

8130

I N S E N A T E

June 13, 2016

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 iden-
13 tified 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 commit-
22 tee 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.

LBD15884-01-6

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

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

4 (III) FOR EACH CONTRIBUTION RECEIVED:

5 (1) THE NAME, ADDRESS, OCCUPATION AND EMPLOYER OF ANY PERSON PROVIDING
6 A CONTRIBUTION, GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE THOUSAND DOLLARS
7 OR MORE FOR THE INDEPENDENT EXPENDITURE, OR THE PROVISION OF SERVICES
8 FOR THE SAME, THE DATE IT WAS GIVEN;

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

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

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

17 (B) A KNOWING AND WILLFUL VIOLATION OF THE PROVISIONS OF SUBDIVISIONS
18 THREE AND FOUR OF THIS SECTION SHALL SUBJECT THE PERSON TO A CIVIL
19 PENALTY EQUAL TO FIVE THOUSAND DOLLARS OR THE COST OF THE COMMUNICATION,
20 WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY
21 THE BOARD.

22 S 5. The opening paragraph of paragraph 3 of subdivision 9 of section
23 14-100 of the election law, as amended by chapter 70 of the laws of
24 1983, is amended to read as follows:

25 any payment, by any person other than a candidate or a political
26 committee authorized by the candidate, made in connection with the nomi-
27 nation for election or election of any candidate, INCLUDING ANY PAYMENT
28 OR EXPENDITURE WHERE COORDINATION HAS OCCURRED AS DEFINED IN SECTION
29 14-107 OF THIS ARTICLE, or any payment made to promote the success or
30 defeat of a political party or principle, or of any ballot proposal
31 including but not limited to compensation for the personal services of
32 any individual which are rendered in connection with a candidate's
33 election or nomination without charge; provided however, that none of
34 the foregoing shall be deemed a contribution if it is made, taken or
35 performed by a candidate or his spouse or by a person or a political
36 committee independent of the candidate or his agents or authorized poli-
37 tical committees. For purposes of this article, the term "independent of
38 the candidate or his agents or authorized political committees" shall
39 mean that the candidate or his agents or authorized political committees
40 did not authorize, request, suggest, foster or cooperate in any such
41 activity; and provided further, that the term contribution shall not
42 include:

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

45 15. "INDEPENDENT EXPENDITURE COMMITTEE" MEANS A POLITICAL COMMITTEE,
46 THAT MAKES ONLY INDEPENDENT EXPENDITURES AS DEFINED IN THIS ARTICLE, AND
47 DOES NOT COORDINATE WITH AND CONDUCTS ITS ACTIVITIES ENTIRELY INDEPEND-
48 ENT OF CANDIDATES, CANDIDATE'S AUTHORIZED COMMITTEES OR AN AGENT OF THE
49 CANDIDATE AS DEFINED IN PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION
50 14-107 OF THIS ARTICLE.

51 16. "POLITICAL ACTION COMMITTEE" MEANS A POLITICAL COMMITTEE WHICH
52 MAKES NO EXPENDITURES, TO AID OR TAKE PART IN THE ELECTION OR DEFEAT OF
53 A CANDIDATE, OTHER THAN IN THE FORM OF CONTRIBUTIONS INCLUDING IN-KIND
54 CONTRIBUTIONS TO CANDIDATES, CANDIDATE'S AUTHORIZED COMMITTEES, PARTY
55 COMMITTEES, CONSTITUTED COMMITTEES, OR INDEPENDENT EXPENDITURE COMMIT-
56 TEES 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.