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I N   S E N A T E

June 13, 2016

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Introduced by Sen. FLANAGAN -- 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 independent expenditures during election campaigns

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

1     Section 1. Subdivision 1 of section 14-107 of the election law, as  
2 amended by section 8 of part CC of chapter 56 of the laws of 2015, is  
3 amended to read as follows:

4     1. For purposes of this article:

5     (a) "Independent expenditure" means an expenditure made by a person  
6 conveyed to five hundred or more members of a general public audience in  
7 the form of (i) an audio or video communication via broadcast, cable or  
8 satellite, (ii) a written communication via advertisements, pamphlets,  
9 circulars, flyers, brochures, letterheads or (iii) other published  
10 statements which: (i) irrespective of when such communication is made,  
11 contains words such as "vote," "oppose," "support," "elect," "defeat,"  
12 or "reject," which call for the election or defeat of the clearly identified  
13 candidate, (ii) refers to and advocates for or against a clearly  
14 identified candidate or ballot proposal on or after January first of the  
15 year of the election in which such candidate is seeking office or such  
16 proposal shall appear on the ballot, or (iii) within sixty days before a  
17 general or special election for the office sought by the candidate or  
18 thirty days before a primary election, includes or references a clearly  
19 identified candidate. An independent expenditure shall not include  
20 communications where such candidate, the candidate's political committee  
21 or its agents, a party committee or its agents, or a constituted committee  
22 or its agents or a political committee formed to promote the success  
23 or defeat of a ballot proposal or its agents, did authorize, request,  
24 suggest, foster or cooperate in such communication.

25     (b) Independent expenditures do not include expenditures in connection  
26 with:

27     (i) a written news story, commentary, or editorial or a news story,  
28 commentary, or editorial distributed through the facilities of any

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

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1 broadcasting station, cable or satellite unless such publication or  
2 facilities are owned or controlled by any political party, political  
3 committee or candidate; or

4 (ii) a communication that constitutes a candidate debate or forum; or

5 (iii) internal communication by members to other members of a member-  
6 ship organization of not more than five hundred members, for the purpose  
7 of supporting or opposing a candidate or candidates for elective office,  
8 provided such expenditures are not used for the costs of campaign mate-  
9 rial or communications used in connection with broadcasting, telecast-  
10 ing, newspapers, magazines, or other periodical publication, billboards,  
11 or similar types of general public communications; or

12 (iv) internal communications by members to other members of a member-  
13 ship organization of not more than five hundred members or communi-  
14 cations by a corporation organized for charitable purposes pursuant to  
15 S501(c)(3) of the internal revenue code, within sixty days before a  
16 general or special election for the office sought by the candidate or  
17 thirty days before a primary election, that includes or references a  
18 clearly identified candidate but does not otherwise qualify as an inde-  
19 pendent expenditure under this section.

20 (v) a communication published on the Internet, unless the communi-  
21 cation is a paid advertisement.

22 (c) For purposes of this section, the term "person" shall mean person,  
23 group of persons, corporation, unincorporated business entity, labor  
24 organization or business, trade or professional association, INDEPENDENT  
25 EXPENDITURE COMMITTEE or organization, or political committee; provided,  
26 however, that such definition shall not include any party or constituted  
27 committee, that is required to file disclosure reports under this chap-  
28 ter.

29 (D) INDEPENDENT EXPENDITURES SHALL NOT INCLUDE PAYMENTS OR EXPENDI-  
30 TURES WHERE COORDINATION OCCURS IN THE CREATION, FORMATION, OR OPERATION  
31 OF THE PERSON MAKING THE PAYMENT OR EXPENDITURE.

32 COORDINATION SHALL INCLUDE:

33 (I) THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE, OR AN AGENT  
34 OF THE CANDIDATE OR CANDIDATE'S AUTHORIZED COMMITTEE, PARTICIPATED IN  
35 THE CREATION OR FORMATION OF THE PERSON MAKING THE PAYMENT OR EXPENDI-  
36 TURE, DURING THE ELECTION CYCLE OF THE CANDIDATE INVOLVED, AND THE  
37 PAYMENT OR EXPENDITURE MADE IS FOR THE BENEFIT OF THAT CANDIDATE.

