

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CITIZENS UNION OF THE CITY
OF NEW YORK and
CITIZENS UNION FOUNDATION, INC.
OF THE CITY OF NEW YORK,

Plaintiffs,

-against-

THE GOVERNOR OF THE STATE OF NEW
YORK, in his official capacity; THE
MEMBERS OF THE JOINT COMMISSION
ON PUBLIC ETHICS, in their official
capacities; THE EXECUTIVE DIRECTOR
OF THE JOINT COMMISSION ON PUBLIC
ETHICS, in his official capacity; and THE
ATTORNEY GENERAL OF THE STATE OF
NEW YORK, in his official capacity,

Defendants.

Civil Action No. _____

-----X

COMPLAINT

GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

*Attorneys for Plaintiffs Citizens Union of the
City of New York and Citizens Union
Foundation, Inc. of the City of New York*

TABLE OF CONTENTS

	<u>Page</u>
I. NATURE OF THE ACTION	1
II. PARTIES, JURISDICTION, AND VENUE	4
III. LEGAL AND REGULATORY BACKGROUND	6
A. The First Amendment Protects Speech And Association And Bars Laws That Burden Political Speech But Are Not Related To Corruption Or Elections	6
B. The Legislature Passes Nonprofit Disclosure Provisions—The Same Day They Were Introduced, Without Public Comment—That Regulate Core First Amendment Speech That Has No Nexus To Corruption Or Elections	10
1. Section 172-e imposes broad reporting requirements on 501(c)(3)s	13
2. Section 172-f imposes broad reporting requirements on 501(c)(4)s	15
IV. RELEVANT FACTS.....	16
A. Citizens Union, Citizens Union Foundation, And Numerous Other Charitable And Social Welfare Organizations In New York State Speak On Matters Of Public Concern.....	16
1. Citizens Union speaks out on good government in New York.....	18
2. Citizens Union Foundation conducts research and provides education on public issues	20
B. Nonprofit Organizations Like Citizens Union And Citizens Union Foundation Depend On Donors To Function, Including Donors Who Choose To Give Anonymously To Support Speech On Matters Of Public Concern	22
C. On Their Face, Sections 172-e And 172-f Substantially Burden The Rights Of Organizations Like Plaintiffs And Of Their Donors	24
1. Section 172-e substantially burdens the free speech and free association rights of 501(c)(3)s and their donors.....	24
2. Section 172-f substantially burdens the free speech and free association rights of 501(c)(4)s and their donors.....	28
V. CLAIMS AND JURY DEMAND	32
VI. PRAYER FOR RELIEF	33

Plaintiffs Citizens Union of the City of New York and Citizens Union Foundation, Inc. of the City of New York (collectively, “Plaintiffs”), by and through their undersigned attorneys, allege as follows:

**I.
NATURE OF THE ACTION**

1. Plaintiffs are affiliated educational and social welfare organizations that promote informed public discourse on matters of public concern in New York State and New York City. They bring this action to vindicate their rights, and the rights of their members and donors, under the First Amendment to the United States Constitution. Specifically, Plaintiffs seek declaratory and injunctive relief from the implementation and enforcement of two newly enacted, unconstitutionally broad provisions of the New York Executive Law, codified at sections 172-e and 172-f (the “Nonprofit Disclosure Provisions”), that will require public disclosure of broad swaths of donors and donations to nonprofit organizations, even when those donors and donations are supporting speech on matters of public concern but are far removed from elections or electioneering.

2. The First Amendment guarantees the bedrock constitutional rights to speak on matters of public concern and to associate for that purpose. It is well-settled that disclosure laws burdening these rights—which receive the protection of the First Amendment at its zenith—must be substantially related to a sufficiently important government interest. Although the government possesses significant interests in requiring certain kinds of disclosures in order to prevent *quid pro quo* corruption and to ensure the integrity of the electoral process, the Nonprofit Disclosure Provisions cannot possibly be justified by these government interests.

3. In particular, the Nonprofit Disclosure Provisions are unconstitutionally overbroad, regulating not only speech for or against candidates for public office but also infringing on core political speech unrelated to corruption or elections. Specifically, the Nonprofit Disclosure Provisions now require, without any nexus to elections or corruption, broad public disclosures of donations and donor identities from (1) certain tax-exempt organizations that contribute money or services to another organization engaging in lobbying, even if the contribution and the lobbying activities are wholly unrelated, and (2) certain tax-exempt organizations that speak out on *any* matter of public concern, *i.e.*, any issue of civil, social, or political importance, at any time. These sweeping provisions go far beyond electoral transparency and accountability; instead, they impermissibly burden the everyday, citizen-to-citizen dialogue at the heart of First Amendment.

4. The challenged act, Chapter 286, was signed into law on August 24, 2016. Part F of the act, codified at N.Y. Executive Law § 172-e, took effect on November 22, 2016. Part G of the act, codified at N.Y. Executive Law § 172-f, took effect on September 23, 2016. Both sections require organizations like Plaintiffs to file reports, after the close of two semi-annual reporting periods, publicly disclosing information about the organizations' donors and certain donations or expenditures.

5. The first semi-annual reporting period will end on December 31, 2016. As written, the first reports under the new laws must be filed with the New York State Department of Law within thirty days of the period's end—by January 30, 2017. Once received by the Department of Law, the reports must then be made available to the public on either the Department of Law's website or the website of the Joint Commission on Public Ethics (the "JCOPE"), depending on

the provision at issue, within the same thirty-day period. As a result, New York nonprofit organizations like Plaintiffs will have their disclosures made public by the end of January 2017.

6. The burdens imposed on Plaintiffs and similar organizations by the Nonprofit Disclosure Provisions are significant. First, the provisions impose direct burdens on the organizations by expanding their recordkeeping and compliance costs. More than simply disclosing existing tax forms like an IRS Schedule B, the law requires the filing of new reports with different criteria. The creation and preparation of these reports require significant investigation and ongoing monitoring efforts by covered organizations, particularly because the law requires certain covered entities to monitor even their *donees*' activities—over which they may have no control—in order to determine whether the covered entities need to file disclosures.

7. Moreover, social welfare organizations covered by section 172-f must track and report all instances of their public speech, as well as that of third parties to whom they contribute, that fall within the broadly defined statute, which in many cases may comprise a substantial amount of their programming.

8. These burdens chill speech by forcing both donors and the organizations to make choices between exercising speech and association rights and subjecting themselves to burdensome obligations and public disclosures. The Nonprofit Disclosure Provisions require donors to choose between making contributions over the dollar threshold—and thus face public disclosure of their names and addresses on a government website, subjecting them to whatever might result—and limiting or forgoing association with organizations they would otherwise support. The disclosure requirements also chill speech by organizations who may wish to contribute to other organizations but who may not want to undertake the burdens of compliance and reporting, or the risk of liability.

9. Plaintiffs are aware of donors who intend to limit their contributions or will decline to donate altogether, out of a desire to avoid public disclosure of their names and addresses. As Plaintiffs near the end of the calendar year, they face immediate harm in the form of a loss of donations as former or potential donors' speech is chilled. This in turn directly chills Plaintiffs' speech by limiting Plaintiffs' ability to create and disseminate communications.

