

# STATE OF NEW YORK

664

2019-2020 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. PAULIN, DINOWITZ, BARRON, D'URSO, GOTTFRIED, JAFFEE, MOSLEY, SANTABARBARA, SIMON, BYRNE, LAWRENCE, GALEF, BRAUNSTEIN, BUCHWALD, COOK, CROUCH, M. L. MILLER, WRIGHT -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to transition and inauguration donations and expenses and funds for personal use

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The election law is amended by adding a new article 18 to  
2 read as follows:

### ARTICLE 18

#### TRANSITION AND INAUGURATION ENTITIES

##### Section 18-100. Definitions.

6 18-101. Transition and inauguration donations and expenses.

7 18-102. Transition and inauguration funds for personal use.

8 § 18-100. Definitions. For purposes of this article, the term "political committee" shall have the same meaning as set forth in section  
9 14-100 of this chapter.

10 § 18-101. Transition and inauguration donations and expenses. 1.  
11 Candidates elected to office may authorize one or more entities, other  
12 than a political committee, for the purpose of accepting donations and  
13 loans, and for making expenditures, for transition or inauguration into  
14 office. Such donations and loans may not be accepted and such expendi-  
15 tures may not be made on behalf of such candidate prior to the registra-  
16 tion with the board of elections of each such entity. The board of  
17 elections shall promulgate rules to establish the time and manner for  
18 such registration.

19 2. Candidates elected to office, and the entities such candidates  
20 authorized pursuant to subdivision one of this section, shall not:  
21

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

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1     (a) use funds accepted by a political committee authorized by the  
2     candidate for any election to make expenditures for transition or inau-  
3     guration into office, and shall not transfer funds from a political  
4     committee to an entity the candidate is required to register pursuant to  
5     subdivision one of this section;

6     (b) accept any donation or donations of money, goods, or services from  
7     any individual other than the candidate, political committee, employee  
8     organization, or entity which in the aggregate exceeds the limit for the  
9     applicable office contained in subdivision one of section 14-114 of this  
10    chapter, as adjusted pursuant to such subdivision as applicable; and

11    (c) incur any liabilities after January thirty-first in the year  
12    following the election, nor accept any donations after all liabilities  
13    are paid.

14    3. Donations that do not exceed the limitations set forth in paragraph  
15    (b) of subdivision two of this section may be accepted only from poli-  
16    tical committees that register with the board of elections, as shall be  
17    provided for in rules issued by such board. Any donation accepted from a  
18    political committee that has not registered with the board of elections  
19    prior to making the donation must be returned to the political commit-  
20    tee. However, a subsequent donation may be accepted if such political  
21    committee registers with the board of elections in accordance with the  
22    rules issued by the board.

23    4. To the extent not repaid by the date of the candidate's inau-  
24    guration into office, a loan received by such entity shall be deemed a  
25    donation subject to the limits and restrictions set forth in paragraph  
26    (b) of subdivision two and subdivision three of this section.

27    5. Entities required to be registered pursuant to subdivision one of  
28    this section shall not incur liabilities for purposes other than transi-  
29    tion or inauguration into office.

30    6. Notwithstanding any restriction in this section, a candidate may  
31    self-fund his or her own entity.

32    § 18-102. Transition and inauguration funds for personal use. 1.  
33    Contributions received by transition and inauguration entities may be  
34    expended for any lawful purpose. Such funds shall not be converted by  
35    any person to a personal use which is unrelated to transition or inau-  
36    guration into office or the holding of a public office or party position.

37    2. No contribution shall be used to pay interest or any other finance  
38    charges upon monies loaned to the transition or inauguration entity by  
39    the candidate or the spouse of such candidate.

