes.

Federal and Out-of-State PACs:

Any PAC that accepts contributions of $1,000.00 or more and makes expenditures of $1,000.00 or more in any two-year general election cycle must register with the Secretary of State, regardless of where the treasurer or principal place of business of the PAC or party is located. A PAC with a principal place of business outside of Vermont or whose treasurer is not located in Vermont must file a statement with the Secretary of State designating a person who resides in the state as the representative for the PAC. **Federal PACs no longer have the option of filing that portion of their FEC report that reflects their activity in Vermont.** Since Vermont law limits contributions to political committees (PACs) to $4,480 (2024 Election Cycle limit) or less in a two-year general election cycle, any political committee (PAC) that receives contributions greater than $4,480 is prohibited from making expenditures related to Vermont election campaigns unless it segregates compliant contributions for use in Vermont.

POLITICAL PARTY BASICS

What Constitutes a Single Unified Political Party

Vermont political parties are organized through the processes set out in Title 17, Chapter 45, describing the town caucus and selection of delegates to the county and state committees. A political party is a single, unified entity comprised of the party organized under chapter 45 and its subsidiaries, branches, and local units. The Secretary of State issued an explanation of this aspect of the law in 1999. See Letter in Appendix D.

The national affiliate of the political party is considered a separate political party for Vermont campaign finance purposes. 17 V.S.A. § 2901(14)

Limits on Contributions to Political Parties

Since the state, county, and local party committees are components of a single party entity, the political party must keep track of contributions it receives at all levels of the party. The limit on what an individual or PAC can contribute to a party applies to the aggregate of contributions made by that donor to all levels of the party from state committee down to the local level. For example, since the limit on contributions to a party from a single source or PAC is $11,180 (2024 Election Cycle), then a single donor who gives $5,590 to a county committee of a party may only give $5,590 to the state committee in that election cycle.

Similarly, a political party making a contribution to a PAC must also aggregate its donations together. For example, since the limit on contributions that a PAC may receive from a party is $4,480 per election cycle, if the state committee of a party has given $3,500 to that PAC, then a county committee of that party may only give $980 to the same PAC in that election cycle.

Campaign Finance Reports for Political Parties

Parties must file campaign finance reports under the schedule set out on page 2. A political party may permit any subsidiary, branch, or local unit of the party to maintain its own checking account and to file separate reports, but the party as a whole must comply with the contribution limits and reporting requirements. See 17 V.S.A. § 2923.

The requirement for reporting the name, town of residence, and mailing address of contributors is triggered when the donor contributes in excess of $100 in a general election cycle. Thus, party committees should account for all contributions, even those under $100, so that they know when a donor has passed the $100 threshold for reporting. Furthermore, since the state, county, and local party committees are all components of a single political party, they must report the names, town of residence, and mailing addresses of contributors once the person makes contributions in excess of $100 to any combination of the component party committees.

Political Party Activities That Support Candidates:

Many activities typically engaged in by political parties are exempt from the definition of "contribution" in 17 V.S.A. § 2901(4). See the list on page 3 above. When a political party undertakes exempt activities in support of a candidate, they do not count as contributions to the candidate. However, they still need to be reported as "expenditures" unless they fall within the exceptions to expenditures listed in 17 V.S.A. § 2901(7).

As long as a political party's activities are not facilitated, solicited, or approved by a candidate, a political party may make expenditures that substantially benefit more than six candidates and facilitate party functions, voter turnout, platform promotion, or organizational capacity without the expenditure being considered to be a "related expenditure" or "contribution" to a candidate. See Related Expenditure section below.

RELATED EXPENDITURES

A related campaign expenditure 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 committee. 17 V.S.A. §2944. Also see Administrative Rule 2000-1, Vermont Campaign Finance Law Regulation of Related Expenses which is included as Appendix A in this publication.

Related expenditures made on a candidate's behalf are considered a contribution to the candidate on whose behalf they are made. As such, a related expenditure will be counted toward the contribution limit to that candidate and is subject to the law's limits on contributions.