38 (II) THE CANDIDATE OR AN AGENT OF THE CANDIDATE APPEARS AT ANY EVENT,  
39 OTHER THAN A PUBLIC DEBATE OR AN EVENT THAT IS OPEN TO ALL CANDIDATES,  
40 HOSTED BY A PERSON MAKING A PAYMENT OR EXPENDITURE THAT BENEFITS THAT  
41 CANDIDATE DURING THE ELECTION CYCLE OF THE CANDIDATE INVOLVED.

42 (III) THE PERSON MAKING THE PAYMENT OR EXPENDITURE EMPLOYED OR  
43 RETAINED A PERSON WHO WAS EMPLOYED BY THE CANDIDATE, THE CANDIDATE'S  
44 AUTHORIZED COMMITTEE OR AN AGENT OF THE CANDIDATE OR HAS HELD A POLICY-  
45 MAKING, NON-ADMINISTRATIVE POSITION IN THE OFFICE OF THE CANDIDATE'S  
46 ELECTED OFFICE DURING THE ELECTION CYCLE OF THE CANDIDATE INVOLVED, AND  
47 THE PAYMENT OR EXPENDITURE IS MADE FOR THE BENEFIT OF THAT CANDIDATE.

48 (IV) THE PERSON MAKING THE PAYMENT OR EXPENDITURE IS A MEMBER OF THE  
49 CANDIDATE'S IMMEDIATE FAMILY OR IS ESTABLISHED, DIRECTED, OR MANAGED BY  
50 A MEMBER OF THE IMMEDIATE FAMILY OF THE CANDIDATE, AND THE PAYMENT OR  
51 EXPENDITURE IS MADE FOR THE BENEFIT OF THAT CANDIDATE.

52 (V) THE PERSON MAKING THE PAYMENT OR EXPENDITURE REPUBLISHES, DISSEM-  
53 INATES, OR DISTRIBUTES, IN WHOLE OR IN PART, ANY VIDEO, AUDIO, WRITTEN,  
54 OR OTHER CAMPAIGN-RELATED MATERIAL PREPARED BY THE CANDIDATE OR THE  
55 CANDIDATE'S AUTHORIZED COMMITTEE OR BY AN AGENT OF THE CANDIDATE OR THE  
56 CANDIDATE'S AUTHORIZED COMMITTEE, FROM STRATEGIC INFORMATION, INCLUDING

1 BUT NOT LIMITED TO AUDIO RECORDINGS OR VIDEO FOOTAGE. THIS PARAGRAPH  
2 SHALL APPLY ONLY IF THE PERSON MAKING THE PAYMENT OR EXPENDITURE OBTAINS  
3 THE COMMUNICATION OR MATERIALS WITH CONSENT FROM THE CANDIDATE, THE  
4 CANDIDATE'S CAMPAIGN, OR AN AGENT OF THE CANDIDATE OR THE CANDIDATE'S  
5 CAMPAIGN AND THE PAYMENT OR EXPENDITURE IS MADE FOR THE BENEFIT OF THE  
6 CANDIDATE. INFORMATION SHALL NOT BE DEEMED STRATEGIC IF THE INFORMATION  
7 WAS OBTAINED FROM A PUBLICLY AVAILABLE SOURCE.

8 (VI) THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE, OR AN  
9 AGENT OF THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE, SHARES  
10 OR RENTS SPACE FOR A CAMPAIGN-RELATED PURPOSE WITH OR FROM THE PERSON  
11 MAKING THE PAYMENT OR EXPENDITURE BENEFITTING THE CANDIDATE.

12 (VII) THE PERSON MAKING THE PAYMENT OR EXPENDITURE BENEFITTING THE  
13 CANDIDATE, OR A DOMINANT INTEREST CONTRIBUTOR, HAS PARTICIPATED IN STRA-  
14 TEGIC DISCUSSIONS WITH THE CANDIDATE, THE CANDIDATE'S AUTHORIZED COMMIT-  
15 TEE, OR AN AGENT OF THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMIT-  
16 TEE DURING THE ELECTION CYCLE OF THE CANDIDATE INVOLVED. DISCUSSIONS  
17 SHALL BE DEEMED STRATEGIC IF INFORMATION ABOUT THE CANDIDATE'S OR OPPO-  
18 NENT'S CAMPAIGN PLANS, PROJECTS, OR ACTIVITIES THAT IS NOT OBTAINED FROM  
19 A PUBLIC AVAILABLE SOURCE IS CONVEYED TO THE PERSON MAKING THE PAYMENT  
20 OR EXPENDITURE.