40    3. For the purposes of this section, contributions "converted by any  
41    person to a personal use" are expenditures that are exclusively for the  
42    personal benefit of the candidate or any other individual, not in  
43    connection with transition or inauguration into office or the holding of  
44    a public office or party position. "Converted by any person to a  
45    personal use", when meeting the definition in this subdivision, shall  
46    include, but not be limited to, expenses for the following:

47    (a) any residential or household items, supplies or expenditures,  
48    including mortgage, rent or utility payments for any part of any  
49    personal residence of a candidate or officeholder or a member of the  
50    candidate's or officeholder's family that are not incurred as a result  
51    of, or to facilitate, the individual's transition and inauguration into  
52    office, or the execution of his or her duties of public office or party  
53    position. In the event that any property or building is used for both  
54    personal and the individual's transition and inauguration into office or  
55    as part of the execution of his or her duties of public office or party

1 position, personal use shall constitute expenses that exceed the pro-  
2 rated amount for such expenses based on fair-market value;

3 (b) mortgage, rent, or utility payments to a candidate or officeholder  
4 for any part of any non-residential property that is owned by a candi-  
5 date or officeholder or a member of a candidate's or officeholder's  
6 family and used for the individual's transition and inauguration into  
7 office, to the extent the payments exceed the fair market value of the  
8 property's usage for transition and inauguration activities;

9 (c) clothing, other than items that are used in the transition and  
10 inauguration into office or in the execution of the duties of public  
11 office or party position;

12 (d) tuition payments unrelated to the individual's transition and  
13 inauguration into office or the holding of a public office or party  
14 position;

15 (e) salary payments or other compensation provided to any person for  
16 services where such services are not solely for the transition and inau-  
17 guration into office or provided in connection with the execution of the  
18 duties of public office or party position;

19 (f) salary payments or other compensation provided to a member of a  
20 candidate's family, unless the family member is providing bona fide  
21 services to the transition and inauguration. If a family member provides  
22 bona fide services to the transition and inauguration, any salary  
23 payments or other compensation in excess of the fair market value of the  
24 services provided shall be considered payments for personal use;

25 (g) admission to a sporting event, concert, theater, or other form of  
26 entertainment, unless such event is part of, or in connection with, the  
27 individual's transition and inauguration into office or is related to  
28 the holding of public office or party position;

29 (h) payment of any fines or penalties assessed against the candidate  
30 pursuant to this chapter or in connection with a criminal conviction or  
31 by the joint commission for public ethics pursuant to section ninety-  
32 four of the executive law or sections seventy-three or seventy-three-a  
33 of the public officers law or the legislative ethics commission pursuant  
34 to section eighty of the legislative law;

35 (i) dues, fees, or gratuities at a country club, health club, recre-  
36 ational facility or other entities with a similar purpose, unless they  
37 are expenses connected with a specific fundraising event or activity  
38 associated with the individual's transition and inauguration into office  
39 or the holding of public office or party position that takes place on  
40 the organization's premises; and

41 (j) travel expenses including automobile purchases or leases, unless  
42 used for transition and inauguration purposes or in connection with the  
43 execution of the duties of public office or party position and usage of  
44 such vehicle which is incidental to such purposes or the execution of  
45 such duties.

46 4. Nothing in this section shall prohibit a candidate from purchasing  
47 equipment or property from his or her personal funds and leasing or  
48 renting such equipment or property to a committee working directly or  
49 indirectly with him or her to aid or participate in his or her transi-  
50 tion and inauguration into office, provided that the candidate and the  
51 treasurer of the transition and inauguration entity sign a written lease  
52 or rental agreement. Such agreement shall include the lease or rental  
53 price, which shall not exceed the fair lease or rental value of the  
54 equipment. The candidate shall not receive lease or rental payments  
55 which, in the aggregate, exceed the cost of purchasing the equipment or  
56 property.

1     5. Nothing in this section shall prohibit an elected public office-  
2 holder from using transition and inauguration contributions to facili-  
3 tate, support, or otherwise assist in the execution or performance of  
4 the duties of his or her public office.

5     6. The state board of elections shall issue advisory opinions upon  
6 request regarding expenditures that may or may not be considered  
7 personal use of contributions. Any formal or informal advisory opinions  
8 issued by a majority vote of the commissioners of the state board of  
9 elections shall be binding on the board, the chief enforcement counsel  
10 established by subdivision three-a of section 3-100 of this chapter, and  
11 in any subsequent civil or criminal action or proceeding or administra-  
12 tive proceeding.

13     § 2. This act shall take effect on the fifteenth of December next  
14 succeeding the date on which it shall have become a law. Effective imme-  
15 diately, the addition, amendment and/or repeal of any rule or regulation  
16 necessary for the implementation of this act on its effective date are  
17 authorized to be made and completed on or before such effective date.