If candidates who have been nominated for the same office, are on the same ballot, and each candidate spends an equal amount on the electioneering communication, it is NOT a related expenditure and the candidate only needs to report the amount spent. 17 V.S.A. §2944(d)(2). In this situation, if more than one candidate split the cost of an electioneering communication equally, those costs are not considered contributions from one candidate to another. The full amount of the expenditure should be reported on any Mass Media report.

PACs and political parties must report related expenditures as contributions to candidates on their list of expenditures. Candidates must report related expenditures as contributions received by the candidate.

Please see 17 V.S.A. §2944 for detailed information on related expenditures, how they are valued, and exceptions thereto.

When a political party or a PAC that recruits or endorses candidates conducts an activity that primarily benefits six or fewer candidates associated with the party or PAC, the law will presume that the expenditure is related and count it as a contribution. The party or PAC can overcome this presumption by demonstrating that the expenditure was not facilitated, solicited, or approved by the candidates who benefited from it.

PENALTIES AND ENFORCEMENT

The Vermont Attorney General and the state's attorneys are given specific civil investigation authority if they have reason to believe any person has violated any provision of the campaign finance law. 17 V.S.A. §2904

A person who knowingly and intentionally violates a provision of sections 2921-2973 of Title 17 of the Vermont Statutes Annotated (related to filing campaign finance reports) will be fined not more than $1,000 or imprisoned not more than six months or both. 17 V.S.A. 2903(a)

A person who violates any provision of the campaign finance law shall be subject to a civil penalty of up to $10,000 for each violation. A candidate who violates the public financing provision of the law must refund to the Secretary of State an amount equivalent to any contributions or expenditures that violate 17 V.S.A. § 2983(b)(1)

PUBLIC FINANCING

Public financing is available to candidates for Governor or Lieutenant Governor only. 17 V.S.A. §2982(a)

To qualify for public financing, a candidate for governor or lieutenant governor must collect qualifying contributions during the period between February 15 and the fourth Thursday after the first Monday in May (the date on which primary petitions are due) of the general election year in which the candidate seeks public financing.

Qualifying Contributions:

- Qualifying contributions must be from a qualified individual contributor – a person registered to vote in Vermont.
- Only one qualifying contribution is allowed from the same contributor in the qualification period.
- No more than 25 percent of the total number of qualified contributors may be residents of the same county.
- Each qualifying contribution must indicate the name and town of residence of the contributor, date received, and must be acknowledged by the signature of the contributor.
- Qualifying contributions must be deposited in a federally insured noninterest bearing checking account.

Amount Of Qualifying Contributions Required:

For governor – a total amount of no less than $35,000 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than $50 each.

For Lieutenant Governor – a total amount of no less than $17,500 collected from no fewer than 750 qualified individual contributors making a contribution of no more than $50 each.

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.

Prohibited Activities of Publicly Financed Candidates:

A candidate is not eligible for public financing if he or she:

- Accepts contributions totaling $2,000 or more or spends $2,000 or more before February 15 of the general election year in which the candidate seeks public financing.
- Announces that he or she seeks an elected position as governor or lieutenant governor before February 15 of

the general election year in which the candidate seeks public financing.
- Is running in an uncontested general election.

A candidate who accepts public financing shall not solicit, accept, or spend any contributions except qualifying contributions and Vermont campaign finance grants, unless there is a shortfall in the Vermont campaign fund. 17 V.S.A. § 2983.

There are activities that volunteers and political parties may engage in without running afoul of this prohibition. Examples of these activities include services that are exempt from the definition of "contribution" in 17 V.S.A. § 2901(4) listed above on page 3.

Political parties may also support publicly financed candidates by conducting activities entirely independently from the candidate. However, when a publicly financed candidate intentionally facilitates, solicits, or approves a political party's expenditure, then the expenditure is considered a contribution to the candidate and is prohibited. See Related Expenditures section above.

Public Finance Grant Periods:

The primary election period begins the day after primary petitions must be filed (the fourth Thursday after the first Monday in May) and ends the day of the primary election (second Tuesday in August).
The general election period begins the day after the primary election and ends the day of the general election.

Public finance grant amounts:

Candidates for governor -	$150,000 for the primary election period. $450,000 for the general election period
Candidates for lieutenant governor -	$50,000 for the primary election period $150,000 for the general election period

Public finance grants for the primary election period will be paid to qualifying candidates within the first ten business days of the primary election period and public finance grants for the general election period will be paid to qualifying candidates within the first ten business days of the general election period.