10. Accordingly, the Nonprofit Disclosure Provisions are facially overbroad and will inflict irreparable harm on Plaintiffs and others similarly situated if they are not stayed prior to the end of January 2017. Plaintiffs therefore bring this action and ask the Court to: (1) declare that the Nonprofit Disclosure Provisions are void because they violate the First Amendment, and (2) enjoin the implementation or enforcement of the unconstitutional provisions.

II. PARTIES, JURISDICTION, AND VENUE

11. Plaintiff Citizens Union of the City of New York ("Citizens Union") is a nonprofit corporation organized under the laws of the State of New York and exempt from taxation under 26 U.S.C. § 501(c)(4). Its principal place of business is located at 299 Broadway, New York, New York, 10007. Citizens Union is a nonpartisan organization of citizens dedicated to securing honest and efficient government for the people of the City of New York. Citizens Union brings New Yorkers together to strengthen our democracy and improve our City. Nonpartisan and independent, it aims to build a political system that is fair and open to all, values each voice, and engages every voter. As New York's democratic reform organization, it informs, empowers, and organizes citizens to strengthen the integrity of the city and state's political institutions. It fights against corruption, works to reform the state's voting and electoral systems, and presses for city and state governments that are transparent, accountable, and effective.

12. Plaintiff Citizens Union Foundation, Inc. of the City of New York (“Citizens Union Foundation”) is a nonprofit corporation organized under the laws of the State of New York and exempt from taxation under 26 U.S.C. § 501(c)(3). Its principal place of business is located at 299 Broadway, New York, New York, 10007. Citizens Union Foundation conducts research, engages in public education, and analyzes public policy proposals, seeking increased civic participation as well as open, transparent, and responsive municipal and state government.

13. Defendant the Governor of the State of New York (the “Governor”) is the chief executive of the State of New York, charged with the faithful execution of the laws of the State. *See* N.Y. Const. art. IV, §§ 1, 3. The current Governor is Andrew Cuomo. He is sued here in his official capacity only.

14. Defendants the Members of the Joint Commission on Public Ethics (the “JCOPE Members”) are fourteen individuals, each appointed to serve on the JCOPE. *See* N.Y. Exec. Law § 94[2]. The JCOPE is an independent agency of the State of New York with jurisdiction over statewide elected officials, members and employees of the legislature, state officers and employees, candidates for statewide elected office and legislature, political party chairmen, lobbyists, and individuals who have formerly held any of these roles. *See* N.Y. Exec. Law § 94[1]. The JCOPE Members act in their statutory roles to ensure compliance with the State’s ethics and lobbying laws and regulations, in addition to issuing advisory opinions. *See* N.Y. Exec. Law § 94[9]–[18]. Pursuant to section 172-e[3], the JCOPE Members have the responsibility to publish the financial disclosure reports required by the law on their publicly available website. N.Y. Exec. Law § 172-e[3]. The current JCOPE Members are Marvin E. Jacob; Seymour Knox IV; Eileen Koretz; Gary J. Lavine; J. Gerard McAuliffe, Jr.; David A.

Renzi; Renee R. Roth; Michael K. Rozen; Dawn L. Smalls; and George H. Weissman. They are sued in their official capacities only.

15. Defendant the Executive Director of the Joint Commission on Public Ethics (the “JCOPE Executive Director”) is appointed by majority vote of the JCOPE Members; he may be delegated authority to act in the name of the commission between meetings of the JCOPE. *See* N.Y. Exec. Law § 94[9][a]. The current JCOPE Executive Director is Seth H. Agata. He is sued in his official capacity only.

16. Defendant the Attorney General of the State of New York (the “Attorney General”) is the head of the New York State Department of Law. *See* N.Y. Const. art. V, § 4, N.Y. Exec. Law § 60. The Department of Law is the state agency responsible for receiving the disclosure reports required by the Nonprofit Disclosure Provisions. In addition, the Attorney General is charged with the administration and enforcement of the Nonprofit Disclosure Provisions. *See* N.Y. Exec. Law §§ 172-e[3], 173-f[3], 175, 177. The current Attorney General is Eric T. Schneiderman. He is sued here in his official capacity only.

17. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331.

18. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391, because the acts triggering disclosure and the monitoring, preparing, and disclosing of the required reports will occur at Plaintiffs’ principal place of business in New York County.

III. LEGAL AND REGULATORY BACKGROUND

A. The First Amendment Protects Speech And Association And Bars Laws That Burden Political Speech But Are Not Related To Corruption Or Elections

19. The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or

abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” U.S. Const. amend. I.

20. The rights of free speech and free association guaranteed by the First Amendment are among the most fundamental pillars of a free democratic society. As the United States Supreme Court has stated, “[t]he vitality of civil and political institutions in our society depends on free discussion. . . . It is only through free debate and free exchange of ideas that government remains responsive to the will of the people and peaceful change is effected. The right to speak freely and to promote diversity of ideas and programs is therefore one of the chief distinctions that sets us apart from totalitarian regimes.” *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949).

21. The Supreme Court has consistently held that First Amendment protections are at their zenith when they concern “core political speech”—*i.e.*, speech that is “an expression of a desire for political change and a discussion of the merits of the proposed change.” *Meyer v. Grant*, 486 U.S. 414, 421 (1988). “The freedom of speech and of the press guaranteed by the Constitution embraces at least the liberty to discuss publicly and truthfully all matters of public concern without previous restraint or fear of subsequent punishment.” *Id.* (internal quotation marks omitted). This type of speech encompasses everything from “Support Our Troops!” to “Support the National Park System!” to “Promote School Choice!”—all of which express a substantive political position and encourage fellow citizens to do the same.

22. Accordingly, “[b]road prophylactic rules in the area of free expression are suspect. Precision of regulation must be the touchstone in an area so closely touching our most precious freedoms.” *NAACP v. Button*, 371 U.S. 415, 438 (1963); *see also Brown v. Entm’t Merchants Ass’n*, 564 U.S. 786, 807 (2011) (“[G]overnment may regulate in the area of First Amendment freedoms only with narrow specificity.” (internal quotation marks omitted)).

23. This specificity has particular importance in the unique context of elections. Because electoral speech necessarily involves core political speech, First Amendment protections are at their highest. *See Meyer*, 486 U.S. at 421, 425. However, the Supreme Court has also recognized that the interests in preserving the integrity of the democratic process, preventing *quid pro quo* corruption, and promoting an informed citizenry may justify limited regulations, such as compelled disclosures, of election-related speech. *See Buckley v. Valeo*, 424 U.S. 1, 66–67 (1976).

24. Accordingly, preserving the rights of free speech and free association in the context of campaign finance regulations requires careful consideration of the existence of “government interests sufficiently important to outweigh the possibility of infringement, particularly where the free functioning of our national institutions is involved.” *Valeo*, 424 U.S. at 66 (internal quotation marks omitted).

