S T A T E  O F  N E W  Y O R K

1552

2011-2012 Regular Sessions

I N  S E N A T E

January 10, 2011

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to a state board of elections enforcement unit and counsel, personal use of campaign funds, filing requirements, political communication, independent expenditure reporting, enforcement proceeding and penalties for violations; and to repeal certain provisions of such law relating to filing of statements

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as "The Campaign Finance Enforcement Act of 2010."

S 1-a. Subdivision 3 of section 3-100 of the election law, as amended by chapter 220 of the laws of 2005, is amended to read as follows:

3. The commissioners of the state board of elections shall have no other public employment. The commissioners shall receive an annual salary of twenty-five thousand dollars, within the amounts made available therefor by appropriation. The board shall, for the purposes of sections seventy-three and seventy-four of the public officers law, be a "state agency", and such commissioners shall be "officers" of the state board of elections for the purposes of such sections. Within the amounts made available by appropriation therefor, the state board of elections shall appoint two co-executive directors, [counsel] AN ENFORCEMENT COUNSEL, A DEPUTY ENFORCEMENT COUNSEL, WHO SHALL BE A MEMBER OF A DIFFERENT MAJOR POLITICAL PARTY THAN THE ENFORCEMENT COUNSEL, A SPECIAL COUNSEL, A DEPUTY SPECIAL COUNSEL, WHO SHALL BE A MEMBER OF A DIFFERENT MAJOR POLITICAL PARTY THAN THE SPECIAL COUNSEL, A DIRECTOR OF ELECTION OPERATIONS, A DEPUTY DIRECTOR OF ELECTION OPERATIONS, WHO SHALL BE A MEMBER OF A DIFFERENT MAJOR POLITICAL PARTY THAN THE DIRECTOR OF ELECTION OPERATIONS, A DIRECTOR OF PUBLIC INFORMATION, A DEPUTY DIRECTOR OF PUBLIC INFORMATION, WHO SHALL BE A MEMBER OF A DIFFERENT MAJOR POLITICAL PARTY THAN THE DIRECTOR OF PUBLIC INFORMATION and such other staff members as are necessary in the exercise of its functions, and may fix their compensation. [Anytime after the effective date of the chapter of the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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laws of two thousand five which amended this subdivision, the] THE commissioners or, in the case of a vacancy on the board, the commissioner of each of the major political parties shall appoint one co-executive director. Each co-executive director shall serve a term of four years. THE ENFORCEMENT COUNSEL AND THE SPECIAL COUNSEL SHALL EACH SERVE A TERM OF FOUR YEARS AND MAY ONLY BE REMOVED FOR CAUSE. ANY TIME AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND ELEVEN AMENDING THIS SUBDIVISION, THE COMMISSIONERS, OR IN THE CASE OF A VACANCY ON THE BOARD, THE COMMISSIONER, OF EACH OF THE SAME MAJOR POLITICAL PARTY AS THE INCUMBENT ENFORCEMENT COUNSEL, DEPUTY ENFORCEMENT COUNSEL, SPECIAL COUNSEL, DEPUTY SPECIAL COUNSEL, DIRECTOR OF ELECTION OPERATIONS, DEPUTY DIRECTOR OF ELECTION OPERATIONS, DIRECTOR OF PUBLIC INFORMATION AND DEPUTY DIRECTOR OF PUBLIC INFORMATION, SHALL APPOINT SUCH COUNSELS, DIRECTORS AND DEPUTIES. Any vacancy in the office of co-executive director, ENFORCEMENT COUNSEL, DEPUTY ENFORCEMENT COUNSEL, SPECIAL COUNSEL, DEPUTY SPECIAL COUNSEL, DIRECTOR OF ELECTION OPERATIONS, DEPUTY DIRECTOR OF ELECTION OPERATIONS, DIRECTOR OF PUBLIC INFORMATION AND DEPUTY DIRECTOR OF PUBLIC INFORMATION, shall be filled by the commissioners or, in the case of a vacancy on the board, the commissioner of the same major political party as the vacating incumbent for the remaining period of the term of such vacating incumbent, FOR THE REMAINING PERIOD OF THE TERM OF SUCH VACATING INCUMBENT.

S 2. Subdivision 3, paragraph (c) of subdivision 9-A and subdivision 17 of section 3-102 of the election law, subdivisions 3 and 17 as amended by chapter 9 of the laws of 1978, paragraph (c) of subdivision 9-A as added by chapter 430 of the laws of 1997 and subdivision 17 as renumbered by chapter 23 of the laws of 2005, are amended to read as follows:

3. conduct any investigation necessary to carry out the provisions of this chapter, PROVIDED, HOWEVER, THAT THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL, ESTABLISHED PURSUANT TO SECTION 3-104 OF THIS ARTICLE, SHALL CONDUCT ANY INVESTIGATION NECESSARY TO ENFORCE THE PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER ON BEHALF OF THE BOARD OF ELECTIONS;

(c) establish [a] AN EDUCATIONAL AND training program on ALL REPORTING REQUIREMENTS INCLUDING BUT NOT LIMITED TO the electronic reporting process and make it EASILY AND READILY available to any such candidate or committee AND NOTIFY ANY SUCH CANDIDATE OR COMMITTEE OF THE AVAILABILITY OF THE MOST RECENT CAMPAIGN FINANCE HANDBOOK;

17. HEAR AND CONSIDER THE RECOMMENDATIONS OF THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL REGARDING THE ENFORCEMENT OF VIOLATIONS OF ARTICLE FOURTEEN OF THIS CHAPTER;

18. perform such other acts as may be necessary to carry out the purposes of this chapter.

S 3. Section 3-104 of the election law, subdivisions 1, 3, 4 and 5 as redesignated and subdivision 2 as amended by chapter 9 of the laws of 1978, is amended to read as follows:

S 3-104. State board of elections AND THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL; enforcement powers. 1. (A) THERE SHALL BE A UNIT KNOWN AS THE STATE BOARD OF ELECTIONS ENFORCEMENT UNIT ESTABLISHED WITHIN THE STATE BOARD OF ELECTIONS. THE HEAD OF SUCH UNIT SHALL BE THE ENFORCEMENT COUNSEL.