21 (VIII) THE PERSON MAKING THE PAYMENT OR EXPENDITURE BENEFITTING THE  
22 CANDIDATE AND THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE  
23 KNOWINGLY RETAIN THE SAME INDIVIDUAL OR ENTITY TO PROVIDE PROFESSIONAL  
24 CAMPAIGN SERVICES DURING THE ELECTION CYCLE OF THE CANDIDATE INVOLVED,  
25 AND THE PROFESSIONAL CAMPAIGN SERVICES PROVIDER DISCLOSES STRATEGIC  
26 INFORMATION REGARDING ONE PARTY WITH THE OTHER PARTY. INFORMATION SHALL  
27 BE DEEMED STRATEGIC IF IT RELATES TO EITHER PARTY'S RESPECTIVE CAMPAIGN  
28 OR INDEPENDENT EXPENDITURE PLANS, PROJECTS, OR ACTIVITIES THAT IS NOT  
29 OBTAINED FROM A PUBLICLY AVAILABLE SOURCE. THIS SUBPARAGRAPH SHALL NOT  
30 PROHIBIT A CANDIDATE, A CANDIDATE'S AUTHORIZED COMMITTEE, OR AN AGENT OF  
31 THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE FROM RETAINING THE  
32 SAME PROFESSIONAL CAMPAIGN SERVICES PROVIDER AS THE PERSON MAKING THE  
33 PAYMENT OR EXPENDITURE BENEFITTING THE CANDIDATE UPON THE PROFESSIONAL  
34 CAMPAIGN SERVICES PROVIDER ENTERING INTO A CONFIDENTIALITY AGREEMENT  
35 WITH BOTH PARTIES EXPRESSLY STATING THAT IT WILL NOT DISCLOSE STRATEGIC  
36 INFORMATION REGARDING EACH PARTY WITH THE OTHER PARTY.

37 (IX) THE PERSON MAKING THE PAYMENT OR EXPENDITURE BENEFITTING THE  
38 CANDIDATE UTILIZES STRATEGIC INFORMATION OR DATA THAT IS NOT OTHERWISE  
39 AVAILABLE BY SUBSCRIPTION RELATED TO THE CANDIDATE FROM A PERSON WHO HAS  
40 BEEN PREVIOUSLY COMPENSATED, REIMBURSED OR RETAINED BY THE CANDIDATE AS  
41 A POLLSTER, CONSULTANT, POLITICAL, MEDIA OR FUNDRAISING ADVISOR, VENDOR  
42 OR CONTRACTOR DURING THE ELECTION CYCLE OF THE CANDIDATE INVOLVED.  
43 INFORMATION SHALL NOT BE DEEMED STRATEGIC IF THE INFORMATION WAS  
44 OBTAINED FROM A PUBLICLY AVAILABLE SOURCE.

45 (D-1) PARAGRAPH (D) OF THIS SUBDIVISION SHALL NOT BE READ TO LIMIT THE  
46 SCOPE OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION IN ANY WAY.

47 (D-2) (I) FOR PURPOSES OF THIS SUBDIVISION, A "DOMINANT INTEREST  
48 CONTRIBUTOR" SHALL MEAN A CONTRIBUTOR WHO ACQUIRES A DOMINANT INTEREST  
49 IN THE PERSON MAKING THE PAYMENT OR EXPENDITURE BENEFITTING THE CANDI-  
50 DATE, AND THE CONTRIBUTOR'S AGGREGATE CONTRIBUTION TO THE PERSON EXCEEDS  
51 THE CONTRIBUTION RECEIPT LIMIT APPLICABLE TO THE CANDIDATE WHO IS BENE-  
52 FITTED BY THE COMMUNICATION DURING THE FOUR-MONTH PERIOD BEFORE ANY  
53 ELECTION IN WHICH THE CANDIDATE STANDS FOR NOMINATION.