25. Prior to enacting Chapter 286, New York State struck this balance by regulating specific, election-related activity, including contributions to candidates or political committees, *see* N.Y. Exec. Law §§ 14-114, 14-117, and specific election or ballot-related “independent expenditures,” *see* N.Y. Exec. Law § 14-107 (amended 2016). Under these laws, independent expenditures—communications made by third parties that are not influenced by or coordinated with a candidate or political party—are defined to include any communications that contain “words such as ‘vote,’ ‘oppose,’ ‘support,’ ‘elect,’ ‘defeat,’ or ‘reject,’ which call for the election or defeat of the clearly identified candidate,” or that advocate for or refer to “clearly identified” candidates or ballot proposals within specified time periods before an election. *See* N.Y. Election Law § 14-107[1][a] (amended 2016). Persons making independent expenditures were required to register with the state board of elections and to disclose certain information, including the identity of the

person making the expenditure as well as the name, address, occupation, and employer of any person contributing \$1,000 or more for the independent expenditure. *Id.* § 14-107[4]. These requirements remain in place under the current law.

26. In January 2010, the Supreme Court held, in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), that statutes requiring disclosures related to the funding of corporate independent expenditures for “electioneering communications”—defined as “any broadcast, cable, or satellite communication’ that ‘refers to a clearly identified candidate for Federal office’ and is made within 30 days of a primary or 60 days of a general election,” *id.* at 321 (quoting 2 U.S.C. § 434(f)(3)(A))—are justified by the government’s informational interest in “providing the electorate with information about the sources of election-related spending.” *Citizens United*, 558 U.S. at 367 (internal quotation marks omitted). At the same time, the Supreme Court struck down as unconstitutional statutory prohibitions on a corporation’s use of general treasury funds to make independent expenditures for such electioneering communications.

27. Since *Citizens United*, Citizens Union has tirelessly advocated for increased campaign finance regulation within the confines set out by the Supreme Court, with the goal of promoting transparent and accountable democratic processes, including by testifying in May 2013 before the Elections Committee of the New York Senate on the benefits of a public matching system for campaign finance. Citizens Union has also advocated for reducing contribution limits, strengthening enforcement of existing campaign finance laws, restricting “soft money” contributions, and requiring greater disclosure and reporting in elections.

28. On January 4, 2012, Governor Cuomo announced strong support for campaign finance reform in his State of the State speech. In response, Citizens Union issued a statement by

Executive Director Dick Dadey, expressing support for the Governor’s position and advocating for the adoption of a matching public campaign finance system and meaningful redistricting reform. This statement was just one of several over the years by Citizens Union concerning the need to reform the state’s campaign finance system by reducing the undue influence of large-sized money contributions in political campaigns.

B. The Legislature Passes Nonprofit Disclosure Provisions—The Same Day They Were Introduced, Without Public Comment—That Regulate Core First Amendment Speech That Has No Nexus To Corruption Or Elections

29. On June 17, 2016, two bills—A10742 and S8160—were introduced into the New York State Assembly and New York State Senate by Assemblyman Carl Heastie and Senator John Flanagan, respectively. According to statements by both the Governor and the Assembly, the bills purport to respond to the Supreme Court’s *Citizens United* decision.

30. Both bills were introduced, voted upon, and passed on the same day under a “Message of Necessity.” Under the New York constitution, a bill must remain on a senator’s desk for three days before it can be voted on, unless the Governor certifies, and the Senate accepts, a Message of Necessity. *See* N.Y. Const. art. III, § 14.

31. On August 24, 2016, the Governor signed the bill, now designated Chapter 286 of the Laws of 2016. A true, complete, and accurate copy of Chapter 286 is attached as Exhibit A, and is incorporated herein as if fully set forth.

32. Governor Cuomo, in initiating the legislation, stated that its purpose is to “curb the power of independent expenditure campaigns unleashed by the 2010 Supreme Court case *Citizens United vs. Federal Election Commission*.” Press Release, Gov. Cuomo Advances Nation’s Strongest Protections to Combat Citizens United (June 8, 2016). The legislation, the Governor said, would “limit the ‘quid pro quo’ danger posed by colossal corporate donations and ensure that independent expenditure groups remain autonomous from the entities they support.” *Id.*

33. In late May and early June, Governor Cuomo met with Dadey and several other civic leaders at the governor's New York City office to discuss the possible legislation. During these meetings, Governor Cuomo did not discuss or raise these provisions as needed parts of the legislative fix to *Citizens United*.

34. After the legislature passed the bills, Citizens Union and four other civic groups wrote a letter dated August 23, 2016 to Governor Cuomo, urging him to veto the bills. The letter highlighted the groups' concerns with the flawed disclosure provisions and the lack of discussion prior to their proposal, stating:

We believe that these flaws are the direct result of a secretive process, a process all too common in Albany. Promised as a legislative fix to the disastrous Supreme Court decision in the Citizens Union case, it goes beyond the issue in that case and could easily bring a result that causes more harm than good to the public interest.

Letter to Governor Andrew Cuomo, dated August 26, 2016.

35. In a speech announcing the legislation, the Governor said:

[T]he power to influence and the power to be heard in elections was tilted beyond all recognition when the Supreme Court upheld Citizens United. This decision ignited the equivalent of a campaign nuclear arms race and created a shadow industry in New York—maligning the integrity of the electoral process and drowning out the voice of the people. . . . As Governor of New York, I am taking action to curb the powers of independent entities and ensure these committees cannot circumvent the law and cheat the system. We are also strengthening disclosure requirements so we know exactly where and from whom this dark money flows. Our message is clear: In New York, democracy is not for sale.”

Press Release, Gov. Cuomo Advances Nation's Strongest Protections to Combat Citizens United (June 8, 2016).

36. Similarly, in its statement in support of the eventual bill, the Assembly stated:

First, in response to the Supreme Court's Citizens United decision, this bill would institute the strictest anti-coordination law in the nation, and specifically prohibit coordination in New York State election law for the first time. . . . This will allow New York's electoral politics to achieve a clear and meaningful demarcation

between candidates and unlimited expenditures and will provide a much-needed reform to New York's campaign finance system.

Second, the bill would increase penalties for egregious lobbying violations, while also providing for enhanced due process for persons under investigation for ethics and lobbying violations. The bill would also require political consultants that provide services to sitting elected officials or candidates for elected office and who also have clients with business before the state or a locality to register with the state and to disclose their clients. This reform prevents organizations from corrupting the political process and utilizing funds that are not intended for political purposes[.] Disclosure of political relationships and funding behaviors widely recognized to be influential, but which operate in the shadows, is essential to restoring the public's faith and trust in our political process.

Statement in Support of Assembly Bill 10742.

37. Thus, Chapter 286 purports to protect against “*quid pro quo* dangers,” the coordination of campaign spending with candidates for public office, and political corruption; both the Governor’s and Assembly’s statements in support of Chapter 286 repeatedly refer to “elections,” “the electoral process,” and “electoral politics.” Notably, neither the Governor’s discussion of his motivation for introducing the bill, nor the statements of the legislature in passing it, specifically refer to the Nonprofit Disclosure Provisions or the reasons behind them. While other parts of Chapter 286 attempt to target *quid pro quo* corruption and coordination in elections, Parts F and G do not. Instead, they regulate substantial speech on matters of public concern.

38. Specifically, the Nonprofit Disclosure Provisions by their express terms regulate speech on matters of public concern by corporations exempt from taxation under 26 U.S.C. § 501(c)(3) and § 501(c)(4) (“501(c)(3)s” and “501(c)(4)s,” respectively) and their donors under overbroad standards with no relationship to preventing *quid pro quo* corruption or preserving electoral integrity. The Nonprofit Disclosure Provisions thus significantly curtail protected speech by 501(c)(4)s like Citizens Union and the promotion of informed public discourse by 501(c)(3)s like Citizens Union Foundation.