(B) The state board of elections shall have jurisdiction of, and be responsible for, the execution and enforcement of the provisions of [article fourteen of this chapter and other] statutes governing campaigns, elections and related procedures; PROVIDED HOWEVER THAT THE ENFORCEMENT COUNSEL SHALL HAVE SOLE AUTHORITY WITHIN THE STATE BOARD OF

ELECTIONS TO INVESTIGATE ON HIS OR HER OWN INITIATIVE OR UPON COMPLAINT, ALLEGED VIOLATIONS OF ARTICLE FOURTEEN OF THIS CHAPTER AND ALL COMPLAINTS ALLEGING ARTICLE FOURTEEN VIOLATIONS SHALL BE FORWARDED TO THE ENFORCEMENT UNIT. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DIMINISH OR ALTER THE STATE BOARD OF ELECTIONS' JURISDICTION PURSUANT TO THIS CHAPTER.

2. (A) Whenever [the state board of elections or other] A LOCAL board of elections shall determine, on its own initiative or upon complaint, or otherwise, that there is substantial reason to believe a violation of this chapter or any code or regulation promulgated thereunder has [occurred] BEEN COMMITTED BY A CANDIDATE OR POLITICAL COMMITTEE THAT FILES STATEMENTS REQUIRED BY ARTICLE FOURTEEN OF THIS CHAPTER SOLELY WITH SUCH LOCAL BOARD, it shall expeditiously make an investigation which shall also include investigation of reports and statements made or failed to be made by the complainant and any political committee supporting his candidacy if the complainant is a candidate or, if the complaint was made by an officer or member of a political committee, of reports and statements made or failed to be made by such political committee and any candidates supported by it. [The state board of elections, in lieu of making such an investigation, may direct the appropriate board of elections to make an investigation.]

(B) The state board of elections may request, and shall receive, the assistance of the state police in any investigation it shall conduct.

[3. If, after an investigation, the state or other board of elections finds reasonable cause to believe that a violation warranting criminal prosecution has taken place, it shall forthwith refer the matter to the district attorney of the appropriate county and shall make available to such district attorney all relevant papers, documents, testimony and findings relevant to its investigation.

4. The state or other board of elections may, where appropriate, commence a judicial proceeding with respect to the filing or failure to file any statement of receipts, expenditures, or contributions, under the provisions of this chapter, and the state board of elections may direct the appropriate other board of elections to commence such proceeding.

5.] 3. IF THE ENFORCEMENT COUNSEL DETERMINES THAT A VIOLATION OF SUBDIVISION ONE OF SECTION 14-126 OF THIS CHAPTER HAS OCCURRED WHICH COULD WARRANT A CIVIL PENALTY, THE ENFORCEMENT COUNSEL SHALL, UPON HIS OR HER DISCRETION, SEEK TO RESOLVE THE MATTER EXTRA-JUDICIALLY OR COMMENCE A SPECIAL PROCEEDING IN THE SUPREME COURT PURSUANT TO SECTION 16-114 OF THIS CHAPTER.

4. UPON RECEIPT OF A COMPLAINT AND SUPPORTING INFORMATION ALLEGING ANY OTHER VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER, THE ENFORCEMENT COUNSEL SHALL ANALYZE THE COMPLAINT TO DETERMINE IF AN INVESTIGATION SHOULD BE UNDERTAKEN. THE ENFORCEMENT COUNSEL SHALL, IF NECESSARY, REQUEST ADDITIONAL INFORMATION FROM THE COMPLAINANT TO ASSIST SUCH COUNSEL IN MAKING THIS DETERMINATION. SUCH ANALYSIS SHALL INCLUDE THE FOLLOWING: FIRST, WHETHER THE ALLEGATIONS, IF TRUE, WOULD CONSTITUTE A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER AND, SECOND, WHETHER THE ALLEGATIONS ARE SUPPORTED BY CREDIBLE EVIDENCE.

5. IF THE ENFORCEMENT COUNSEL DETERMINES THAT THE ALLEGATIONS, IF TRUE, WOULD NOT CONSTITUTE A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER OR THAT THE ALLEGATIONS ARE NOT SUPPORTED BY CREDIBLE EVIDENCE, HE OR SHE SHALL ISSUE A LETTER TO THE COMPLAINANT DISMISSING THE COMPLAINT.

6. IF THE ENFORCEMENT COUNSEL DETERMINES THAT THE ALLEGATIONS, IF TRUE, WOULD CONSTITUTE A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER

AND THAT THE ALLEGATIONS APPEAR TO BE SUPPORTED BY CREDIBLE EVIDENCE, HE OR SHE SHALL NOTIFY THE STATE BOARD OF ELECTIONS OF (A) HIS OR HER INTENT TO RESOLVE THE MATTER EXTRA-JUDICIALLY DUE TO THE DE MINIMUS NATURE OF THE VIOLATION; OR (B) HIS OR HER INTENT TO COMMENCE AN INVESTIGATION, NO LATER THAN THE BOARD'S NEXT REGULARLY SCHEDULED MEETING. NOTIFICATION SHALL SUMMARIZE THE RELEVANT FACTS AND THE APPLICABLE LAW AND SHALL, TO THE EXTENT POSSIBLE, PROTECT FROM PUBLIC DISCLOSURE THE IDENTITY OF THE COMPLAINANT AND THE INDIVIDUAL SUBJECT TO THE COMPLAINT.

7. IF, UPON CONSIDERING THE ENFORCEMENT COUNSEL'S NOTICE OF INTENT TO COMMENCE AN INVESTIGATION, THE STATE BOARD OF ELECTIONS BELIEVES THAT THE ALLEGATIONS, IF TRUE, WOULD NOT CONSTITUTE A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER, OR THE ALLEGATIONS ARE NOT SUPPORTED BY CREDIBLE EVIDENCE OR, THAT ON BALANCE, THE EQUITIES FAVOR A DISMISSAL OF THE COMPLAINT, THE BOARD SHALL PUBLICLY DIRECT THAT AN INVESTIGATION NOT BE UNDERTAKEN NO LATER THAN SIXTY DAYS AFTER THE RECEIPT OF NOTIFICATION FROM THE ENFORCEMENT COUNSEL OF HIS OR HER INTENT TO COMMENCE AN INVESTIGATION. IN DETERMINING WHETHER THE EQUITIES FAVOR A DISMISSAL OF THE COMPLAINT, THE STATE BOARD OF ELECTIONS SHALL CONSIDER THE FOLLOWING FACTORS: (A) WHETHER THE COMPLAINT ALLEGES A DE MINIMUS VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER; (B) WHETHER THE SUBJECT OF THE COMPLAINT HAS MADE A GOOD FAITH EFFORT TO CORRECT THE VIOLATION; AND (C) WHETHER THE SUBJECT OF THE COMPLAINT HAS A HISTORY OF SIMILAR VIOLATIONS. DETERMINATIONS OF THE STATE BOARD OF ELECTIONS TO DISMISS A COMPLAINT AND NOT PROCEED WITH A FORMAL INVESTIGATION SHALL BE VOTED UPON AS PROVIDED IN SUBDIVISION FOUR OF SECTION 3-100 OF THIS TITLE AT AN OPEN MEETING PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW, AND SHALL BE MADE ON A FAIR AND EQUITABLE BASIS AND WITHOUT REGARD TO THE STATUS OF THE SUBJECT OF THE COMPLAINT.

