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

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I N S E N A T E

March 7, 2014

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the election law, in relation to campaign finance reform and in relation to campaign contribution limits and penalties for violations

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

Section 1. Section 14-100 of the election law is amended by adding four new subdivisions 12, 13, 14 and 15 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 CORPORATION, UNINCORPORATED BUSINESS ENTITY OR MEMBERS OF A BUSINESS, TRADE OR PROFESSIONAL ASSOCIATION OR ORGANIZATION.

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.

15. "INTERMEDIARY" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, POLITICAL COMMITTEE, LABOR ORGANIZATION, OR OTHER ENTITY WHICH, OTHER

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

LBD14375-01-4

THAN IN THE REGULAR COURSE OF BUSINESS AS A POSTAL, DELIVERY, OR MESSENGER SERVICE, DELIVERS ANY CONTRIBUTION FROM ANOTHER PERSON OR ENTITY TO A CANDIDATE OR AN AUTHORIZED COMMITTEE.

"INTERMEDIARY" SHALL NOT INCLUDE SPOUSES, PARENTS, CHILDREN, OR SIBLINGS OF THE PERSON MAKING SUCH CONTRIBUTION.

S 2. Subdivision 1 of section 14-102 of the election law, as amended by chapter 8 and as redesignated by chapter 9 of the laws of 1978, is amended 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 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] TITLE 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, INTERMEDIARY, or person from whom received, and if the transferor, contributor, INTERMEDIARY, 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. AN INTERMEDIARY NEED NOT BE REPORTED FOR A CONTRIBUTION THAT WAS COLLECTED FROM A CONTRIBUTOR IN CONNECTION WITH A PARTY OR OTHER CANDIDATE-RELATED EVENT HELD AT THE RESIDENCE OF THE PERSON DELIVERING THE CONTRIBUTION, UNLESS THE EXPENSES OF SUCH EVENT AT SUCH RESIDENCE FOR SUCH CANDIDATE EXCEED FIVE HUNDRED DOLLARS OR THE AGGREGATE CONTRIBUTIONS RECEIVED FROM THAT CONTRIBUTOR AT SUCH EVENT EXCEED FIVE HUNDRED DOLLARS. 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] TITLE.

S 3. Section 14-106 of the election law, as amended by section 2 of part E of chapter 399 of the laws of 2011, is amended to read as follows:

S 14-106. Political communication. 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 copy of all broadcast, cable or satellite schedules and scripts, internet, print and other types of advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced, AND REPRODUCTIONS OF STATEMENTS OR INFORMATION PUBLISHED TO ONE THOUSAND OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICE INCLUDING BUT NOT LIMITED TO ELECTRONIC MAIL OR TEXT MESSAGE, 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 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.

S 4. 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 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 ONE THOUSAND OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE WHICH: (I) UNAMBIGUOUSLY REFERS TO AND ADVOCATES FOR OR AGAINST A CLEARLY IDENTIFIED CANDIDATE OR EXPRESSLY ADVOCATES THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL, AND (II) SUCH 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. FOR THE PURPOSES OF THIS DEFINITION, A COMMUNICATION ADVOCATES FOR OR AGAINST A CANDIDATE WHEN IT (I) IRRESPECTIVE OF WHEN SUCH COMMUNICATION IS MADE, CONTAINS WORDS SUCH AS "VOTE," "OPPOSE," "SUPPORT," "ELECT," "DEFEAT," OR "REJECT," WHICH CALL FOR THE ELECTION OR DEFEAT OF THE CLEARLY IDENTIFIED CANDIDATE, OR (II) WITHIN ONE YEAR OF THE ELECTION BUT MORE THAN SIXTY DAYS BEFORE A GENERAL OR SPECIAL ELECTION FOR THE OFFICE SOUGHT BY THE CANDIDATE OR THIRTY DAYS BEFORE A PRIMARY ELECTION, COULD ONLY BE INTERPRETED BY A REASONABLE PERSON AS ADVOCATING FOR THE ELECTION OR DEFEAT OF THE CLEARLY IDENTIFIED CANDIDATE IN SUCH ELECTION BASED UPON UNEQUIVOCAL, UNAMBIGUOUS TERMS OF SUPPORT OR OPPOSITION, OR (III) WITHIN SIXTY DAYS PRIOR TO A GENERAL OR SPECIAL ELECTION FOR THE OFFICE SOUGHT BY THE CANDIDATE OR THIRTY DAYS BEFORE A PRIMARY ELECTION, INCLUDES OR REFERENCES A CLEARLY IDENTIFIED CANDIDATE.