1. Section 172-e imposes broad reporting requirements on 501(c)(3)s

39. Section 172-e mandates the public disclosure of *all* donors and donations to a 501(c)(3) in excess of \$2,500 whenever that organization makes an “in-kind donation” of over \$2,500 to certain 501(c)(4)s engaged in lobbying activity. N.Y. Exec. Law § 172-e[1][a], [d], [2]. An “in-kind donation” is defined as “donations of staff, staff time, personnel, offices, office supplies, financial support of any kind or any other resources.” N.Y. Exec. Law § 172-e[1][b].

40. Section 172-e requires disclosure reports to be filed with the Department of Law within thirty days of the close of a reporting period. The disclosures must include:

- (i) the name and address of the covered entity that made the in-kind donation;
- (ii) the name and address of the recipient entity that received or benefitted from the in-kind donation;
- (iii) the names of any persons who exert operational or managerial control over the covered entity. The disclosures required by this paragraph shall include the name of at least one natural person;
- (iv) the date the in-kind donation was made by the covered entity;
- (v) any donation in excess of two thousand five hundred dollars to the covered entity during the relevant reporting period including the identity of the donor of any such donation; and
- (vi) the date of any such donation to a covered entity.

N.Y. Exec. Law § 172-e[2].

41. To trigger the disclosure requirement, 501(c)(3)s must make their “in-kind donations” to 501(c)(4)s that are “required to file a source-of-funding report with the joint commission on public ethics pursuant to sections one-h and one-j of the legislative law.” N.Y. Exec. Law § 172-e[1][d]. Those provisions of the Legislative Law, in turn, require source-of-funding reports for (1) any “person or organization who retains, employs or designates any person or organization to carry on lobbying activities” on their behalf, N.Y. Leg. Law § 1-c[b]], that expends over \$15,000 for lobbying in a calendar year or during a given 12-month period and that devotes three percent

of those total expenditures to lobbying in New York, *see* N.Y. Leg. Law § 1-j, and (2) any lobbyist that does the same, *see* N.Y. Leg. Law § 1-h.

42. Accordingly, under Section 172-e, a 501(c)(3) like Citizens Union Foundation is required to maintain the appropriate records and file disclosure reports regardless of whether its in-kind donations are actually earmarked or used for lobbying. Citizens Union Foundation's obligations—requiring reporting of every donor contributing more than \$2,500—are triggered as soon as it makes *any* in-kind contribution over \$2,500 to a 501(c)(4) that merely employs a lobbyist and meets the expenditure thresholds, even if neither the 501(c)(3)'s donation nor the contributions of any of its donors have anything to do with lobbying or if they are earmarked for other purposes.

43. The Department of Law must make the disclosure reports public within thirty days of the close of the reporting period by forwarding the reports to the JCOPE for publication on its website. N.Y. Exec. Law § 172-e[3].

44. The statute also provides that “the attorney general, or his or her designee, may determine that disclosure of donations shall not be made public if, based upon a review of the relevant facts presented by the covered entity, such disclosure may cause harm, threats, harassment, or reprisals to the source of the donation or to individuals or property affiliated with the source of the donation.” *Id.* The covered entity may appeal the attorney general's determination to a “judicial hearing officer who is independent and not affiliated with or employed by the department of law.” *Id.* The statute thus confers purely discretionary authority on the Attorney General to waive public disclosure, based on no determinate quantum of proof and subject to appeal under an undefined standard of review.

45. If a 501(c)(3) like Citizens Union Foundation does not comply with these reporting requirements, it faces fines of \$1,000 per violation, plus a \$100 fine for each day such violation continues. The Attorney General may also revoke, suspend, or deny Citizens Union Foundation's registration. *See* N.Y. Exec. Law § 177.

2. Section 172-f imposes broad reporting requirements on 501(c)(4)s

46. Section 172-f requires 501(c)(4)s to disclose publicly donations over \$1,000—including the donor's identity and the amount of the donation—whenever the organization makes “expenditures for covered communications” totaling over \$10,000 in a calendar year. N.Y. Exec. Law § 172-f[1][a], [2]-[3].

47. A “covered communication” is expansively defined as

[A] communication . . . conveyed to five hundred or more members of a general public audience . . . which[] refers to and advocates for or against a clearly identified elected official or the position of any elected official or administrative or legislative body relating to the outcome of any vote or substance of any legislation, potential legislation, pending legislation, rule, regulation, hearing, or decision by any legislative, executive or administrative body.

N.Y. Exec. Law § 172-f[1][b]. “Expenditures for covered communications” are defined as

[A]ny expenditure made, liability incurred, or contribution provided for covered communication; or . . . any other transfer of funds, assets, services or any other thing of value to any individual, group, association, corporation whether organized for profit or not-for-profit, labor union, political committee, political action committee, or any other entity for the purpose of supporting or engaging in covered communications by the recipient or a third party.

N.Y. Exec. Law § 172-f[1][c].

48. If a 501(c)(4) reaches the disclosure thresholds, it must file a disclosure report with the Department of Law within thirty days of the close of each reporting period that includes:

- (i) the name and address of the covered entity that made the expenditure for covered communications;
- (ii) the name or names of any individuals who exert operational or managerial control over the covered entity. . . .;

- (iii) a description of the covered communication;
- (iv) the dollar amount paid for each covered communication, the name and address of the person or entity receiving the payment, and the date the payment was made; and
- (v) the name and address of any individual, corporation, association, or group that made a donation of one thousand dollars or more to the covered entity and the date of such donation.

N.Y. Exec. Law § 172-f[2][a]-[b].

49. Once received, the Department of Law is then required to make the disclosure reports public by posting them on its website within the same thirty-day period. *Id.* § 172-f[3]. As under section 172-e[3], there is an exception from publication for disclosures that, at the discretionary determination of the attorney general, “may cause harm, threats, harassment, or reprisals.” N.Y. Exec. Law § 172-f[3]. 501(c)(4)s under section 172-f may appeal this determination to a “judicial hearing officer who is independent and not affiliated with or employed by the department of law.” *Id.*

50. If a 501(c)(4) like Citizens Union does not comply with section 172-f, it is subject to the same penalties as 501(c)(3)s under section 172-e—namely, fines and revocation or suspension of its registration. *See* N.Y. Exec. Law § 177.

IV. RELEVANT FACTS

A. Citizens Union, Citizens Union Foundation, And Numerous Other Charitable And Social Welfare Organizations In New York State Speak On Matters Of Public Concern

51. In 2013, there were 90,966 501(c)(3)s in New York.¹

52. Speech by 501(c)(3)s—such as Citizens Union Foundation—can cover an extremely broad range of matters of public concern. Under federal law, these organizations may pursue a

¹ *See* National Center for Charitable Statistics, *Number of Nonprofit Organizations in New York, 2003–2013*, available at <http://nccsweb.urban.org/PubApps/profile1.php?state=NY>.

variety of ends: religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals. Further, although 501(c)(3)s may not participate in any political campaign on behalf of or in opposition to a candidate for public office, they may lawfully participate in limited lobbying or influencing legislation, so long as those activities are not a substantial part of their total activities.