54 (II) FOR PURPOSES OF THIS SUBDIVISION, "DOMINANT INTEREST" MEANS THAT  
55 THE PERSON MAKING THE PAYMENT OR EXPENDITURE EITHER:

1 A. RECEIVES TWENTY-FIVE PERCENT OR MORE OF ITS TOTAL CONTRIBUTIONS FOR  
2 ANY REPORTING PERIOD UNDER THIS ARTICLE WITHIN TWO YEARS OF THE GENERAL  
3 ELECTION, PRIMARY OR SPECIAL ELECTION IN WHICH THE CANDIDATE IS A CANDI-  
4 DATE FOR NOMINATION OR ELECTION, FROM AN INDIVIDUAL CONTRIBUTOR THAT HAS  
5 CONTRIBUTED DIRECTLY TO DURING THE ELECTION CYCLE OF THE CANDIDATE  
6 INVOLVED, OR

7 B. RECEIVES FIFTY PERCENT OR MORE OF ITS TOTAL CONTRIBUTIONS FOR ANY  
8 REPORTING PERIOD UNDER THIS ARTICLE WITHIN TWO YEARS OF THE GENERAL  
9 ELECTION, PRIMARY OR SPECIAL ELECTION IN WHICH THE CANDIDATE IS A CANDI-  
10 DATE FOR NOMINATION OR ELECTION, FROM A CONTRIBUTOR THAT IS AN ENTITY  
11 DURING THE ELECTION CYCLE INVOLVED

12 (E) THE FOLLOWING SHALL NOT BE COORDINATION:

13 (I) A CANDIDATE'S OR A POLITICAL PARTY COMMITTEE'S RESPONSE TO AN  
14 INQUIRY ABOUT THAT CANDIDATE'S OR POLITICAL PARTY COMMITTEE'S POSITIONS  
15 ON LEGISLATIVE OR POLICY ISSUES.

16 (II) A PUBLIC COMMUNICATION IN WHICH A CANDIDATE IS CLEARLY IDENTIFIED  
17 ONLY IN HIS OR HER CAPACITY AS THE OWNER OR OPERATOR OF A BUSINESS THAT  
18 EXISTED PRIOR TO THE CANDIDACY IS NOT A COORDINATED COMMUNICATION WITH  
19 RESPECT TO THE CLEARLY IDENTIFIED CANDIDATE IF: (I) THE MEDIUM, TIMING,  
20 CONTENT, AND GEOGRAPHIC DISTRIBUTION OF THE PUBLIC COMMUNICATION ARE  
21 CONSISTENT WITH PUBLIC COMMUNICATIONS MADE PRIOR TO THE CANDIDACY; AND  
22 (II) THE PUBLIC COMMUNICATION DOES NOT PROMOTE, SUPPORT, ATTACK, OR  
23 OPPOSE THAT CANDIDATE OR ANOTHER CANDIDATE IN THEIR CAPACITY AS CANDI-  
24 DATES WHO SEEKS THE SAME OFFICE AS THAT CANDIDATE.

25 (F) FOR PURPOSES OF THIS SECTION, THE TERM "IMMEDIATE FAMILY" MEANS  
26 SPOUSE, CHILD, PARENT, GRANDPARENT, BROTHER, HALF-BROTHER, SISTER, OR  
27 HALF-SISTER OF THE CANDIDATE, AND THE SPOUSES OF SUCH PERSONS.

28 (G) FOR PURPOSES OF THIS SECTION, "AGENT" MEANS A PERSON AUTHORIZED BY  
29 THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE, WHO ACTS ON  
30 BEHALF OF OR AT THE DIRECTION OF A CANDIDATE OR THE CANDIDATE'S AUTHOR-  
31 IZED COMMITTEE; OR A PARTY COMMITTEE OR CONSTITUTED COMMITTEE ACTING ON  
32 BEHALF OF A CANDIDATE.