Public finance grants for the primary election period will be reduced by the amount of the qualifying contributions received.

Remainder Of Public Finance Grants:

Not later than 40 days after the general election, and after all permissible expenditures have been paid, a qualifying candidate who has accepted public finance grants must deposit the balance of his or her campaign account in the Secretary of State Services Fund.

APPENDIX A

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.

APPENDIX B

Title 17, Chapter 61- Campaign Finance

Other Statutory References

As a reference aid, we are providing sections of the Vermont Annotated Statutes that may also affect certain candidates, political committees (PACs) or parties. These are included as an aid only.

TITLE 2, Chapter 11: Registration of Lobbyists

§ 266. Prohibited conduct

(a) It shall be prohibited conduct:

(1) to employ a lobbyist or lobbying firm, or accept employment as a lobbyist or lobbying firm, for compensation that is dependent on a contingency;

(2) for a legislator or administrative official to solicit a gift, other than a contribution, from a registered employer or registered lobbyist or a lobbying firm engaged by an employer, except that charitable contributions for nonprofit organizations qualified under 26 U.S.C. § 501(c)(3) may be solicited from registered employers and registered lobbyists or lobbying firms engaged by an employer; or

(3) when the General Assembly is in session, until adjournment sine die:

(A) for a legislator, a legislator's candidate's committee, a legislative leadership political committee, or an administrative official to solicit a contribution from a registered lobbyist, a registered employer, or a lobbying firm engaged by an employer; or

(B) for a registered lobbyist, registered employer, or a lobbying firm engaged by an employer to make or promise a contribution to a legislator, a legislator's candidate's committee, or a legislative leadership political committee.

(b)(1) A legislator or an Executive officer, for one year after leaving office, shall not be a lobbyist in this State.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to a lobbyist exempted under section 262 of this chapter.

(c) As used in this section:

(1) "Candidate's committee," "contribution," and "legislative leadership political committee" shall have the same meanings as in 17 V.S.A. chapter 61 (campaign finance).

(2) "Executive officer" means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

TITLE 4, Chapter 15: Judicial Nominations and Appointments

§ 605. Political activity by judges prohibited

Superior and district judges shall not make any contribution to or hold any office in a political party or organization or take part in any political campaign.

TITLE 13, Chapter 51; Gambling and Lotteries

§ 2143a. Political parties

Notwithstanding the provisions of this chapter, a political party, organized under chapter 45 of Title 17, may organize and execute, and an individual may participate in raffles, the proceeds of which are to be used in undertakings consistent with the purpose of political parties.

TITLE 32: Taxation and Finance, Chapter 3: Fiscal Officers and Commissions

§ 109. Solicitations and contributions prohibited

(a) As used in this section:

(1) "Firm" means any person or entity that provides investment services and includes the owner of the firm, excluding those shareholders owning less than one percent holdings in the firm's outstanding shares, and all managers, officers, directors, partners or employees who have managerial or discretionary responsibility to invest funds, manage funds or provide investment services.

(2) "Investment services" means legal services, investment banking services, investment advisory services, underwriting services, financial advisory services or brokerage firm services for brokerage, underwriting and financial advisory activities which are within the statutory purview of the treasurer.

(3) "Treasurer" means the treasurer of the state of Vermont.

(b) A firm that currently has a contract with the state treasurer or a political committee established by that firm shall not make a contribution to, or solicit contributions on behalf of, a candidate for the office of treasurer. A violation of this subsection shall be considered a material breach and a default by the firm of any contract issued to it by the treasurer. Upon the occurrence of such a material breach and default, the treasurer shall notify the firm of the state's intention to terminate the firm's contract. The treasurer shall forthwith seek to reissue the contract to another person or entity in accordance with existing law and procedures. This subsection shall not preclude the payment of compensation, expenses or fees to a firm that has violated this subsection regarding work performed or expenses incurred prior to the date the contract is terminated.