8. ABSENT A TIMELY DETERMINATION BY THE STATE BOARD OF ELECTIONS THAT AN INVESTIGATION SHALL NOT BE UNDERTAKEN, THE ENFORCEMENT COUNSEL SHALL COMMENCE AN INVESTIGATION ON A TIMELY BASIS. IF THE ENFORCEMENT COUNSEL DETERMINES THAT ADDITIONAL INVESTIGATIVE POWERS, AS PROVIDED FOR IN SUBDIVISIONS FOUR, FIVE AND SIX OF SECTION 3-102 OF THIS TITLE, ARE NEEDED TO COMPLETE THE COUNSEL'S INVESTIGATION, HE OR SHE SHALL REQUEST SUCH ADDITIONAL POWERS FROM THE STATE BOARD OF ELECTIONS. SUCH POWERS SHALL BE GRANTED BY THE BOARD IN PUBLIC, AS PROVIDED IN SUBDIVISION FOUR OF SECTION 3-100 OF THIS TITLE, ONLY WHEN THE BOARD FINDS THAT FURTHER INVESTIGATION IS WARRANTED AND JUSTIFIED.

9. AT THE CONCLUSION OF ITS INVESTIGATION, THE ENFORCEMENT COUNSEL SHALL PROVIDE THE STATE BOARD OF ELECTIONS WITH A WRITTEN RECOMMENDATION AS TO: (A) WHETHER SUBSTANTIAL REASON EXISTS TO BELIEVE A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER HAS OCCURRED AND, IF SO, THE NATURE OF THE VIOLATION AND ANY APPLICABLE PENALTY, AS DEFINED IN SECTION 14-126 OF THIS CHAPTER, BASED ON THE NATURE OF THE VIOLATION; (B) WHETHER THE MATTER SHOULD BE RESOLVED EXTRA-JUDICIALLY; (C) WHETHER A SPECIAL PROCEEDING SHOULD BE COMMENCED IN THE SUPREME COURT TO RECOVER A CIVIL PENALTY; AND (D) WHETHER A REFERRAL SHOULD BE MADE TO A DISTRICT ATTORNEY PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION BECAUSE REASONABLE CAUSE EXISTS TO BELIEVE A VIOLATION WARRANTING CRIMINAL PROSECUTION HAS TAKEN PLACE.

10. THE STATE BOARD OF ELECTIONS SHALL ACCEPT, MODIFY OR REJECT THE ENFORCEMENT COUNSEL'S RECOMMENDATION NO LATER THAN SIXTY DAYS AFTER RECEIPT OF SUCH RECOMMENDATION. IN MAKING ITS DETERMINATION, THE BOARD SHALL AGAIN CONSIDER: (A) WHETHER THE COMPLAINT ALLEGES A DE MINIMUS VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER; (B) WHETHER THE SUBJECT OF THE COMPLAINT HAS MADE A GOOD FAITH EFFORT TO CORRECT THE VIOLATION;

AND (C) WHETHER THE SUBJECT OF THE COMPLAINT HAS A HISTORY OF SIMILAR VIOLATIONS. ALL SUCH DETERMINATIONS SHALL BE VOTED UPON AS PROVIDED IN SUBDIVISION FOUR OF SECTION 3-100 OF THIS TITLE AT AN OPEN MEETING PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW, AND SHALL BE MADE ON A FAIR AND EQUITABLE BASIS, WITHOUT REGARD TO THE STATUS OF THE SUBJECT OF THE COMPLAINT.

11. (A) IF THE STATE BOARD OF ELECTIONS DETERMINES, AS PROVIDED IN SUBDIVISION TEN OF THIS SECTION, THAT SUBSTANTIAL REASON EXISTS TO BELIEVE THAT A PERSON, ACTING AS OR ON BEHALF OF A CANDIDATE OR POLITICAL COMMITTEE UNDER CIRCUMSTANCES EVINCING AN INTENT TO VIOLATE SUCH LAW, HAS UNLAWFULLY ACCEPTED A CONTRIBUTION IN EXCESS OF A CONTRIBUTION LIMITATION ESTABLISHED IN ARTICLE FOURTEEN OF THIS CHAPTER, WHICH COULD WARRANT A CIVIL PENALTY AS PROVIDED FOR IN SUBDIVISION THREE OF SECTION 14-126 OF THIS CHAPTER, THE BOARD SHALL DIRECT THE COMMENCEMENT OF A SPECIAL PROCEEDING IN THE SUPREME COURT PURSUANT TO SECTION 16-122 OF THIS CHAPTER.

(B) IF THE STATE BOARD OF ELECTIONS DETERMINES, AS PROVIDED IN SUBDIVISION TEN OF THIS SECTION THAT REASONABLE CAUSE EXISTS TO BELIEVE A VIOLATION WARRANTING CRIMINAL PROSECUTION HAS TAKEN PLACE, THE BOARD SHALL REFER THE MATTER TO A DISTRICT ATTORNEY AND SHALL MAKE AVAILABLE TO SUCH DISTRICT ATTORNEY ALL PAPERS, DOCUMENTS, TESTIMONY AND FINDINGS RELEVANT TO ITS INVESTIGATION.

12. UPON NOTIFICATION THAT A SPECIAL PROCEEDING HAS BEEN COMMENCED BY A PARTY OTHER THAN THE STATE BOARD OF ELECTIONS, PURSUANT TO SECTION 16-114 OF THIS CHAPTER, THE STATE BOARD OF ELECTIONS SHALL DIRECT THE ENFORCEMENT COUNSEL TO INVESTIGATE THE ALLEGED VIOLATIONS UNLESS OTHERWISE DIRECTED BY THE COURT.