33 S 2. Subdivision 3 of section 14-107 of the election law, as added by  
34 section 4 of subpart C of part H of chapter 55 of the laws of 2014, is  
35 amended to read as follows:

36 3. [(a)] Any person prior to making any independent expenditure shall  
37 first register with the state board of elections as a political commit-  
38 tee AND AS AN INDEPENDENT EXPENDITURE COMMITTEE in conformance with this  
39 article. Such person shall comply with all disclosure obligations  
40 required for political committees by law[.

41 (b) Any person who has registered with the state board of elections  
42 pursuant to paragraph (a) of this subdivision shall disclose to the  
43 state board of elections electronically, once a week on Friday any  
44 contribution to such person over one thousand dollars or expenditures by  
45 such person over five thousand dollars made prior to thirty days before  
46 any primary, general, or special election.

47 (c) Any person who has registered with the state board of elections  
48 pursuant to paragraph (a) of this subdivision shall disclose to the  
49 state board of elections electronically, within twenty-four hours of  
50 receipt, any contribution to such person over one thousand dollars or  
51 expenditure by such person over five thousand dollars made within thirty  
52 days before any primary, general, or special election.

53 (d) A knowing and willful violation of the provisions of this subdivi-  
54 sion shall subject the person to a civil penalty equal to five thousand  
55 dollars or the cost of the communication, whichever is greater, in a  
56 special proceeding or civil action brought by the board or imposed

1 directly by the board of elections.] AND SHALL PROVIDE THE FOLLOWING  
2 ADDITIONAL INFORMATION UPON REGISTRATION:

3 (A) WHERE THE PERSON MAKING THE STATEMENT IS AN INDIVIDUAL, THE NAME,  
4 ADDRESS, OCCUPATION AND EMPLOYER OF THE PERSON.

5 (B) WHERE THE PERSON MAKING THE STATEMENT IS AN ENTITY, THE NAME AND  
6 EMPLOYER OF ANY INDIVIDUAL WHO EXERTS OPERATIONAL OR MANAGERIAL INFLU-  
7 ENCE OR CONTROL OVER THE ENTITY, AS WELL AS ANY SALARIED EMPLOYEE OF THE  
8 ENTITY. THE DISCLOSURES REQUIRED BY THIS PARAGRAPH SHALL INCLUDE THE  
9 NAME OF AT LEAST ONE NATURAL PERSON.

10 (C) IDENTIFY INDIVIDUALS NAMED IN PARAGRAPHS (A) AND (B) OF THIS  
11 SUBDIVISION WHO HAVE, DURING THE TWO-YEAR PERIOD BEFORE THE STATEMENT IS  
12 FILED, BEEN EMPLOYED OR RETAINED AS A POLITICAL, MEDIA, OR FUNDRAISING  
13 ADVISER OR CONSULTANT FOR A CANDIDATE, ANY ENTITY DIRECTLY CONTROLLED BY  
14 A CANDIDATE, OR ANY PARTY COMMITTEE OR CONSTITUTED COMMITTEE, OR HAVE  
15 HELD A FORMAL POSITION IN THE OFFICE OF A CANDIDATE'S ELECTED OFFICE, OR  
16 ANY PARTY COMMITTEE OR CONSTITUTED COMMITTEE, AND THE NAME OF THE RELE-  
17 VANT EMPLOYER.

18 (D) A LIST OF INDIVIDUALS NAMED IN PARAGRAPHS (A), (B) AND (C) OF THIS  
19 PARAGRAPH WHO ARE MEMBERS OF A CANDIDATE'S IMMEDIATE FAMILY.

20 (E) THE INFORMATION PROVIDED PURSUANT TO THIS SUBDIVISION SHALL BE  
21 UPDATED WITHIN TWENTY-FOUR HOURS OF ANY CHANGE IN OWNERSHIP OR CONTROL  
22 OF ANY REGISTERED ENTITY.

23 S 3. Subdivision 4 of section 14-107 of the election law, as added by  
24 section 4 of subpart C of part H of chapter 55 of the laws of 2014, is  
25 amended to read as follows:

26 4. (A) REQUIRED DISCLOSURES. (I) ANY PERSON WHO HAS REGISTERED PURSU-  
27 ANT TO SUBDIVISION THREE OF THIS SECTION SHALL DISCLOSE TO THE STATE  
28 BOARD OF ELECTIONS ELECTRONICALLY, ONCE A WEEK ON MONDAY ANY CONTRIB-  
29 UTION TO SUCH PERSON OVER ONE THOUSAND DOLLARS OR EXPENDITURES BY SUCH  
30 PERSON OVER FIVE THOUSAND DOLLARS MADE DURING THE REPORTING PERIOD.