(c) The treasurer shall not enter into any contract with any firm if the firm or a political committee established by that firm has made a contribution or solicited contributions on behalf of a candidate for the office of treasurer after July 1, 1997 and within five years of the date of

APPENDIX C

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State of Vermont
Office of the Secretary of State

May 18, 1999

Mark F. Michaud
Executive Director
Vermont Democratic Party
P.O.Box 1220
Montpelier, VT 05601-1220

Re: Treatment of Party County and Town Committees

Dear Mr. Michaud:

This letter is in response to your request of April 26, 1999, as supplemented by your letter of May 3, 1999, for an advisory opinion regarding the treatment of Vermont Democratic Party town and county committees under 17 V.S.A. Chapter 59, Campaign Finance. Specifically, your question is whether contributions and expenditures by Vermont Democratic Party town and county committees should be attributed to the contribution and expenditure limits which are applicable to the Vermont Democratic Party. The Vermont Democratic Party is a political party organized under 17 V.S.A. Chapter 45, Political Parties.

A. Summary of Preliminary Opinion

As explained below, it is my preliminary opinion that, pursuant to 17 V.S.A. § 2801(5), the town and county committees (a) are established by the Vermont Democratic Party; and (b) are a subsidiary, branch and local unit of the Vermont Democratic Party. As either a committee established by the party, or as a subsidiary, branch or local unit of the party, the Vermont Democratic Party, and its town and county committees, constitute a single political party for purposes of Chapter 59. Under 17 V.S.A. § 2801(5), "Political party" is defined as "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." As a single political party, the contribution and expenditure limitations in Chapter 59 are applicable to the Vermont Democratic Party regardless of whether the actual contribution or expenditure is made by a town or county committee, or the state committee of the Vermont Democratic Party.

This opinion is preliminary to the extent that the Vermont Democratic Party can present sufficient documentation to establish that (a) county and town committees are not established, financed, maintained or controlled by the party; and (b) are not a subsidiary, branch, or local unit of the party. This preliminary opinion is based upon both an analysis of Chapter 45, as well as

my review of the Vermont State Democratic Party Certification of Organization of State Committee filed with the Secretary of State on December 17, 1997, including the attached copy of the Vermont Democratic State Committee By-Laws.

This opinion letter solely addresses whether the town and county committees are established by the party, and whether they are a subsidiary, branch or local unit of the party. For purposes of this opinion, I have assumed that the town and county committees are not financed, maintained or controlled by the Vermont Democratic Party. While your letter addresses these issues, substantial fact finding would be necessary to affirmatively establish that the Vermont Democratic Party town and county committees are not financed, maintained or controlled by the state committee of the Vermont Democratic Party. Because this preliminary opinion letter does not address these issues, they remain open and unanswered.

B. Statutory Analysis of 17 V.S.A. Chapter 45

As defined in 17 V.S.A. § 2801(5), a political party is an entity that is organized under Chapter 45. Therefore, whether the town or county committees of the Vermont Democratic Party (a) are established by the party, or (b) are a subsidiary, branch or local unit of the party, depends, in part, upon an analysis of Chapter 45.

The organization of a major political party is done under the authority of 17 V.S.A. Chapter 45. The first section in Chapter 45, 17 V.S.A. § 2301, provides as follows:

> A major political party shall organize biennially as provided in this chapter. No person acting on behalf of a major political party shall accept any contribution or make any expenditure (except for the purpose of organizing under this chapter) unless the party has a current certificate of organization on file with the secretary of state.

This provision makes clear that, ultimately, it is the "major political party" which is organized under Chapter 45. While Chapter 45 requires that town and county committees be organized as part of the process, it is the Vermont Democratic Party which certifies to the Secretary of State that the Party has organized in compliance with Chapter 45. The remainder of Chapter 45 sets forth a statutorily mandated three-step certification process.

The first step is for a party's chair to "set a date members of the *party* [are] to meet in caucus in their respective towns." 17 V.S.A. § 2302. (Emphasis added.) When a town caucus convenes, it is a meeting of persons who are members of the party.

> At the time and place set for the town caucus, the voters of the party residing in the town shall meet in caucus and proceed to elect a town committee, consisting of such number of voters of the town

> as the caucus deems necessary, to serve during the following two years or until their successors are elected or appointed.