53. As of 2013, there were 3,204 501(c)(4)s in New York.²

54. Like 501(c)(3)s, 501(c)(4)s—such as Citizens Union—speak out on a variety of matters of public concern. Unlike 501(c)(3)s, 501(c)(4)s may attempt to influence legislation relevant to their programs and may participate in political campaigns, so long as their primary activity is the promotion of social welfare related to the organizations' purposes.

55. As a result of these educational, charitable, or social welfare purposes, both 501(c)(3)s and 501(c)(4)s regularly speak on matters of public concern. Many of the public benefit purposes pursued by these two categories of organizations are related, making coordination between 501(c)(3)s and 501(c)(4)s likely insofar as the organizations pursue overlapping interests.

56. Citizens Union and Citizens Union Foundation both promote the same goals of good governance and fair democratic participation but in ways particular to their specific corporate goals; joint and coordinated action between the two entities is not only legally permissible but efficient and desirable as a matter of charitable and social welfare work. The scope of the speech

² See National Center for Charitable Statistics, *Number of Non-501(c)(3) Exempt Organizations in New York, 2013*, available at <http://nccsweb.urban.org/PubApps/profileDrillDown.php?state=NY&rpt=CO>.

on matters of public concern undertaken by these entities alone demonstrates how much speech is captured by sections 172-e and 172-f.

1. Citizens Union speaks out on good government in New York

57. Citizens Union was founded in 1897 as an independent political party, unaligned with either the Democratic or Republican parties, representing citizens from diverse social and economic backgrounds in the City of New York.

58. In 1908, Citizens Union transformed itself from a political party into a nonpartisan “good government” organization to avoid the problem of party patronage and to promote efficiency and transparency in the government of the City of New York.

59. Since that time, Citizens Union has focused on promoting citizen awareness of municipal and state government and accountability. For example, since 1910, Citizens Union has published a “Voters Directory,” designed to inform and guide the electorate on candidates for elected office. In 1996, Citizens Union advocated for the establishment of the Independent Budget Office in New York City, and Citizens Union regularly publishes policy reports on issues like discretionary spending in the state budget.

60. In its 119-year history, Citizens Union has also regularly advocated for legislative reforms to increase voter power in elections, including the reversal of slate voting in 1915, proportional representation in the New York City Council in 1936, permanent personal voter registration in 1957, the Young Adult Voter Registration Act in 2004, and a successful constitutional amendment in 2014 that reforms legislative and congressional redistricting by ensuring that no district shall be drawn to favor or disfavor incumbents, challengers, or political parties.

61. In the past decade alone, Citizens Union has repeatedly advocated for campaign finance reform, including direct regulation on campaign expenditures and increased disclosure laws. The

reforms pressed by Citizens Union include sweeping legislation addressing campaign finance, lobbying, and ethics in 2005, pressing city leadership to enact a law increasing disclosure and strengthening enforcement of lobbying laws in 2006, increased restrictions on “pay to play” contributors in 2007, historic ethics reforms in 2011, and state lawmakers’ ethics reforms increasing sources of outside income and restrictions on the use of campaign funds.

62. In accordance with its advocacy goals, Citizens Union regularly authorizes certain employees, including its Executive Director, Dick Dadey, to act as lobbyists to both the state and city government on behalf of Citizens Union. *See* N.Y. Leg. Law § 1-e[a][3]. Citizens Union’s most recent biennial lobbying registration was filed January 9, 2015. The registration statements state that Citizens Union expects to exceed the \$5,000 statutory threshold for lobbying expenditures requiring such registrations.

63. As required by statute, Citizens Union regularly files semi-annual lobbying expenditure reports with the JCOPE. *See* N.Y. Leg. Law § 1-j. Its most recent report was for the reporting period ending June 30, 2016. Thus, donations of \$2,500 or more to Citizens Union by any 501(c)(3) would trigger the provisions of section 172-e requiring the 501(c)(3) to file disclosure reports.

64. Speech on issues related to Citizens Union’s social welfare purposes is unquestionably core political speech protected by the First Amendment—and would also likely fall into the expansive definition of “covered communications” within section 172-f. Accordingly, Citizens Union’s long history of participating and advocating on behalf of governmental accountability and reform would now subject it to section 172-f’s expansive disclosure requirements without any nexus to preventing *quid pro quo* corruption or preserving the integrity of the electoral process.

65. Citizens Union’s political statements have prompted harassment and threats of retaliation against Citizens Union and its members in the past.

66. On several occasions, elected officials have threatened retaliation against Citizens Union in response to its actions, decisions, or positions on questions of policy.

67. Additionally, several members have been questioned about their support for Citizens Union by elected officials who oppose positions taken by the organization. This questioning has been deployed to pressure these members into refraining from continued involvement with Citizens Union.

2. Citizens Union Foundation conducts research and provides education on public issues

68. Similarly, Citizens Union Foundation, founded in 1948, has repeatedly engaged in public information programming regarding policy issues as a nonprofit research, education, and advocacy organization.

69. Citizens Union Foundation monitors and regularly publishes information on the governance of New York City. It also conducts research and publishes information on the impact of proposed policies and legislation at both the state and local levels. For example, in 1989, Citizens Union Foundation began monitoring the New York City Council and began to publish “Searchlight on the City Council,” a comprehensive guide to the city’s legislative body and its activities.

70. In 1999, Citizens Union Foundation launched GothamGazette.com, a daily website of news and policy issues of concern in New York City. In the seventeen years since its inception, GothamGazette.com has won numerous accolades and awards, including two Online Journalism Awards for General Excellence in 2003 and 2009, the Innovator Award from the Pew Center for Civic Journalism, and two Knight Foundation News Challenge Grants in 2007 and 2009.

71. In 2011, Citizens Union Foundation published a comprehensive report on how gerrymandering had contributed to the lack of electoral competition for state legislative seats. The report showed how to reform legislative and congressional redistricting through the creation of an independent commission and the establishment of fair, evenhanded standards that lessened the likelihood of gerrymandering. Its research and policy analysis helped lead to the adoption of a constitutional amendment reforming the redistricting process in the state legislature; the amendment eventually won voter approval in 2014.

72. The issues important to Citizens Union Foundation are therefore unquestionably matters of public concern, as to which Citizens Union Foundation has the First Amendment right to speak. Donors give to Citizens Union Foundation knowing the subjects it focuses on and expect it not only to take affirmative action in those areas but also to support other organizations with similar goals.

73. Section 172-e now imposes on Citizens Union Foundation and similar organizations an obligation to investigate whether any potential donee organization has undertaken lobbying activity, and to what extent, to determine whether they fall within New York Legislative Law §§ 1-h or 1-j, in order to determine their own reporting obligations under the new statute. If Citizens Union Foundation is ultimately required to report, its donors—some of whom choose to give exclusively to Citizens Union Foundation in order to avoid supporting overtly political work and for other reasons—would be subject to public disclosure.

74. Citizens Union Foundation's public work has prompted harassment and threats of retaliation against Citizens Union Foundation and its donors in the past.

75. On several occasions, elected officials have threatened retaliation against Citizens Union Foundation in response to its research and advocacy.

76. Additionally, several donors have been questioned about their support for Citizens Union Foundation by elected officials who oppose positions taken by the organization. This questioning has been deployed to pressure these members into refraining from continued contributions to Citizens Union Foundation.

