STATE OF NEW YORK

456

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. BIAGGI -- 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 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:

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

ARTICLE 18

TRANSITION AND INAUGURATION ENTITIES

Section 18-100. Definitions.

18-101. Transition and inauguration donations and expenses.

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

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

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

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

(a) use funds accepted by a political committee authorized by the candidate for any election to make expenditures for transition or inauguration into office, and shall not transfer funds from a political

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

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committee to an entity the candidate is required to register pursuant to subdivision one of this section;

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

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

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

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

5. Entities required to be registered pursuant to subdivision one of this section shall not incur liabilities for purposes other than transition or inauguration into office.

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

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

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

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

(a) any residential or household items, supplies or expenditures, including mortgage, rent or utility payments for any part of any personal residence of a candidate or officeholder or a member of the candidate's or officeholder's family that are not incurred as a result of, or to facilitate, the individual's transition and inauguration into office, or the execution of his or her duties of public office or party position. In the event that any property or building is used for both personal and the individual's transition and inauguration into office or as part of the execution of his or her duties of public office or party position, personal use shall constitute expenses that exceed the pro-rated amount for such expenses based on fair-market value;

(b) mortgage, rent, or utility payments to a candidate or officeholder for any part of any non-residential property that is owned by a candi-

date or officeholder or a member of a candidate's or officeholder's family and used for the individual's transition and inauguration into office, to the extent the payments exceed the fair market value of the property's usage for transition and inauguration activities;

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

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

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

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

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

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

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

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

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

5. Nothing in this section shall prohibit an elected public officeholder from using transition and inauguration contributions to facilitate, support, or otherwise assist in the execution or performance of the duties of his or her public office.

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

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