STATE OF COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290

Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

Notice of Temporary Adoption

Office of the Secretary of State
Rules Concerning Campaign and Political Finance
8 CCR 1505-6

August 7, 2012

I. Adopted Rule Amendments

As authorized by the Colorado Constitution[1], Colorado campaign finance law[2], and the State Administrative Procedure Act[3], the Colorado Secretary of State gives notice that the following amendments to rules concerning campaign and political finance[4] are adopted on a temporary basis and immediately effective.

(Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. *Annotations* may be included):

Amendments to Rule 3.1:

3.1 Political committees and small donor committees shall not make contributions to issue committees ~~or other political committees~~, except to the extent that a contribution is for the purchase of event tickets, merchandise, or services. [Article XXVIII, Section 2(12)(a)]

Amendments to Rule 7.1.1(e):

(e) Deposit Federal PAC funds into a separate account that is used for the Federal PAC exclusively, in accordance with Article XXVIII, Section 3(9) and Rule ~~4.18~~ 10.11. The Federal PAC may, but is not required to, segregate funds intended to support or oppose state or local candidates in Colorado.

II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

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[1] Article XXVIII, Section 9(1)(b) of the Colorado Constitution.
[2] Article 45 of Title 1, C.R.S. (2011).
[3] Section 24-4-103, C.R.S. (2011).
[4] 8 CCR 1505-6.

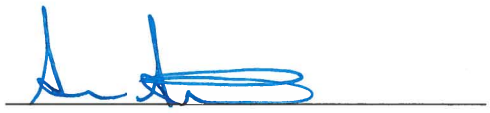
III. Statement of Justification and Reasons for Adoption of Temporary Rules

A statement of the Secretary of State's findings to justify the immediate adoption of the amended rules on a temporary basis follows this notice and is incorporated by reference.[5]

IV. Effective Date of Adopted Rules

The amended rules are immediately effective on a temporary basis.

Dated this 7th day of August, 2012,



Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

[5] Section 24-4-103(6), C.R.S. (2011).

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Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State
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I. Basis and Purpose

This statement is about proposed amendments to the Colorado Secretary of State Rules Concerning Campaign and Political Finance.[1] The amendments are intended to achieve the uniform and proper administration and enforcement of Colorado campaign and political finance laws.[2] Given that there is no constitutional or statutory basis to restrict contributions from one political committee or small donor committee to another political committee, amendments to Rule 3.1 remove language prohibiting such contributions. Current Rule 7.1.1(e) cross-references Rule 4.18. During recodification, however, former Rule 4.18 was amended and adopted as New Rule 10.11 on February 22, 2012. Amendments to Rule 7.1.1(e) correct the cross-reference.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Article XXVIII, Section 3(13) of the Colorado Constitution, which states that the Secretary of State "shall calculate…an adjustment in each [contribution] limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S."

2. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to "[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution]."

3. Section 1-1-107(2)(a), C.R.S., (2011), which authorizes the Secretary of State "[t]o promulgate, publish, and distribute…such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws."

[1] 8 CCR 1505-6.
[2] Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes.

4. Section 1-45-111.5(1), C.R.S., (2011), which requires the Secretary of State to "promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.]."

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Statement of Justification and Reasons for Adoption of Temporary Rules

Office of the Secretary of State
Rules Concerning Campaign and Political Finance
8 CCR 1505-6

August 7, 2012

Amended Rules: 3.1 and 7.1.1(e)

In accordance with Colorado campaign and political finance laws,[1] the Secretary of State finds that certain amendments to the existing campaign and political finance rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado campaign and political finance laws during the 2012 election cycle. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally.

Given that there is no constitutional or statutory basis to restrict contributions from one political committee or small donor committee to another political committee, the rule amendment removes language prohibiting such contributions. Additionally, current Rule 7.1.1(e) cross-references Rule 4.18, however, the Secretary of State recodified that rule as New Rule 10.11 on February 22, 2012. Amendments to Rule 7.1.1(e) correct the cross-reference. Adoption of the rules on a temporary basis is necessary to provide clear guidance to interested parties, including, but not limited to: county clerks, candidates, political parties, political organizations, and committees, given the close proximity of the November 2012 General Election. Concurrently with this notice, the Secretary of State is issuing a notice of proposed rulemaking in accordance with the State Administrative Procedure Act[2] to consider permanent adoption of the amended rule.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.[3]

[1] Article XXVIII, Section 9(1)(b), of the Colorado Constitution and section 1-45-111.5(1), C.R.S. (2011).
[2] Section 24-4-103(3)(a), C.R.S. (2011).
[3] Section 24-4-103(3)(6), C.R.S. (2011).