B. Nonprofit Organizations Like Citizens Union And Citizens Union Foundation Depend On Donors To Function, Including Donors Who Choose To Give Anonymously To Support Speech On Matters Of Public Concern

77. Millions of New Yorkers provide the charitable donations each year that is the lifeblood of nonprofits like Citizens Union and Citizens Union Foundation. In 2013, there were 2,771,490 New York state tax returns itemizing charitable deductions, claiming a total of \$17,729,465,000 in charitable contributions.³

78. Citizens Union has hundreds of members who contribute financially to its mission. From 2013 to 2016, Citizens Union averaged 481 financial contributions each year from unique individuals and entities.

79. Citizens Union's financial statements demonstrate the critical role these contributions play in the organization's ability to speak. Citizens Union obtains substantially all of its income in a year from membership support, contributions, and fundraising, including its annual dinner and spring event. The remaining sliver of revenue derives from interest and investment income.

80. In 2014, for example, membership support, contributions, and fundraising provided \$408,383—more than 99.4% of Citizens Union's unrestricted revenue for the year.

81. In 2013, these sources totaled \$417,200—more than 99.2% of its unrestricted revenue for that year.

³ Urban Institute, *Profiles of Individual Charitable Contributions by State*, available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000608-Profiles-of-Individual-Charitable-Contributions-by-State-2013.pdf> (Feb. 2016).

82. In 2014, Citizens Union had total expenses exceeding \$412,000, including \$268,764 spent on its programs.

83. In 2013, Citizens Union had total expenses exceeding \$415,000, including \$233,146 for programming.

84. Like Citizens Union, Citizens Union Foundation has hundreds of donors who contribute financially to its mission. From 2013 to 2016, the Foundation averaged 467 financial contributions each year from unique individuals and entities.

85. Citizens Union Foundation obtains a significant portion of its income in a year from contributions and fundraising, including its annual dinner and spring event. The bulk of the remainder derives from grants obtained by Citizens Union Foundation, totaling approximately 11% of revenue in 2014 and 13% in 2013; the final portion derives from advertising, interest, and investment income.

86. In 2014, contributions and fundraising provided \$876,558—more than 85% of Citizens Union Foundation's unrestricted revenue for the year.

87. In 2013, these sources totaled \$1,086,602—more than 84% of its unrestricted revenue for the year.

88. In 2014, Citizens Union Foundation had total expenses exceeding \$1.1 million, including \$372,968 for its Gotham Gazette program and \$404,498 for its other programs.

89. In 2013, Citizens Union Foundation had total expenses of \$1.2 million, including \$390,734 for its Gotham Gazette program and \$397,699 for its other programs.

90. As the margins between the total contributions and expenses of the organizations indicate, donations to Citizens Union and Citizens Union Foundation are absolutely critical to the organizations' continued activities and financial viability.

91. In addition to the chilling effect these new laws may have on individual donors' decisions to contribute and associate with Citizens Union and Citizens Union Foundation—thus implicating First Amendment rights—the amount of contributions that nonprofit organizations like Citizens Union and Citizens Union Foundation receive is directly correlated to their ability to speak on matters of public concern. Any significant change in donor revenue has an immediate and direct effect on the ability of the organizations to publish information and reports, to conduct research, to provide educational programs to the public, and to conduct the other activities for which they are organized.

92. Accordingly, laws that chill speech by donors also necessarily reduce speech by nonprofit organizations like Plaintiffs, who rely on those contributions to speak themselves.

C. On Their Face, Sections 172-e And 172-f Substantially Burden The Rights Of Organizations Like Plaintiffs And Of Their Donors

93. By compelling the public disclosure of nonprofit donors and donations, sections 172-e and 172-f seriously burden the constitutional rights to free speech and association, and are overbroad.

1. Section 172-e substantially burdens the free speech and free association rights of 501(c)(3)s and their donors

94. In order to avoid harsh penalties, including fines and revocation of its registration, under Section 172-e, Citizens Union Foundation and similarly situated 501(c)(3)s must disclose publicly *all* donations over \$2,500 whenever they make an in-kind donation of more than \$2,500 to certain 501(c)(4)s engaged in lobbying activity. Not only does this requirement directly chill speech by 501(c)(3)s, but it imposes significant compliance costs on covered organizations.

95. One relatively small contribution will trigger the disclosure of multitudes of other donations and donors, whether or not those donations were used for lobbying or to fund any election-related speech. Moreover, the initial in-kind donation to the 501(c)(4) need not be

earmarked for lobbying; in fact, it could be earmarked for an entirely different purpose. *Any* in-kind donation over \$2,500 will trigger the disclosure requirements, including a 501(c)(3)'s contribution earmarked for a joint report on the quality of local schools, a survey collecting neighborhood views on a proposed development, or a language class, as long as the recipient 501(c)(4) expended sufficient funds under New York Legislative Law §§ 1-h or 1-j on even unrelated lobbying activity. And because section 172-e covers in-kind donations, 501(c)(3)s that, for instance, run legal clinics that represent a qualifying 501(c)(4) in pro bono litigation, or that help a qualifying 501(c)(4) comply with its tax reporting obligations could be forced to disclose donors and donations completely unrelated to lobbying.

96. Critically, these extensive reporting requirements can be triggered by contributions to 501(c)(4)s that are not themselves lobbyists but that merely hire lobbyists, even for programs unrelated to the source or purpose of the in-kind donation, or after the in-kind donation is made. *See* N.Y. Exec. Law § 172-e[1][d] (defining a “recipient entity” of the 501(c)(3) contribution as a 501(c)(4) that is required to file a source-of-funding report as a “client” of lobbyists under New York Legislative Law § 1-j). Citizens Union Foundation could therefore make an in-kind contribution to a 501(c)(4), where there is no indication that the contribution or the recipient has anything to do with lobbying. If the recipient organization then decides to use those funds or even other funds for lobbying at any point within the reporting period, that decision is beyond Citizens Union Foundation’s control but still triggers its obligation to disclose. There is no discernible justification for why the government would require donor disclosures from Citizens Union Foundation or similarly situated organizations.

97. The government’s statements of interests in passing Chapter 286 do not match up with the effect of the Nonprofit Disclosure Provisions, which require publicly disclosing donors and

donations that do not fund any lobbying activity or election-related speech. Section 172-e simply has nothing to do with protecting against *quid pro quo* corruption or promoting transparency in campaign finance. These disclosure requirements thus reach much farther than the disclosure requirements upheld in *Citizens United*, which were targeted at “electioneering communications” that were related to electoral politics.

98. Whatever attenuated nexus, if any, section 172-e may have to the government’s stated purposes is greatly outweighed by the significant burdens imposed by the law. As with section 172-f, the disclosure requirements here will chill donors’ and potential donors’ free speech and associational rights. 501(c)(3)s like Citizens Union Foundation must now choose between contributing less, even in the form of in-kind contributions, or not at all, to 501(c)(4)s or face substantial compliance costs and broad public disclosure of their donors, if the donee organization decides on its own to pursue lawful lobbying activities. Donors will contribute less, or not at all, to 501(c)(3)s like Citizens Union Foundation to stay under the disclosure threshold. Declining donations will result in 501(c)(3)s scaling back their otherwise protected activities, including speech on matters of public concern, and smaller 501(c)(3)s may be forced to cease operations if donations fall sufficiently or compliance costs become too burdensome.