17 V.S.A. § 2304(a).

The town committee's on-going existence is subject to the convening of the party caucus, regardless of whether it is done pursuant to § 2304 as described above, or, alternatively, pursuant to § 2306. In fact, the first meeting of the town committee is statutorily required to be "immediately following adjournment of the caucus." 17 V.S.A. § 2305. If no caucus is held, then there can be no town committee.

Even where a caucus is held and a town committee is created, it is not considered "organized" until it has complied with 17 V.S.A. § 2307. Part of complying with this section is the provision of certain documentation and information to a party's state chair. Implicit in this requirement is the authority of the state chair to deem the town committee as not having been "organized" for failure to comply with this section, or to deem a town committee's county delegate as being without authority due to the town committee's failure to comply with this section.

At the first meeting of the town committee, a town committee elects delegates to the county committee.

> The number of delegates to the county committee which each town caucus is entitled to elect shall be apportioned by the state committee, based upon the number of votes cast for the party's candidate for governor in the last election, provided that each town caucus shall be entitled to elect at least two delegates.

17 V.S.A. § 2308.

This provision illustrates that it is the state committee that dictates to the town committee how the town committee will go about conducting one of its statutorily required functions. It is the state committee, subject to the apportionment requirement, that determines how many delegates a town committee elects to a county committee.

The election of county delegates sets the stage for the commencement of the second step in the organization process. Under 17 V.S.A. § 2309, the second step commences when the chairman of the state committee sets "a date, not more than 30 days after the date of the *party's* caucuses, for the first meeting of each county committee." (Emphasis added.) The state chairman is responsible for notifying the county committee chairs of the meeting date, and for publishing the statutorily required newspaper notices.

When the county committees convene, the delegates elect their officers and perfect an organization for the ensuing two years. The county committees are each authorized to elect two additional members to the state committee in addition to each committee's chair. However, "[i]f the rules or bylaws of a state committee provide for apportionment of additional members of the state committee to come from the county, the county committee also shall elect those additional members." 17 V.S.A. § 2310. This provision illustrates how the state committee may dictate to the county committee how the county committee goes about one of its statutorily required functions.

The county committees, just like the town committees under 17 V.S.A. § 2307, are not considered "organized" until they comply with the requirements of 17 V.S.A. § 2311. The same duties and authority conferred upon the state chair in 17 V.S.A. § 2307 are once again conferred on the state chair in 17 V.S.A. § 2311.

The third and final step in the party organization process commences with the first meeting of the state committee. The date, time, and place of this meeting is set by the state committee chair. Within 10 days after the first state committee meeting, the party chair and secretary must file a certificate with the Secretary of State stating that the party has completed its organization for the ensuing two years and has substantially complied with Chapter 45. Therefore, a chair's certification is a representation that "[e]very committee of *a political party*" has elected a chair. 17 V.S.A. § 2314 (Emphasis added.) The certificate of organization designates, in not more than three words, "the name by which *the party* shall be identified on any Australian ballot ..." 17 V.S.A. § 2313. (Emphasis added.)

Based on Chapter 45, a political party is organized as a result of the three step process. At each step of the process, the state chair is required to perform certain functions to initiate the process. All three steps of the process are geared to achieve one end: the organization of a political party. The town and county committees of the Vermont Democratic Party have an existence only if the end result is the organization of the Vermont Democratic Party. At each level, the state committee is authorized to dictate how the town and county committees will go about accomplishing a statutorily required obligation. Therefore, the issue becomes does the three-step organization process result in the town and county committees being "established" by the Vermont Democratic Party state committee.

C. Establishment of Town and County Committees by Vermont Democratic Party

There is no definition of the word "established" in 17 V.S.A. § 2801(5). Other jurisdictions have defined establish as "to make stable or firm; to fix in permanence and regularity, to settle or secure on a firm basis, to settle firmly or to fix unalterably," (Wells Lamont Corporation v. Bowles, 149 F.2d 364, 366 (1945), accord, Petrovich v. City of Arcadia, 36 Cal.2d 78, 87, 222 P.2d 231, 238 (1950) (dissenting opinion)), or "to fix, settle, institute, or ordain permanently--to set up on a secure basis, to render stable or firm." J. Van Scyoc v. Roth,

2 Ohio Misc. 155, 163, 205 N.E.2d 617, 623 (1964). The application of this definition to the organization process authorized by Chapter 45 results in the conclusion that the town and county committees are established by the state committee of the Vermont Democratic Party. In other words, the organization of the town and county committees is the equivalent of their being established by the party.