13. THE ENFORCEMENT COUNSEL SHALL PREPARE A REPORT, TO BE INCLUDED IN THE ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE, SUMMARIZING THE ACTIVITIES OF THE UNIT DURING THE PREVIOUS YEAR. SUCH REPORT SHALL INCLUDE: (I) THE NUMBER OF COMPLAINTS RECEIVED; (II) THE NUMBER OF COMPLAINTS THAT WERE FOUND TO NEED INVESTIGATION AND THE NATURE OF EACH COMPLAINT; AND (III) THE NUMBER OF MATTERS THAT HAVE BEEN RESOLVED. THE REPORT SHALL NOT CONTAIN ANY INFORMATION FOR WHICH DISCLOSURE IS NOT PERMITTED.

14. The state board of elections may promulgate rules and regulations consistent with law to effectuate the provisions of this section.

S 4. The state of New York shall appropriate during each fiscal year to the New York state board of elections enforcement unit, not less than thirty-five percent of the appropriation available from the general fund for the state board of elections to pay for the expenses of such enforcement unit.

S 5. The election law is amended by adding a new section 3-111 to read as follows:

S 3-111. PERSONAL USE OF CAMPAIGN FUNDS. UPON WRITTEN REQUEST FROM ANY PERSON WHO IS SUBJECT TO THE REQUIREMENTS OF SECTION 14-130 OF THIS CHAPTER, THE STATE BOARD OF ELECTIONS SHALL RENDER FORMAL OPINIONS ON THE REQUIREMENTS OF SAID PROVISION. AN OPINION RENDERED BY THE BOARD, UNTIL AND UNLESS AMENDED OR REVOKED, SHALL BE BINDING ON THE BOARD IN ANY SUBSEQUENT PROCEEDING CONCERNING THE PERSON WHO REQUESTED THE OPINION AND WHO ACTED IN GOOD FAITH, UNLESS MATERIAL FACTS WERE OMITTED OR MISSTATED BY THE PERSON IN THE REQUEST FOR AN OPINION. SUCH OPINION MAY ALSO BE RELIED UPON BY SUCH PERSON, AND MAY BE INTRODUCED AND SHALL BE DEFENSE IN ANY CRIMINAL OR CIVIL ACTION. SUCH REQUEST SHALL BE CONFIDENTIAL, BUT THE BOARD SHALL PUBLISH SUCH OPINIONS PROVIDED THAT THE NAME

OF THE REQUESTING PERSON AND OTHER IDENTIFYING DETAILS SHALL NOT BE INCLUDED IN THE PUBLICATION.

S 6. Section 14-100 of the election law is amended by adding three new subdivisions 12, 13 and 14 to read as follows:

12. "CLEARLY IDENTIFIED CANDIDATE" MEANS THAT:

(A) THE NAME OF THE CANDIDATE INVOLVED APPEARS;

(B) A PHOTOGRAPH OR DRAWING OF THE CANDIDATE APPEARS; OR

(C) THE IDENTITY OF THE CANDIDATE IS APPARENT BY UNAMBIGUOUS REFERENCE.

13. "GENERAL PUBLIC AUDIENCE" MEANS AN AUDIENCE COMPOSED OF MEMBERS OF THE PUBLIC, INCLUDING A TARGETED SUBGROUP OF MEMBERS OF THE PUBLIC; PROVIDED, HOWEVER, IT DOES NOT MEAN AN AUDIENCE SOLELY COMPRISED OF MEMBERS, RETIREES AND STAFF OF A LABOR ORGANIZATION OR THEIR IMMEDIATE FAMILY MEMBERS OR AN AUDIENCE SOLELY COMPRISED OF EMPLOYEES OF A BUSINESS ENTITY OR MEMBERS OF A BUSINESS, TRADE OR PROFESSIONAL ASSOCIATION.

14. "LABOR ORGANIZATION" MEANS ANY ORGANIZATION OF ANY KIND WHICH EXISTS FOR THE PURPOSE, IN WHOLE OR IN PART, OF REPRESENTING EMPLOYEES EMPLOYED WITHIN THE STATE OF NEW YORK IN DEALING WITH EMPLOYERS OR EMPLOYER ORGANIZATIONS OR WITH A STATE GOVERNMENT, OR ANY POLITICAL OR CIVIL SUBDIVISION OR OTHER AGENCY THEREOF, CONCERNING TERMS AND CONDITIONS OF EMPLOYMENT, GRIEVANCES, LABOR DISPUTES, OR OTHER MATTERS INCIDENTAL TO THE EMPLOYMENT RELATIONSHIP. FOR THE PURPOSES OF THIS ARTICLE, EACH LOCAL, PARENT NATIONAL OR PARENT INTERNATIONAL ORGANIZATION OF A STATEWIDE LABOR ORGANIZATION, AND EACH STATEWIDE FEDERATION RECEIVING DUES FROM SUBSIDIARY LABOR ORGANIZATIONS, SHALL BE CONSIDERED A SEPARATE LABOR ORGANIZATION.

S 7. Subdivision 5 of section 14-102 of the election law is REPEALED, subdivisions 1 and 3, as amended by chapter 8 of the laws of 1978, subdivision 1 as redesignated by chapter 9 of the laws of 1978 and subdivision 3 as renumbered by chapter 70 of the laws of 1983, are amended and a new subdivision 5 is added to read as follows:

1. The treasurer of every political committee which, or any officer, member or agent of any such committee who, in connection with any election, receives or expends any money or other [valuable thing] ITEM OF VALUE or incurs any liability to pay money or its equivalent shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth all the receipts, contributions to and the expenditures by and liabilities of the committee, and of its officers, members and agents in its behalf. Such statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other than of money, the name and address of the transferor, contributor or person from whom received, and if the transferor, contributor or person is a political committee; the name of and the political unit represented by the committee, the date of its receipt, the dollar amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof, and shall state clearly the purpose of such expenditure. IF ANY ONE EXPENDITURE IS MADE FOR MORE THAN ONE PURPOSE, OR AS PAYMENT FOR GOODS OR SERVICES SUPPLIED BY MORE THAN ONE SUPPLIER, SUCH STATEMENT SHALL SET FORTH SEPARATELY EACH SUCH PURPOSE OR SUPPLIER AND THE AMOUNT EXPENDED FOR EACH SUCH PURPOSE OR TO EACH SUCH SUPPLIER.