31 (II) ANY PERSON WHO HAS REGISTERED WITH THE STATE BOARD OF ELECTIONS  
32 PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL DISCLOSE TO THE  
33 STATE BOARD OF ELECTIONS ELECTRONICALLY, WITHIN TWENTY-FOUR HOURS OF  
34 RECEIPT, ANY CONTRIBUTION TO SUCH PERSON OVER ONE THOUSAND DOLLARS MADE  
35 WITHIN THIRTY DAYS BEFORE ANY PRIMARY, GENERAL, OR SPECIAL ELECTION.

36 (B) The disclosures required by [subdivision three] PARAGRAPH (A) of  
37 this [section] SUBDIVISION shall include, in addition to any other  
38 information required by law:

39 [(a)] (I) the name, address, occupation and employer of the person  
40 making the statement;

41 [(b)] the name, address, occupation and employer of the person making  
42 the independent expenditure;

43 (c) the name, address, occupation and employer of any person providing  
44 a contribution, gift, loan, advance or deposit of one thousand dollars  
45 or more for the independent expenditure, or the provision of services  
46 for the same, and the date it was given;

47 (d)] (II) FOR EACH EXPENDITURE OR PAYMENT MADE: (1) the dollar amount  
48 paid for each independent expenditure, the name and address of the  
49 person or entity receiving the payment, the date the payment was made  
50 and a description of the independent expenditure; [and

51 (e)] (2) the election to which the independent expenditure pertains  
52 and the name of the clearly identified candidate or the ballot proposal  
53 referenced AND WHETHER THE CANDIDATE OR BALLOT PROPOSAL IS SUPPORTED OR  
54 OPPOSED; AND

(3) A LIST OF ALL EXPENDITURES BY AND LIABILITIES OF THE PERSON, AND OF ITS OFFICERS, MEMBERS AND AGENTS IN ITS BEHALF, INCURRED DURING THE RELEVANT REPORTING PERIOD.

(III) FOR EACH CONTRIBUTION RECEIVED:

(1) 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, THE DATE IT WAS GIVEN;

(2) ANY SOLICITOR OF FUNDS MUST NOTIFY THE POTENTIAL DONOR THAT HIS OR HER FUNDS MAY ULTIMATELY BE PROVIDED TO A PERSON MAKING AN INDEPENDENT EXPENDITURE.

S 4. Section 14-107 of the election law is amended by adding a new subdivision 8 to read as follows:

8. (A) ALL CRIMINAL LIABILITY RELATED TO THIS SECTION SHALL REQUIRE KNOWING AND WILLFUL VIOLATIONS IN ACCORDANCE WITH SECTION 14-126 OF THIS ARTICLE.

(B) A KNOWING AND WILLFUL VIOLATION OF THE PROVISIONS OF SUBDIVISIONS THREE AND FOUR OF THIS SECTION 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.

S 5. The opening paragraph of paragraph 3 of subdivision 9 of section 14-100 of the election law, as amended by chapter 70 of the laws of 1983, is amended to read as follows:

any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election or election of any candidate, INCLUDING ANY PAYMENT OR EXPENDITURE WHERE COORDINATION HAS OCCURRED AS DEFINED IN SECTION 14-107 OF THIS ARTICLE, or any payment made to promote the success or defeat of a political party or principle, or of any ballot proposal including but not limited to compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed a contribution if it is made, taken or performed by a candidate or his spouse or by a person or a political committee independent of the candidate or his agents or authorized political committees. For purposes of this article, the term "independent of the candidate or his agents or authorized political committees" shall mean that the candidate or his agents or authorized political committees did not authorize, request, suggest, foster or cooperate in any such activity; and provided further, that the term contribution shall not include:

S 6. Section 14-100 of the election law is amended by adding two new subdivisions 15 and 16 to read as follows:

15. "INDEPENDENT EXPENDITURE COMMITTEE" MEANS A POLITICAL COMMITTEE, THAT MAKES ONLY INDEPENDENT EXPENDITURES AS DEFINED IN THIS ARTICLE, AND DOES NOT COORDINATE WITH AND CONDUCTS ITS ACTIVITIES ENTIRELY INDEPENDENT OF CANDIDATES, CANDIDATE'S AUTHORIZED COMMITTEES OR AN AGENT OF THE CANDIDATE AS DEFINED IN PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION 14-107 OF THIS ARTICLE.