As further support for this conclusion one need not look any further than the Vermont Democratic State Committee By-Laws filed on December 17, 1997 with the Secretary of State's Office ("By-laws").

The By-laws require under Article II, subsection 4, that "[a]ll public meetings at *all levels* of the Democratic Party shall be open to all members of the Democratic Party of Vermont." In subsection 5 of Article II, the By-laws provide that "[t]he Democratic Party of Vermont, on *all levels*, shall encourage and support the broadest possible voter registration, without discrimination." (Emphasis added.)

The By-laws, in subsection 6 of Article II, twice use the phrase "all levels" in setting forth notice and publication procedures for selection of Democratic Party officers and representatives. In addition, subsection 8 of Article II provides, in part, that any registered voter older than 18 years of age who supports the purposes of the Vermont Democratic Party "may participate fully in all party caucuses and is eligible to be elected to *any* party office, a delegate to *any* convention, a member of *any* committee of the Vermont Democratic Party at *any* level of jurisdiction within the state."

Other provisions in the By-laws which govern the conduct of the town or county committees include Article VI (county committee cannot control how county members of state committee vote); Article XV (immediate government and direction of the affairs of the Vermont Democratic Party are vested in the State Committee including requirement that members from each county promptly respond to the state chair); and Article XXI (vacancy in state committee shall be filled from county in which the vacancy occurs by vote of the county committee).

These provisions of the By-laws support the conclusion that the town and county committees are established by the Vermont Democratic Party. These provisions regulate, to a greater or lesser extent, how the town and county committees go about performing certain duties. Moreover, these provisions indicate that the state committee has the *authority* to regulate the town and county committees. The exercise of this authority is conclusive proof that the town and county committees are established by the state committee for purposes of Chapter 59.

D. Town and County Committees as a Subsidiary, Branch, or Local Unit of the Party

As noted, "political party" means "a political party organized under chapter 45 of [Title 17] 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."

By definition, a political party includes any subsidiary, branch or local unit thereof. Therefore, even if the town and county committees are not "established" by the party, it still must be determined for purposes of Chapter 59 whether the town or county committees are a "subsidiary, branch or local unit" of the party.

As defined in Black's Law Dictionary, Fifth Edition: (i) "Subsidiary" means under another's control; (ii) "Branch" means an offshoot, lateral extension, or subdivision; any member or part of a body (e.g. executive branch of government), or system; a department; division, office, or other unit of business located at a different location from main office or headquarters; (iii) "Local" means relating to place, expressive of place; belonging or confined to a particular place; and (iv) "Unit" means a single thing of any kind.

Based on these definitions, and in light of Chapter 45 and the By-laws of the Vermont Democratic Party, the town and county committees are a subsidiary, branch, and local unit of the Vermont Democratic Party. As either a subsidiary, branch, or local unit, under Chapter 59, the town and county committees are subject to all of the restrictions and obligations which Chapter 59 imposes on the state committee of the Vermont Democratic Party.

For example, under the contribution limitation in 17 V.S.A. § 2805(a), a candidate for state representative cannot accept a contribution in excess of $200 from a political party. This means that a candidate could accept no more than $200 in aggregate from Vermont Democratic Party town, county, and state committees since all of these committees constitute a single political party under 17 V.S.A. § 2801(5). Conversely, under the contribution limitation in 17 V.S.A. § 2805(b), the Vermont Democratic Party town, county, and state committees cannot contribute, in aggregate, in excess of $200 to a candidate for state representative. This means that the town, county, and state committees of a political party will be required to coordinate their contributions so that the limitations in 17 V.S.A. § 2805 are not violated. Likewise, candidates will need to be vigilant that they do not accept contributions from the various committees in excess of the aggregate limitation.