(B) INDEPENDENT EXPENDITURES DO NOT INCLUDE EXPENDITURES IN CONNECTION WITH:

(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) INTERNAL COMMUNICATION BY MEMBERS TO OTHER MEMBERS OF A MEMBERSHIP ORGANIZATION, FOR THE PURPOSE OF SUPPORTING OR OPPOSING A CANDIDATE OR CANDIDATES FOR ELECTIVE OFFICE, PROVIDED SUCH EXPENDITURES ARE NOT USED FOR THE COSTS OF CAMPAIGN MATERIAL OR COMMUNICATIONS USED IN CONNECTION WITH BROADCASTING, TELECASTING, NEWSPAPERS, MAGAZINES, OR OTHER PERIODICAL PUBLICATION, BILLBOARDS, OR SIMILAR TYPES OF GENERAL PUBLIC COMMUNICATIONS; OR

(IV) A COMMUNICATION PUBLISHED ON THE INTERNET, UNLESS THE COMMUNICATION IS A PAID ADVERTISEMENT.

(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, OR POLITICAL COMMITTEE.

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 WAS NOT EXPRESSLY AUTHORIZED OR REQUESTED BY ANY CANDIDATE, OR BY ANY CANDIDATE'S POLITICAL COMMITTEE OR ANY OF ITS AGENTS.

3. (A) ANY PERSON WHO MAKES ANY INDEPENDENT EXPENDITURE IN AN UPCOMING CALENDAR YEAR SHALL FIRST REGISTER WITH THE STATE BOARD OF ELECTIONS AS A POLITICAL COMMITTEE IN CONFORMANCE WITH THIS ARTICLE.

(B) ANY PERSON WHO IS REGISTERED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL REPORT INDEPENDENT EXPENDITURES OVER ONE THOUSAND DOLLARS TO THE STATE BOARD OF ELECTIONS ON A STATEMENT IN THE FORM SET FORTH IN SUBDIVISION FOUR OF THIS SECTION AND AT TIMES SET FORTH IN THIS SUBDIVISION.

(C) ANY CONTRIBUTION OVER ONE THOUSAND DOLLARS MADE TO ANY PERSON WHO HAS REGISTERED WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION PRIOR TO THIRTY DAYS BEFORE ANY PRIMARY, GENERAL, OR SPECIAL ELECTION SHALL BE DISCLOSED BY SUCH PERSON TO THE STATE BOARD OF ELECTIONS ELECTRONICALLY WITHIN FORTY-EIGHT HOURS OF RECEIPT.

(D) ANY CONTRIBUTION OVER ONE THOUSAND DOLLARS MADE TO ANY PERSON WHO HAS REGISTERED WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION WITHIN THIRTY DAYS BEFORE ANY PRIMARY, GENERAL, OR SPECIAL ELECTION SHALL BE DISCLOSED BY SUCH PERSON TO THE STATE BOARD OF ELECTIONS ELECTRONICALLY WITHIN TWENTY-FOUR HOURS OF RECEIPT.

(E) A KNOWING AND WILLFUL VIOLATION OF THE PROVISIONS OF THIS SUBDIVISION SHALL SUBJECT THE PERSON TO A CIVIL PENALTY EQUAL TO FIVE THOUSAND DOLLARS OR THE COST OF THE COMMUNICATION, WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE BOARD OR IMPOSED DIRECTLY BY THE BOARD OF ELECTIONS.