99. Compliance costs under section 172-e would be onerous. Nonprofits like Citizens Union Foundation now face the burden of having to determine whether the recipient organization is one that must file a source-of-funding report under New York Legislative Law §§ 1-h and 1-j. In order to make a donation decision, Citizens Union Foundation must therefore ascertain whether the recipient organization has spent the requisite amount on lobbying and, if so, whether at least three percent of those expenditures were devoted to lobbying in New York. *See* N.Y. Leg. Law §§ 1-h[c][4], 1-j[c][4]. Thus, even if Citizens Union Foundation or a similarly situated 501(c)(3)

does not make an in-kind donation earmarked for lobbying, it will have to delve into the finances and workings of any recipient entity to which it makes a contribution in order to discern whether it must make the section 172-e disclosures.

100. Because a 501(c)(3) has no control over whether a recipient organization may eventually engage in lobbying activity or be required to file source-of-funding disclosures under New York Legislative Law, section 172-e essentially requires Citizens Union Foundation, and all 501(c)(3)s that make any in-kind donation to any 501(c)(4), to maintain donor records it need not otherwise maintain, just in case it may be required to report under section 172-e—depending entirely on what the 501(c)(4) ultimately does.

101. Citizens Union Foundation has a number of donors who contribute more than \$2,500 but less than \$5,000 on an annual basis. These donors are therefore not recorded on Citizens Union Foundation's Schedule B forms submitted to the Internal Revenue Service.

102. Creating the new, more extensive disclosures imposes significant compliance costs on the organization preparing them.

103. Complying with the statutory requirements would add an estimated 800 staff hours per year to the Plaintiffs' current operational requirements.

104. In addition to the basic compliance burden detailed above, organizations that fear reprisals are forced, under section 172-e[3], to bear the burden of challenging the default presumption of public disclosure.

105. Accordingly, should an organization like Citizens Union Foundation—which has been subjected to harassment and threats of reprisals in the past—wish to seek a discretionary exemption, it bears the additional costs and administrative burdens of compiling evidence and advocating for that exemption.

106. The administrative burden of seeking such an exemption is increased by the undefined threshold for obtaining it. The statute states only that the Attorney General “may” exempt an organization from public disclosure if the disclosure “may” cause harm or reprisals. This language provides no standards by which an organization could assess or prepare its presentation; the result is an unfettered grant of discretion to the Attorney General, which deviates from the constitutional standard entitling a party to protection if they demonstrate a “reasonable probability” of harm.

107. Section 172-e thus chills the First Amendment rights of Citizens Union Foundation, its donors, and similarly situated 501(c)(3)s and their donors. The government’s interest in preventing *quid pro quo* arrangements between politicians and donors and in protecting the integrity of the electoral process is wholly unrelated to a substantial number of section 172-e’s applications.

2. Section 172-f substantially burdens the free speech and free association rights of 501(c)(4)s and their donors

108. While ostensibly directed at dark money donors who seek to surreptitiously influence elections through undisclosed and unlimited independent expenditures, given the expansive language employed, section 172-f instead imposes significant burdens on Citizens Union and multitudes of similarly situated 501(c)(4)s.

109. Section 172-f’s definition of “covered communication” encompasses essentially *any* speech pertaining to public affairs, whether or not it relates to a candidate for public office, an election, a campaign, a specific elected official, or any proposed or pending legislation, rulemaking, or executive action.

110. Instead, it broadly includes not only advocacy “for or against a clearly identified elected official” but also “the *position* of any elected official or administrative or legislative body”

relating not just to pending legislation but any “*potential* legislation” or any “decision by any legislative, executive or administrative body.” N.Y. Exec. Law § 172-f[1][b]. This is an unbounded definition that literally includes all conceivable matters of public policy—with no connection whatsoever to the government’s concerns about *quid pro quo* relationships, electoral transparency, or the corruption of candidates or public officials. It covers not only speech that advocates for a particular policy during a time of public interest but even speech about public issues made after the time of active public engagement has passed. Speech about any potential or past subject of government action, made at any time and in any context, falls within the plain text of the statute.

111. As detailed above, Citizens Union regularly speaks publicly to advocate for government accountability, fair and effective democratic practice, and good governance—quintessential political speech that clearly encompasses a number of subjects of potential legislation and decisions of government bodies, including the JCOPE. Section 172-f would also go so far as to cover other 501(c)(4)s’ general expressions of support for veterans, non-GMO food, neighborhood recycling services, or funding for medical research, which would fall into the definition of advocacy for a certain position on a subject of potential legislation. *See* N.Y. Exec. Law 172-f[1][iii].

112. Because Citizens Union’s speech on these issues will reach the minimum number of people (500) and Citizens Union expends more than \$10,000 in a year funding them—or contributes that amount to another entity that then makes those communications, or some third party that ultimately made them—under section 172-f Citizens Union must publicly disclose the names of its donors who donated more than \$1,000. Other 501(c)(4)s who spend similar, or

greater amounts to speak, and who reach wide audiences are subject to the same increased reporting requirements.

113. As with section 172-e, the government's stated purposes for the law do not support requiring Citizens Union and similarly situated organizations to publicly disclose their donors and donations because they have engaged in protected speech unrelated to political candidates or electioneering. Nor is there any discernible interest in requiring those same disclosures for a 501(c)(4) that does not even *make* those communications but only contributes the threshold amount to another entity that makes those communications.

114. Requiring these disclosures does not meaningfully advance the government's interest in preventing *quid pro quo* arrangements with public officials, promoting transparency in campaign finance, or rooting out corruption. Unlike those upheld in *Citizens United*, the disclosures here are not linked with an informational interest in "election-related" financing that may justify disclosures pertaining to electioneering communications.

115. The burdens the law imposes are substantial and force Citizens Union and similarly situated 501(c)(4)s to choose between engaging in constitutionally protected speech and avoiding burdensome regulation. Further, Citizens Union and other 501(c)(4)s must now decide whether to contribute less, or not at all, to other entities that engage in "covered communications." Some smaller 501(c)(4)s, or those whose very purpose is to engage in a substantial amount of "covered communications" and thus do not even have the option of modifying their activities, may simply be forced to cease operations if donations fall sufficiently or compliance costs become too burdensome.

116. Similarly, to avoid public disclosure, donors will contribute less, or not at all, to Citizens Union or other 501(c)(4)s whose causes they otherwise believe in. Declining donations will

cause Citizens Union or other 501(c)(4)s to scale back their activities or modify their otherwise protected speech to avoid the disclosure requirements. Thus, the free speech rights of donors and nonprofits alike will be inhibited.

117. Under section 172-f, any 501(c)(4)—such as Citizens Union—that contributes to another entity that makes covered communications would also need to coordinate with that other entity to ensure full compliance with the law.

118. In addition, Citizens Union has a number of donors who contribute more than \$1,000 but less than \$5,000 on an annual basis. These donors are therefore not recorded on Citizens Union's Schedule B forms submitted to the Internal Revenue Service.

119. Accordingly, Citizens Union must prepare new, more extensive disclosures containing this donor information, which will involve significant administrative burdens to comply with the recordkeeping for and preparation of these new disclosures, as described above.