E. Legislative Intent of Act 64

The conclusion that the contribution limitation in 17 V.S.A. § 2805(b) is vertically

integrated such that it applies to all committees of the Vermont Democratic Party is consistent with the legislative intent of Act 64. The Legislative Findings and Intent to Act 64 state, in part:

> (a) The General Assembly finds that:
>
> ***
>
> (2) Some candidates and elected officials, particularly when time is limited, respond and give access to contributors who make large contributions in preference to those who make small or no contributions.
>
> (3) In the context of Vermont, contributions larger than the amounts specified in this act are considered by the legislature, candidates and elected officials to be large contributions.
>
> ***
>
> (6) In the context of Vermont, contributions scaled in proportion to the size of the electoral district of the office and up to the amounts specified in this act adequately allow contributors to express their opinions, level of support and their affiliations.
>
> (7) In the context of Vermont, candidates can raise sufficient monies to fund effective campaigns from contributions no larger than the amounts specified in this act.
>
> ***
>
> (8) Limiting large contributions, particularly from out-of-state political committees or corporations, and limiting campaign expenditures will encourage direct and small group contact between candidates and the electorate and will encourage the personal involvement of a large number of citizens in campaigns, both of which are crucial to public confidence and the robust debate of issues.

Act No. 64, Sec. 1, 1997.

These statements of intent have been implemented by the contribution and expenditure limitations contained in 17 V.S.A. §§ 2805 and 2805a.

Under these provisions, a political party can only make a single $200 contribution to a candidate for state representative. If town and county committees were not counted as part of a single major party, then a candidate for state representative could receive a $200 contribution from *every* town committee, and *every* county committee subject only to the campaign contribution and expenditure limitations in 17 V.S.A. §§ 2805 and 2805a. Even if a non-incumbent state representative candidate received a $200 contribution only from that candidate's

town and county committees, and from the state committee, then the $600 in total contributions would be 30% of the $2,000 a candidate for state representative in a single-member district may spend, and 20% of the $3,000 a candidate for state representative in a two-member district may spend. (These percentages rise to 33% and 22% if the candidate is an incumbent.)

It is contrary to the intent of Act 64 for a state representative candidate to raise this much money on a percentage basis, without ever having spoken to a voter, by simply opening up an envelope from the town, county and state committees. It would also be contrary to the intent of Act 64 if wealthy town and county committees heavily funded state representative candidates from areas with less wealthy town and county committees, or none at all. The same principles hold true for candidates for state senate.

It should be kept in mind that Act 64 did not in any way amend or alter the definition of "Political party" set forth in 17 V.S.A. § 2801(5). In fact, the last time the definition was amended was back in July of 1988 when the phrase "and including national or regional affiliates of the party" was added to the definition. Instead, the significance of Act 64 is that for the first time in Vermont law, political parties are now subject to contribution and expenditure limitations. In the past, only candidates and political committees were subject to contributions limitations, and there were no restrictions on expenditures. Accordingly, it would be contrary to the intent of Act 64 to treat a major political party's town and county committees as distinct from the party's state committee. Such a treatment would thwart the contribution and expenditure limitations imposed by Act 64.

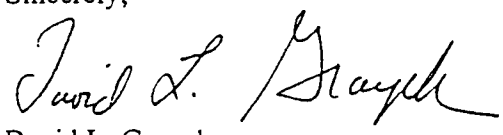
F. Summary

In summary, it is my preliminary opinion that, pursuant to 17 V.S.A. § 2801(5), the town and county committees (a) are established by the Vermont Democratic Party; and (b) are a subsidiary, branch and local unit of the Vermont Democratic Party. As either a committee established by the party, or as a subsidiary, branch or local unit of the party, the Vermont Democratic Party, and its town and county committees, constitute a single political party for purposes of Chapter 59. As a single political party, the contribution and expenditure limitations in Chapter 59 are applicable to the Vermont Democratic Party regardless of whether the actual contribution or expenditure is made by a town or county committee, or the state committee of the Vermont Democratic Party.

Assistant Attorney General Michael McShane has reviewed this advisory opinion on behalf of the Office of the Attorney General, and that office concurs with this advisory opinion.

If you have any questions, please contact me at (802) 828-2175.

Sincerely,



David L. Grayck
Deputy Secretary

cc: Michael McShane, Esq.
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