4. EACH SUCH STATEMENT IN SUBDIVISION THREE OF THIS SECTION SHALL INCLUDE, IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY LAW:

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

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

(C) THE NAME, ADDRESS, OCCUPATION AND EMPLOYER OF ANY PERSON PROVIDING A CONTRIBUTION, GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE THOUSAND 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 CONTRIBUTION, GIFT, LOAN, ADVANCE OR DEPOSIT TO A LABOR ORGANIZATION; AND PROVIDED FURTHER THAT THE NAME AND ADDRESS OF AN EMPLOYEE OF A CORPORATION, UNINCORPORATED BUSINESS ENTITY OR A MEMBER OF A BUSINESS, TRADE OR PROFESSIONAL ASSOCIATION OR ORGANIZATION IS NOT REQUIRED FOR A CONTRIBUTION, GIFT, LOAN, ADVANCE OR DEPOSIT 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 POLITICAL COMMUNICATIONS PAID FOR BY THE INDEPENDENT EXPENDITURE, INCLUDING BUT NOT LIMITED TO BROADCAST, CABLE OR SATELLITE SCHEDULES AND SCRIPTS, ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS, BROCHURES, LETTERHEADS AND OTHER PRINTED MATTER AND STATEMENTS OR INFOR-

MATION CONVEYED TO ONE THOUSAND OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICES SHALL BE FILED WITH THE STATE BOARD OF ELECTIONS WITH THE STATEMENTS REQUIRED BY THIS SECTION.

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

7. 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 5. Subdivision 3 of section 14-124 of the election law, as amended by chapter 71 of the laws of 1988, is amended to read as follows:

3. The contribution and receipt limits of this article shall not apply to monies received and expenditures made by a party committee or constituted committee to maintain a permanent headquarters and staff and carry on ordinary activities which are not for the express purpose of promoting the candidacy of specific candidates, EXCEPT THAT CONTRIBUTIONS MADE FOR SUCH ACTIVITIES TO A PARTY COMMITTEE OR CONSTITUTED COMMITTEE SHALL BE LIMITED TO TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE FROM EACH CONTRIBUTOR IN EACH YEAR.

S 6. Section 14-126 of the election law, as amended by section 3 of part E of chapter 399 of the laws of 2011, is amended to read as follows:

S 14-126. Violations; penalties. 1. (A) 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 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] CHIEF ENFORCEMENT COUNSEL PURSUANT TO THIS CHAPTER OR IMPOSED DIRECTLY BY THE STATE BOARD OF ELECTIONS. 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.

(B) FINES AUTHORIZED TO BE IMPOSED DIRECTLY BY THE STATE BOARD OF ELECTIONS SHALL BE AFTER A HEARING AT WHICH THE SUBJECT PERSON OR AUTHORIZED COMMITTEE SHALL BE GIVEN THE OPPORTUNITY TO BE HEARD. SUCH HEARING SHALL BE HELD IN SUCH MANNER AND UPON SUCH NOTICE AS MAY BE PRESCRIBED BY THE RULES OF THE STATE BOARD OF ELECTIONS. FOR PURPOSES OF CONDUCTING SUCH HEARINGS, THE STATE BOARD OF ELECTIONS SHALL BE DEEMED TO BE AN AGENCY WITHIN THE MEANING OF ARTICLE THREE OF THE STATE ADMINISTRATIVE PROCEDURE ACT AND SHALL ADOPT RULES GOVERNING THE CONDUCT OF ADJUDICATORY PROCEEDINGS AND APPEALS TAKEN PURSUANT TO A PROCEEDING COMMENCED UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES RELATING TO THE ASSESSMENT OF THE CIVIL PENALTIES AUTHORIZED IN THIS SECTION.

(C) ALL PAYMENTS RECEIVED BY THE STATE BOARD OF ELECTIONS PURSUANT TO THIS SECTION SHALL BE RETAINED IN THE APPROPRIATE ACCOUNTS AS DESIGNATED BY THE DIVISION OF THE BUDGET FOR ENFORCEMENT ACTIVITIES BY THE BOARD OF ELECTIONS.

2. 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 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 CHIEF ENFORCEMENT COUNSEL OR IMPOSED DIRECTLY BY THE STATE BOARD OF ELECTIONS.

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 CHIEF ENFORCEMENT COUNSEL OR IMPOSED DIRECTLY BY THE STATE BOARD OF ELECTIONS. 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 OR POLITICAL COMMITTEE.

4. 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.

[4.] 5. 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 CLASS A misdemeanor.

[5.] 6. 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 7. This act shall take effect June 1, 2014.