Any statement reporting a loan shall have attached to it a copy of the evidence of indebtedness. Expenditures in sums under fifty dollars need not be specifically accounted for by separate items in said statements, and receipts and contributions aggregating not more than ninety-nine dollars, from any one contributor need not be specifically accounted for by separate items in said statements, provided however, that such expenditures, receipts and contributions shall be subject to the other provisions of section 14-118 of this article.

3. The state board of elections shall promulgate regulations with respect to the accounting methods to be applied IN COMPLYING WITH, AND in preparing the statements required by, the provisions of this article and shall provide forms suitable for such statements. SUCH REGULATIONS SHALL BE DRAWN TO ASSURE SUCH COMPLIANCE AND OBTAIN THE MAXIMUM POSSIBLE DISCLOSURE.

5. (A) PURSUANT TO THE PROVISIONS OF THIS SECTION, ANY CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE STATEMENTS WITH A COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF ELECTIONS OF THE CITY OF NEW YORK, WHICH RAISES OR SPENDS OR EXPECTS TO RAISE OR SPEND MORE THAN ONE THOUSAND DOLLARS DURING ANY CALENDAR YEAR, IN ADDITION TO FILING SUCH STATEMENTS WITH SUCH BOARDS OF ELECTIONS IN THE FILING FORMAT REQUIRED THEREBY, SHALL ALSO FILE SUCH STATEMENTS ELECTRONICALLY WITH THE STATE BOARD OF ELECTIONS PURSUANT TO ITS ELECTRONIC REPORTING SYSTEM, ESTABLISHED PURSUANT TO SUBDIVISION NINE-A OF SECTION 3-102 OF THIS CHAPTER, OR ON PAPER IF AN EXEMPTION FROM THE ELECTRONIC FILING REQUIREMENTS HAS BEEN GRANTED BY THE STATE BOARD OF ELECTIONS PURSUANT TO SUBDIVISION FOUR OF THIS SECTION OR SUBDIVISION TWO OF SECTION 14-104 OF THIS TITLE.

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, ANY STATEMENTS FILED ELECTRONICALLY, OR ON PAPER IF EXEMPTED, WITH THE STATE BOARD OF ELECTIONS BY A CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE SUCH STATEMENTS ELECTRONICALLY WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, SHALL SATISFY THE FILING REQUIREMENTS OF THIS SECTION WITH REGARDS TO FILING WITH THE APPLICABLE COUNTY OR CITY BOARD OF ELECTIONS. THE COUNTY AND CITY BOARDS OF ELECTIONS SHALL MAKE STATEMENTS FILED WITH THE STATE BOARD OF ELECTIONS, WHICH WOULD OTHERWISE HAVE BEEN FILED SPECIFICALLY WITH THEIR INDIVIDUAL BOARD PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, AVAILABLE FOR PUBLIC INSPECTION AND COPYING VIA ELECTRONIC CONNECTION TO THE STATE BOARD OF ELECTIONS' WEBSITE, WHICH WILL CONTAIN SUCH STATEMENTS, OR BY SUCH OTHER MODE OF ELECTRONIC COMMUNICATION THAT IS AVAILABLE AND APPROVED BY THE STATE BOARD OF ELECTIONS FOR SUCH PURPOSES.

(C) ANY CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE STATEMENTS WITH A COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF ELECTIONS OF THE CITY OF NEW YORK PURSUANT TO THE PROVISIONS OF THIS SECTION, WHICH IS NOT REQUIRED TO FILE SUCH STATEMENTS WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, MAY NOT ELECT TO FILE SUCH STATEMENTS WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION IN SUBSTITUTION FOR, OR IN SATISFACTION OF, THE REQUIREMENT TO FILE WITH THE APPLICABLE COUNTY OR CITY BOARD OF ELECTIONS.

S 8. Subdivision 3 of section 14-104 of the election law is REPEALED and a new subdivision 3 is added to read as follows:

3. (A) PURSUANT TO THE PROVISIONS OF THIS SECTION, ANY CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE STATEMENTS WITH A COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF ELECTIONS OF THE CITY OF

NEW YORK, WHICH RAISES OR SPENDS OR EXPECTS TO RAISE OR SPEND MORE THAN ONE THOUSAND DOLLARS DURING ANY CALENDAR YEAR, IN ADDITION TO FILING SUCH STATEMENTS WITH SUCH BOARDS OF ELECTIONS IN THE FILING FORMAT REQUIRED THEREBY, SHALL ALSO FILE SUCH STATEMENTS ELECTRONICALLY WITH THE STATE BOARD OF ELECTIONS PURSUANT TO ITS ELECTRONIC REPORTING SYSTEM, ESTABLISHED PURSUANT TO SUBDIVISION NINE-A OF SECTION 3-102 OF THIS CHAPTER, OR ON PAPER IF AN EXEMPTION FROM THE ELECTRONIC FILING REQUIREMENTS HAS BEEN GRANTED BY THE STATE BOARD OF ELECTIONS PURSUANT TO SUBDIVISION FOUR OF SECTION 14-102 OF THIS TITLE OR SUBDIVISION TWO OF THIS SECTION.

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, ANY STATEMENTS FILED ELECTRONICALLY, OR ON PAPER IF EXEMPTED, WITH THE STATE BOARD OF ELECTIONS BY A CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE SUCH STATEMENTS ELECTRONICALLY WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, SHALL SATISFY THE FILING REQUIREMENTS OF THIS SECTION WITH REGARDS TO FILING WITH THE APPLICABLE COUNTY OR CITY BOARD OF ELECTIONS. THE COUNTY AND CITY BOARDS OF ELECTIONS SHALL MAKE STATEMENTS FILED WITH THE STATE BOARD OF ELECTIONS, WHICH WOULD OTHERWISE HAVE BEEN FILED SPECIFICALLY WITH THEIR INDIVIDUAL BOARD PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, AVAILABLE FOR PUBLIC INSPECTION AND COPYING VIA ELECTRONIC CONNECTION TO THE STATE BOARDS OF ELECTIONS' WEBSITE, WHICH WILL CONTAIN SUCH STATEMENTS, OR BY SUCH OTHER MODE OF ELECTRONIC COMMUNICATION THAT IS AVAILABLE AND APPROVED BY THE STATE BOARD OF ELECTIONS FOR SUCH PURPOSES.