16. "POLITICAL ACTION COMMITTEE" MEANS A POLITICAL COMMITTEE WHICH MAKES NO EXPENDITURES, TO AID OR TAKE PART IN THE ELECTION OR DEFEAT OF A CANDIDATE, OTHER THAN IN THE FORM OF CONTRIBUTIONS INCLUDING IN-KIND CONTRIBUTIONS TO CANDIDATES, CANDIDATE'S AUTHORIZED COMMITTEES, PARTY COMMITTEES, CONSTITUTED COMMITTEES, OR INDEPENDENT EXPENDITURE COMMITTEES WITH COMMON OPERATIONAL OR MANAGERIAL INFLUENCE OR CONTROL, AND

1 MAKES NO OTHER EXPENDITURES EXCEPT TO OPERATE THE POLITICAL ACTION  
2 COMMITTEE.

3 S 7. Section 14-112 of the election law, as amended by chapter 930 of  
4 the laws of 1981, is amended to read as follows:

5 S 14-112. Political committee authorization statement. Any political  
6 committee aiding or taking part in the election or nomination of any  
7 candidate, other than [by making contributions] A POLITICAL ACTION  
8 COMMITTEE, shall file, in the office in which the statements of such  
9 committee are to be filed pursuant to this article, either a sworn veri-  
10 fied statement by the treasurer of such committee that the candidate has  
11 authorized the political committee to aid or take part in his election  
12 or that the candidate has not authorized the committee to aid or take  
13 part in his election.

14 S 8. Subdivision 1 of section 14-118 of the election law, as amended  
15 by chapter 156 of the laws of 2010, is amended to read as follows:

16 1. Every political committee shall have a treasurer and a depository,  
17 and shall cause the treasurer to keep detailed, bound accounts of all  
18 receipts, transfers, loans, liabilities, contributions and expenditures,  
19 made by the committee or any of its officers, members or agents acting  
20 under its authority or in its behalf. All such accounts shall be  
21 retained by a treasurer for a period of five years from the date of the  
22 filing of the final statement with respect to the election, primary  
23 election or convention to which they pertain. No officer, member or  
24 agent of any political committee shall receive any receipt, transfer or  
25 contribution, or make any expenditure or incur any liability until the  
26 committee shall have chosen a treasurer and depository and filed their  
27 names in accordance with this subdivision. There shall be filed in the  
28 office in which the committee is required to file its statements under  
29 section 14-110 of this article, within five days after the choice of a  
30 treasurer and depository, a statement giving the name and address of the  
31 treasurer chosen, the name and address of any person authorized to sign  
32 checks by such treasurer, the name and address of the depository chosen  
33 and the candidate or candidates or ballot proposal or proposals the  
34 success or defeat of which the committee is to aid or take part;  
35 provided, however, that such statement shall not be required of a  
36 constituted committee and provided further that a political ACTION  
37 committee which makes no expenditures, to aid or take part in the  
38 election or defeat of a candidate, other than in the form of contrib-  
39 utions, shall not be required to list the candidates being supported or  
40 opposed by such committee AND SHALL ALSO DISCLOSE THE NAME AND EMPLOYER  
41 FOR ANY INDIVIDUAL WHO EXERTS OPERATIONAL OR MANAGERIAL INFLUENCE OR  
42 CONTROL OVER THE POLITICAL ACTION COMMITTEE AS WELL AS ANY SALARIED  
43 EMPLOYEE OF THE POLITICAL ACTION COMMITTEE. Such statement shall be  
44 signed by the treasurer and all other persons authorized to sign checks.  
45 Any change in the information required in any statement shall be  
46 reported, in an amended statement filed in the same manner and in the  
47 same office as an original statement filed under this section, within  
48 two days after it occurs, except that any change to the mailing address  
49 on any such statement filed at the state board may also be made in any  
50 manner deemed acceptable by the state board. Only a banking organization  
51 authorized to do business in this state may be designated a depository  
52 hereunder.