STATE OF COLORADO
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Scott Gessler
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Notice of Proposed Rulemaking

Office of the Secretary of State
Rules Concerning Campaign and Political Finance
8 CCR 1505-6

August 7, 2012

I. Notice of hearing

As required by the State Administrative Procedure Act,[1] the Secretary of State gives notice of proposed rulemaking. A hearing is scheduled for **September 18, 2012 from 1:00 p.m. to 4:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

II. Subject of the proposed rulemaking

The Secretary is considering amendments to the rules concerning campaign and political finance[2] in order to improve the administration and enforcement of Colorado campaign finance law.[3] Specifically, the rulemaking includes permanent adoption of temporary amendments to Rule 3.1, concerning political committee and small donor committee contributions to political committees, and technical revisions to Rule 7.1.1(e). A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory authority for proposed rulemaking

The rule revisions and amendments are proposed in accordance with the following statutory provisions:

1. Article XXVIII, Section 3(13) of the Colorado Constitution, which states that the Secretary of State "shall calculate…an adjustment in each [contribution] limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S."

2. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to "[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution]."

[1] Section 24-4-103(3)(a), C.R.S. (2011).
[2] 8 CCR 1505-CCR 6.
[3] Article 45 of Title 1, C.R.S. (2011).

3. Section 1-1-107(2)(a), C.R.S., (2011), which authorizes the Secretary of State "[t]o promulgate, publish, and distribute…such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws."

4. Section 1-45-111.5(1), C.R.S., (2011), which requires the Secretary of State to "promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.]."

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State's rules and notices of rulemaking website at:
www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearingCPF20120918.html.
You may also contact our office to request a paper or editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,[4] if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 26th, 2012.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process, and we would very much like to hear your thoughts on the proposed re-codification. Please review and consider the attached proposed draft rules.

All interested persons will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office anytime before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearingCPF20120918.html. Prior to posting online, contact information including home address, email address, and telephone number(s) will be redacted from submissions unless otherwise directed by the contributor.

VI. Broadcast and audio recording of hearing

If you are unable to attend the hearing, you may listen to the live broadcast from the Aspen Conference Room online at www.sos.state.co.us/pubs/info_center/audioBroadcasts.html. After the hearing, visit the same website and click on "archived recordings" to access an audio recording of the hearing.

VII. Office contact

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[4] Section 24-4-103(3)(a), C.R.S. (2011). "Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing…shall be made available to any person at least five days prior to said hearing."

If you have any questions or would like to submit written comments, please email SoS.Rulemaking@sos.state.co.us. You may also contact Andrea Gyger with the Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 7th Day of August, 2012.

Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

STATE OF COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290

Scott Gessler
Secretary of State

Suzanne Staiert
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Draft Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State
Rules Concerning Campaign and Political Finance
8 CCR 1505-6

August 7, 2012

I. Basis and Purpose

This statement is about proposed amendments to the Colorado Secretary of State Rules Concerning Campaign and Political Finance.[1] The amendments are intended to achieve the uniform and proper administration and enforcement of Colorado campaign and political finance laws.[2] Given that there is no constitutional or statutory basis to restrict contributions from one political committee or small donor committee to another political committee, amendments to Rule 3.1 remove language prohibiting such contributions. Current Rule 7.1.1(e) cross-references Rule 4.18. During recodification, however, former Rule 4.18 was amended and adopted as New Rule 10.11 on February 22, 2012. Amendments to Rule 7.1.1(e) correct the cross-reference.

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3. Section 1-1-107(2)(a), C.R.S., (2011), which authorizes the Secretary of State "[t]o promulgate, publish, and distribute…such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws."

[1] 8 CCR 1505-6.
[2] Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes.

4. Section 1-45-111.5(1), C.R.S., (2011), which requires the Secretary of State to "promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.]."

Preliminary Draft of Proposed Rules

Office of the Colorado Secretary of State
Rules Concerning Campaign and Political Finance
8 CCR 1505-6

August 7, 2012

Disclaimer:
In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.[1]

This is a preliminary draft of the proposed rules that may be revised before the September 18, 2012 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **September 13, 2012**.[2]

Proposed additions to the current rules are reflected in SMALL CAPS.
Proposed deletions from current rules are shown in ~~stricken type~~.
(Annotations) may be included.

Amendments to Rule 3.1:

3.1 Political committees and small donor committees shall not make contributions to issue committees~~ or other political committees~~, except to the extent that a contribution is for the purchase of event tickets, merchandise, or services. [Article XXVIII, Section 2(12)(a)]

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[1] Sections 24-4-103(2.5) and (3)(a), C.R.S. (2011). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.
[2] Section 24-4-103(4)(a), C.R.S. (2011). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing…shall be made available to any person at least five days prior to said hearing."