(C) ANY CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE STATEMENTS WITH A COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF ELECTIONS OF THE CITY OF NEW YORK PURSUANT TO THE PROVISIONS OF THIS SECTION, WHICH IS NOT REQUIRED TO FILE SUCH STATEMENTS WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, MAY NOT ELECT TO FILE SUCH STATEMENTS WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION IN SUBSTITUTION FOR, OR IN SATISFACTION OF, THE REQUIREMENT TO FILE WITH THE APPLICABLE COUNTY OR CITY BOARD OF ELECTIONS.

S 9. Section 14-106 of the election law, as amended by chapter 8 of the laws of 1978, is amended to read as follows:

S 14-106. Political [advertisements and literature] COMMUNICATION. 1. The statements required to be filed under the provisions of this article next succeeding a primary, general or special election shall be accompanied by a [facsimile or] copy of all BROADCAST, CABLE OR SATELLITE SCHEDULES AND SCRIPTS, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced [and a schedule of all radio or television time, and scripts used therein], AND REPRODUCTIONS OF STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICE, purchased in connection with such election by or under the authority of the person filing the statement or the committee or the person on whose behalf it is filed, as the case may be. Such [facsimiles,] copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof.

2. NO PERSON, POLITICAL PARTY OR COMMITTEE SHALL, DURING THE COURSE OF ANY CAMPAIGN FOR NOMINATION OR ELECTION TO PUBLIC OFFICE OR PARTY POSITION, PREPARE OR DISTRIBUTE ANY POLITICAL COMMUNICATION THAT FALSELY IDENTIFIES THE SOURCE OF SUCH COMMUNICATION.

S 10. The election law is amended by adding a new section 14-107 to read as follows:

S 14-107. INDEPENDENT EXPENDITURE REPORTING. 1. FOR PURPOSES OF THIS ARTICLE:

(A) "INDEPENDENT EXPENDITURE" MEANS AN EXPENDITURE MADE BY A PERSON FOR AN AUDIO OR VIDEO COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA BROADCAST, CABLE OR SATELLITE OR A WRITTEN COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS, BROCHURES, LETTERHEADS OR OTHER PRINTED MATTER AND STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICES WHICH: (I) EXPRESSLY ADVOCATES THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED CANDIDATE OR THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL AND (II) A CANDIDATE, THE CANDIDATE'S POLITICAL COMMITTEE OR ITS AGENTS, OR A POLITICAL COMMITTEE FORMED TO PROMOTE THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL OR ITS AGENTS, DID NOT AUTHORIZE, REQUEST, SUGGEST, FOSTER OR COOPERATE IN ANY SUCH COMMUNICATION.

(B) INDEPENDENT EXPENDITURES DO NOT INCLUDE:

(I) A WRITTEN NEWS STORY, COMMENTARY, OR EDITORIAL OR A NEWS STORY, COMMENTARY, OR EDITORIAL DISTRIBUTED THROUGH THE FACILITIES OF ANY BROADCASTING STATION, CABLE OR SATELLITE UNLESS SUCH PUBLICATION OR FACILITIES ARE OWNED OR CONTROLLED BY ANY POLITICAL PARTY, POLITICAL COMMITTEE OR CANDIDATE; OR

(II) A COMMUNICATION THAT CONSTITUTES A CANDIDATE DEBATE OR FORUM; OR

(III) A COMMUNICATION WHICH CONSTITUTES AN EXPENDITURE MADE BY A PERSON OR ENTITY REQUIRED TO REPORT SUCH EXPENDITURE WITH A BOARD OF ELECTIONS PURSUANT TO SECTIONS 14-102 AND 14-104 OF THIS ARTICLE.

(C) FOR PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL MEAN PERSON, GROUP OF PERSONS, CORPORATION, UNINCORPORATED BUSINESS ENTITY, LABOR ORGANIZATION OR BUSINESS, TRADE OR PROFESSIONAL ASSOCIATION OR ORGANIZATION.

2. WHENEVER ANY PERSON MAKES AN INDEPENDENT EXPENDITURE THAT COSTS MORE THAN ONE THOUSAND DOLLARS IN THE AGGREGATE, SUCH COMMUNICATION SHALL CLEARLY STATE THE NAME OF THE PERSON WHO PAID FOR, OR OTHERWISE PUBLISHED OR DISTRIBUTED, THE COMMUNICATION AND STATE, WITH RESPECT TO COMMUNICATIONS REGARDING CANDIDATES, THAT THE COMMUNICATION IS NOT AUTHORIZED BY ANY CANDIDATE, ANY CANDIDATE'S POLITICAL COMMITTEE OR ANY OF ITS AGENTS.

3. (A) ANY PERSON WHICH MAKES INDEPENDENT EXPENDITURES THAT COST MORE THAN ONE THOUSAND DOLLARS IN THE AGGREGATE SHALL REPORT SUCH INDEPENDENT EXPENDITURES TO THE STATE BOARD OF ELECTIONS ON STATEMENTS AS PROVIDED FOR IN SECTION 14-108 OF THIS ARTICLE.

(B) ANY INDEPENDENT EXPENDITURE THAT COSTS MORE THAN ONE THOUSAND DOLLARS AND IS MADE AFTER THE CLOSE OF THE PERIOD TO BE COVERED IN THE LAST STATEMENT FILED BEFORE ANY PRIMARY, GENERAL OR SPECIAL ELECTION, BUT BEFORE SUCH ELECTION, SHALL BE REPORTED WITHIN TWENTY-FOUR HOURS IN THE SAME MANNER AS PROVIDED FOR IN SUBDIVISION TWO OF SECTION 14-108 OF THIS ARTICLE.