53 S 9. The election law is amended by adding a new section 14-107-a to  
54 read as follows:

55 S 14-107-A. PROHIBITED SPENDING BY INDEPENDENT EXPENDITURE COMMITTEES  
56 AND POLITICAL ACTION COMMITTEES. 1. AN INDEPENDENT EXPENDITURE COMMITTEE

1 SHALL NOT CONTRIBUTE TO ANY CANDIDATE, CONSTITUTED COMMITTEE, POLITICAL  
2 COMMITTEE, OR POLITICAL PARTY.

3 2. (A) A POLITICAL ACTION COMMITTEE SHALL NOT MAKE ANY INDEPENDENT  
4 EXPENDITURES OR CONTRIBUTIONS TO ANY INDEPENDENT EXPENDITURE COMMITTEE  
5 WITH COMMON OPERATIONAL OR MANAGERIAL INFLUENCE OR CONTROL.

6 (B) NO CANDIDATE, CANDIDATE'S AUTHORIZED COMMITTEE, PARTY COMMITTEE,  
7 OR CONSTITUTED COMMITTEE SHALL CONTRIBUTE TO AN INDEPENDENT EXPENDITURE  
8 COMMITTEE THAT IS MAKING EXPENDITURES BENEFITTING THE CANDIDATE OR THE  
9 CANDIDATE SUPPORTED BY THE RELEVANT PARTY.

10 S 10. Subdivision 10 of section 14-114 of the election law, as added  
11 by chapter 79 of the laws of 1992, is amended to read as follows:

12 10. a. No contributor may make a contribution to a party [or] COMMIT-  
13 TEE, constituted committee OR POLITICAL ACTION COMMITTEE and no such  
14 committee may accept a contribution from any contributor which, in the  
15 aggregate, is greater than sixty-two thousand five hundred dollars per  
16 annum.

17 b. At the beginning of each fourth calendar year, commencing in nine-  
18 teen hundred ninety-five, the state board shall determine the percentage  
19 of the difference between the most recent available monthly consumer  
20 price index for all urban consumers published by the United States  
21 bureau of labor statistics and such consumer price index published for  
22 the same month four years previously. The amount of such contribution  
23 limit fixed in paragraph a of this subdivision shall be adjusted by the  
24 amount of such percentage difference to the closest one hundred dollars  
25 by the state board which, not later than the first day of February in  
26 each such year, shall issue a regulation publishing the amount of such  
27 contribution limit. Such contribution limit as so adjusted shall be the  
28 contribution limit in effect for any election held before the next such  
29 adjustment.

30 S 11. Section 14-126 of the election law is amended by adding a new  
31 subdivision 3-a to read as follows:

32 3-A. ANY PERSON WHO, ACTING AS OR ON BEHALF OF AN INDEPENDENT EXPENDI-  
33 TURE COMMITTEE OR A POLITICAL ACTION COMMITTEE, KNOWINGLY AND WILLFULLY  
34 VIOLATES THE PROVISIONS OF SECTION 14-107-A OF THIS ARTICLE SHALL BE  
35 SUBJECT TO A CIVIL PENALTY, UP TO ONE THOUSAND DOLLARS OR UP TO THE COST  
36 OF THE COMMUNICATION, WHICHEVER IS GREATER, TO BE RECOVERABLE IN A  
37 SPECIAL PROCEEDING OR CIVIL ACTION TO BE BROUGHT BY THE STATE BOARD OF  
38 ELECTIONS.

39 S 12. Severability. If any clause, sentence, subdivision, paragraph,  
40 section or part of this act be adjudged by any court of competent juris-  
41 diction to be invalid, such judgment shall not affect, impair or invali-  
42 date the remainder thereof, but shall be confined in its operation to  
43 the clause, sentence, subdivision, paragraph, section or part thereof  
44 directly involved in the controversy in which such judgment shall have  
45 been rendered.

46 S 13. This act shall take effect immediately.