4. EACH SUCH STATEMENT SHALL INCLUDE:

(A) THE NAME AND ADDRESS OF THE PERSON MAKING THE STATEMENT;

(B) THE NAME AND ADDRESS OF THE PERSON MAKING THE INDEPENDENT EXPENDITURE;

(C) THE NAME AND ADDRESS OF ANY PERSON OR ENTITY PROVIDING A GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE HUNDRED DOLLARS OR MORE FOR THE INDEPENDENT EXPENDITURE, OR THE PROVISION OF SERVICES FOR THE SAME, AND THE DATE IT WAS GIVEN; PROVIDED, HOWEVER, THE NAME AND ADDRESS OF A MEMBER

OF A LABOR ORGANIZATION IS NOT REQUIRED FOR A GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE HUNDRED DOLLARS OR MORE TO A LABOR ORGANIZATION; AND PROVIDED FURTHER THAT THE NAME AND ADDRESS OF AN EMPLOYEE OF A CORPORATION, UNINCORPORATED BUSINESS ENTITY, TRADE OR PROFESSIONAL ASSOCIATION OR ORGANIZATION IS NOT REQUIRED FOR A GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE HUNDRED DOLLARS OR MORE TO SUCH CORPORATION, UNINCORPORATED BUSINESS ENTITY OR BUSINESS, TRADE OR PROFESSIONAL ASSOCIATION OR ORGANIZATION RESPECTIVELY;

(D) THE DOLLAR AMOUNT PAID FOR EACH INDEPENDENT EXPENDITURE, THE NAME AND ADDRESS OF THE PERSON OR ENTITY RECEIVING THE PAYMENT, THE DATE THE PAYMENT WAS MADE AND A DESCRIPTION OF THE INDEPENDENT EXPENDITURE; AND

(E) THE ELECTION TO WHICH THE INDEPENDENT EXPENDITURE PERTAINS AND THE NAME OF THE CLEARLY IDENTIFIED CANDIDATE OR THE BALLOT PROPOSAL REFERENCED.

5. A COPY OF ALL MATERIALS THAT PERTAIN TO THE INDEPENDENT EXPENDITURE, INCLUDING BUT NOT LIMITED TO BROADCAST, CABLE OR SATELLITE SCHEDULE AND SCRIPTS, ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS, BROCHURES, LETTERHEADS AND OTHER PRINTED MATTER AND STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICES SHALL BE FILED WITH THE STATE BOARD OF ELECTIONS WITH ALL THE STATEMENTS REQUIRED BY SECTION 14-108 OF THIS ARTICLE.

6. WRITTEN EVIDENCE OF THE INDEBTEDNESS RELATED TO A LOAN THAT IS MADE FOR AN INDEPENDENT EXPENDITURE SHALL BE PROVIDED TO THE STATE BOARD OF ELECTIONS.

7. EVERY STATEMENT REQUIRED TO BE FILED PURSUANT TO THIS SECTION SHALL BE FILED ELECTRONICALLY TO THE STATE BOARD OF ELECTIONS.

8. THE STATE BOARD OF ELECTIONS SHALL PROMULGATE REGULATIONS WITH RESPECT TO THE STATEMENTS REQUIRED TO BE FILED BY THIS SECTION AND SHALL PROVIDE FORMS SUITABLE FOR SUCH STATEMENTS.

S 11. Section 14-116 of the election law is amended by adding a new subdivision 3 to read as follows:

3. (A) DEFINITIONS. WHEN USED IN THIS SUBDIVISION:

(1) THE TERM "POLITICAL ISSUE COMMUNICATION" MEANS ANY COMMUNICATION MADE TO A GENERAL PUBLIC AUDIENCE AND INTENDED TO ENCOURAGE THE PUBLIC TO CONTACT A GOVERNMENT OFFICIAL, CANDIDATE FOR PUBLIC OFFICE OR PARTY POSITION OR A POLITICAL PARTY REGARDING PENDING LEGISLATION, PUBLIC POLICY OR A GOVERNMENT RULE OR REGULATION.

(2) THE TERM "BUSINESS ENTITY" MEANS ANY ENTITY THAT IS CREATED BY THE FILING OF A CERTIFICATE OF INCORPORATION, A CORPORATION ORGANIZED UNDER OR SUBJECT TO THE BANKING LAW OR AN ENTITY ORGANIZED UNDER OR SUBJECT TO THE LIMITED LIABILITY COMPANY LAW.

(B) NOTWITHSTANDING ANY OTHER LIMITS ON CONTRIBUTIONS, BEFORE A BUSINESS ENTITY OR ANY OF ITS SUBSIDIARIES MAY MAKE A CONTRIBUTION, INDEPENDENT EXPENDITURE OR EXPENDITURE FOR A POLITICAL ISSUE COMMUNICATION, THE BUSINESS ENTITY SHALL, AT LEAST ANNUALLY, OBTAIN THE PRIOR AUTHORIZATION, BY VOTE OF A MAJORITY OF THE SHARES CAST ON SUCH RESOLUTION, TO MAKE CONTRIBUTIONS, INDEPENDENT EXPENDITURES AND EXPENDITURES FOR POLITICAL ISSUE COMMUNICATIONS UP TO A STATED AGGREGATE ANNUAL AMOUNT.

(C) ANY BUSINESS ENTITY, EITHER BY ITSELF OR ITS SUBSIDIARIES, MAKING A CONTRIBUTION, INDEPENDENT EXPENDITURE OR EXPENDITURE FOR A POLITICAL ISSUE COMMUNICATION SHALL AT LEAST ANNUALLY DISCLOSE TO ITS SHAREHOLDERS OR MEMBERS AND FILE WITH THE SECRETARY OF STATE AN ACCOUNTING OF THE CONTRIBUTIONS, INDEPENDENT EXPENDITURES AND EXPENDITURES FOR A POLITICAL ISSUE COMMUNICATION, MADE BY SUCH BUSINESS ENTITY INCLUDING:

(1) THE DATE OF THE CONTRIBUTION, INDEPENDENT EXPENDITURE OR EXPENDITURE FOR A POLITICAL ISSUE COMMUNICATION;
(2) THE AMOUNT OF THE CONTRIBUTION, INDEPENDENT EXPENDITURE OR EXPENDITURE FOR A POLITICAL ISSUE COMMUNICATION;
(3) THE IDENTITY OF THE RECIPIENT OF THE CONTRIBUTION, OR IF AN INDEPENDENT EXPENDITURE OR EXPENDITURE FOR A POLITICAL ISSUE COMMUNICATION, THE IDENTITY OF THE CANDIDATE, BALLOT PROPOSAL, POLITICAL PARTY, PENDING LEGISLATION, PUBLIC POLICY OR A GOVERNMENT RULE OR REGULATION SUPPORTED OR OPPOSED; AND
(4) THE BUSINESS OR CORPORATE RATIONALE FOR EACH SUCH CONTRIBUTION, INDEPENDENT EXPENDITURE OR EXPENDITURE FOR A POLITICAL ISSUE COMMUNICATION.
(D) THE SECRETARY OF STATE SHALL POST EACH BUSINESS ENTITY'S ANNUAL DISCLOSURE ON THE WEBSITE MAINTAINED BY THE SECRETARY OF STATE.
(E) THE ATTORNEY GENERAL MAY COMMENCE AN ACTION OR SPECIAL PROCEEDING TO ENFORCE THE PROVISIONS OF THIS SUBDIVISION.
S 12. Section 14-126 of the election law, as amended by chapter 8 of the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of 1994 and subdivisions 2, 3 and 4 as redesignated by chapter 9 of the laws of 1978, is amended to read as follows:
S 14-126. Violations; penalties. 1. Any person who fails to file a statement required to be filed by this article shall be subject to a civil penalty, not in excess of [five hundred] ONE THOUSAND dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections [or other board of elections] ENFORCEMENT COUNSEL PURSUANT TO SECTION 16-114 OF THIS CHAPTER. ANY PERSON WHO, THREE OR MORE TIMES WITHIN A GIVEN ELECTION CYCLE FOR SUCH TERM OF OFFICE, FAILS TO FILE A STATEMENT OR STATEMENTS REQUIRED TO BE FILED BY THIS ARTICLE, SHALL BE SUBJECT TO A CIVIL PENALTY, NOT IN EXCESS OF TEN THOUSAND DOLLARS, TO BE RECOVERABLE AS PROVIDED FOR IN THIS SUBDIVISION.
2. ANY PERSON, POLITICAL PARTY OR COMMITTEE WHO FALSELY IDENTIFIES ANY POLITICAL COMMUNICATION AS PROHIBITED BY SUBDIVISION TWO OF SECTION 14-106 OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY EQUAL TO ONE THOUSAND DOLLARS OR THE COST OF THE COMMUNICATION, WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD OF ELECTIONS PURSUANT TO SECTION 16-120 OF THIS CHAPTER.
3. ANY PERSON WHO FALSELY IDENTIFIES OR FAILS TO IDENTIFY ANY INDEPENDENT EXPENDITURE AS REQUIRED BY SUBDIVISION TWO OF SECTION 14-107 OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY EQUAL TO ONE THOUSAND DOLLARS OR THE COST OF THE COMMUNICATION, WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD OF ELECTIONS PURSUANT TO SECTION 16-120 OF THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "PERSON" SHALL MEAN A PERSON, GROUP OF PERSONS, CORPORATION, UNINCORPORATED BUSINESS ENTITY, LABOR ORGANIZATION OR BUSINESS, TRADE OR PROFESSIONAL ASSOCIATION OR ORGANIZATION.
4. ANY PERSON WHO, ACTING AS OR ON BEHALF OF A CANDIDATE OR POLITICAL COMMITTEE, UNDER CIRCUMSTANCES EVINCING AN INTENT TO VIOLATE SUCH LAW, UNLAWFULLY ACCEPTS A CONTRIBUTION IN EXCESS OF A CONTRIBUTION LIMITATION ESTABLISHED IN THIS ARTICLE, SHALL BE REQUIRED TO REFUND SUCH EXCESS AMOUNT AND SHALL BE SUBJECT TO A CIVIL PENALTY EQUAL TO TWO TIMES THE EXCESS AMOUNT PLUS A FINE OF UP TO TEN THOUSAND DOLLARS, TO BE RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION TO BE BROUGHT BY THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL PURSUANT TO SECTION 16-122 OF THIS CHAPTER.
5. Any person who knowingly and willfully fails to file a statement required to be filed by this article within ten days after the date

provided for filing such statement or any person who knowingly and willfully violates any other provision of this article shall be guilty of a misdemeanor.

[3.] 6. Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a misdemeanor.

[4.] 7. Any person who shall, acting on behalf of a candidate or political committee, knowingly and willfully solicit, organize or coordinate the formation of activities of one or more unauthorized committees, make expenditures in connection with the nomination for election or election of any candidate, or solicit any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.

S 13. Section 16-100 of the election law is amended to read as follows:

S 16-100. Jurisdiction; supreme court, county court. 1. The supreme court is vested with jurisdiction to summarily determine any question of law or fact arising as to any subject set forth in this article, which shall be construed liberally.

2. The county court is vested with jurisdiction to summarily determine any question of law or fact except proceedings as to a nomination or election at a primary election or a nomination at a judicial convention, proceedings as to the casting and canvass of ballots [and], proceedings for examination or preservation of ballots AND PROCEEDINGS TO ENFORCE THE PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER.

S 14. The election law is amended by adding a new section 16-120 to read as follows:

S 16-120. PROCEEDINGS AS TO POLITICAL COMMUNICATIONS AND INDEPENDENT EXPENDITURES. THE SUPREME COURT OR A JUSTICE THEREOF, IN A PROCEEDING INSTITUTED BY THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL, MAY IMPOSE A CIVIL PENALTY, AS PROVIDED IN SUBDIVISIONS TWO AND THREE OF SECTION 14-126 OF THIS CHAPTER, UPON PROOF THAT A VIOLATION OF ONE OR MORE OF SUCH SUBDIVISIONS HAS OCCURRED.

S 15. The election law is amended by adding a new section 16-122 to read as follows:

S 16-122. ENFORCEMENT PROCEEDINGS. THE SUPREME COURT OR A JUSTICE THEREOF, IN A PROCEEDING INSTITUTED BY THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL, MAY IMPOSE A CIVIL PENALTY, AS PROVIDED FOR IN SUBDIVISION FOUR OF SECTION 14-126 OF THIS CHAPTER, UPON PROOF THAT A VIOLATION OF SUCH SUBDIVISION HAS OCCURRED. THE COURT MAY CONSIDER, AMONG OTHER FACTORS, THE SEVERITY OF THE VIOLATION OR VIOLATIONS, WHETHER THE SUBJECT OF THE VIOLATION MADE A GOOD FAITH EFFORT TO CORRECT THE VIOLATION AND WHETHER THE SUBJECT OF THE VIOLATION HAS A HISTORY OF SIMILAR VIOLATIONS. ALL SUCH DETERMINATIONS SHALL BE MADE ON A FAIR AND EQUITABLE BASIS WITHOUT REGARD TO THE STATUS OF THE CANDIDATE OR POLITICAL COMMITTEE.

S 16. Separability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 17. This act shall take effect immediately.