120. Because the exemption from public disclosure in section 172-f[3] suffers from the same undefined standard as the one contained in section 172-e[3], burdens similar to those described above related to assessing and preparing an application for an exemption are now imposed on 501(c)(4)s who may be subject to harassment or threats of reprisals—as Citizens Union and its donors have been in the past.

121. Section 172-f thus stifles Citizens Union's First Amendment rights, as well as the First Amendment rights of its donors, and similarly situated 501(c)(4)s and their donors. The government's interest in preventing *quid pro quo* corruption and in protecting the integrity of democratic elections is unrelated to a substantial number of section 172-f's applications.

V.
CLAIMS AND JURY DEMAND

COUNT I
Section 172-e's Reporting Requirements Are Overbroad
under the First and Fourteenth Amendments

122. Plaintiff Citizens Union Foundation incorporates the allegations contained in paragraphs 1–121.

123. Plaintiff Citizens Union Foundation asserts its own First Amendment rights as well as the First Amendment rights of its donors to free speech and free association. *See NAACP v. Alabama*, 357 U.S. 449, 459 (1958).

124. The reporting requirements of section 172-e violate the guarantees of free speech and free association contained in the First Amendment, because they fail exacting scrutiny and are facially overbroad, burdening substantially more protected speech than any plainly legitimate sweep.

125. Defendants have acted under color of law.

126. Accordingly, Plaintiff Citizens Union Foundation is entitled to declaratory and injunctive relief pursuant to 42 U.S.C. § 1983, as well as attorneys' fees under 42 U.S.C. § 1988, and such other and further relief as this Court may deem just and proper.

COUNT II
Section 172-f's Reporting Requirements Are Overbroad
under the First and Fourteenth Amendments

127. Plaintiff Citizens Union incorporates the allegations contained in paragraphs 1–121.

128. Plaintiff Citizens Union asserts its own First Amendment rights as well as the First Amendment rights of its donors to free speech and free association. *See NAACP v. Alabama*, 357 U.S. 449, 459 (1958).

129. The reporting requirements of section 172-f violate the guarantees of free speech and free association contained in the First Amendment, because they fail exacting scrutiny and are facially overbroad, burdening substantially more protected speech than any plainly legitimate sweep.

130. Defendants have acted under color of law.

131. Accordingly, Plaintiff Citizens Union is entitled to declaratory and injunctive relief pursuant to 42 U.S.C. § 1983, as well as attorneys' fees under 42 U.S.C. § 1988, and such other and further relief as this Court may deem just and proper.

JURY DEMAND

132. Plaintiffs demand a trial by jury pursuant to Federal Rule of Civil Procedure 38 and the Seventh Amendment to the United States Constitution.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment in Plaintiffs' favor and against Defendants, consisting of:

- (a) A declaratory judgment that sections 172-e and 172-f of the New York Executive Law are void and of no force and effect;
- (b) A preliminary and permanent injunction enjoining any enforcement or implementation of sections 172-e and 172-f in any respect;
- (c) An award of attorneys' fees under 42 U.S.C. § 1988;
- (d) An award of Plaintiffs' costs herein; and
- (e) Such other and further relief as this Court deems fit and proper.

Dated: New York, New York
December 12, 2016

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Randy M. Mastro

Randy M. Mastro

Akiva Shapiro

Gabriel K. Gillett

200 Park Avenue

New York, NY 10166-0193

Telephone: 212.351.4000

Facsimile: 212.351.4035

*Attorneys for Plaintiffs Citizens Union of the City of
New York and Citizens Union Foundation, Inc. of
the City of New York*

EXHIBIT A

A 10742 Rules (Heastie) Same as [S 8160](#)
 FLANAGAN
Governor Program # 39
 Election Law
 TITLE....Relates to campaign funds
 06/17/16 referred to ways and means
 06/17/16 reported referred to rules
 06/17/16 reported
 06/17/16 rules report cal.558
 06/17/16 substituted by s8160
S08160 FLANAGAN
 06/17/16 REFERRED TO RULES
 06/17/16 ORDERED TO THIRD READING
 CAL.2011
 06/17/16 MESSAGE OF NECESSITY - 3 DAY
 MESSAGE
 06/17/16 PASSED SENATE
 06/17/16 DELIVERED TO ASSEMBLY
 06/17/16 referred to ways and means
 06/17/16 substituted for a10742
 06/17/16 ordered to third reading rules cal.558
 06/17/16 message of necessity - 3 day message
 06/17/16 passed assembly
 06/17/16 returned to senate

S8160 FLANAGAN Same as [A 10742](#) Rules
 (Heastie)
Governor Program # 39
 ON FILE: 06/18/16 Election Law
 TITLE....Relates to campaign funds
 06/17/16 REFERRED TO RULES
 06/17/16 ORDERED TO THIRD READING
 CAL.2011
 06/17/16 MESSAGE OF NECESSITY - 3 DAY
 MESSAGE
 06/17/16 PASSED SENATE
 06/17/16 DELIVERED TO ASSEMBLY
 06/17/16 referred to ways and means
 06/17/16 substituted for a10742
 06/17/16 ordered to third reading rules cal.558
 06/17/16 message of necessity - 3 day message
 06/17/16 passed assembly
 06/17/16 returned to senate

STATE OF NEW YORK

10742

IN ASSEMBLY

June 17, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Heastie) --
(at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the election law, in relation to independent expenditures during election campaigns (Part A); to amend the election law, in relation to monies received and expenditures made by a party committee or constituted committee (Part B); to amend the election law, in relation to disposition of campaign funds (Part C); to amend the legislative law, in relation to reports by lobbyists (Part D); to amend the legislative law, in relation to contingent fees (Part E); to amend the executive law, in relation to the disclosure of certain donations by charitable non-profit entities (Part F); to amend the executive law, in relation to disclosure of certain activities by non-charitable non-profit entities (Part G); to amend the executive law, in relation to the registration of certain service providers (Part H); to amend the legislative law, in relation to communications with professional journalists and newscasters; and in relation to reporting of certain funding by lobbyists (Part I); to amend the executive law, in relation to investigations by the joint commission on public ethics and to violations of the lobbying act (Part J); and to amend the public officers law, in relation to financial disclosure forms (Part K)

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

1 Section 1. This act enacts into law major components of legislation
2 relating to campaign funds. Each component is wholly contained within a
3 Part identified as Parts A through K. The effective date for each
4 particular provision contained within such Part is set forth in the last
5 section of such Part. Any provision in any section contained within a
6 Part, including the effective date of the Part, which makes a reference
7 to a section "of this act", when used in connection with that particular
8 component, shall be deemed to mean and refer to the corresponding
9 section of the Part in which it is found. Section three of this act sets
10 forth the general effective date of this act.

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

LBD12084-11-6

A. 10742

2

1

PART A

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

5 1. For purposes of this article:

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

27 (b) Independent expenditures do not include expenditures in connection
28 with:

29 (i) a written news story, commentary, or editorial or a news story,
30 commentary, or editorial distributed through the facilities of any
31 broadcasting station, cable or satellite unless such publication or
32 facilities are owned or controlled by any political party, political
33 committee or candidate; or

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

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

42 (iv) internal communications by members to other members of a member-
43 ship organization of not more than five hundred members or communi-
44 cations by a corporation organized for charitable purposes pursuant to
45 §501(c)(3) of the internal revenue code, within sixty days before a
46 general or special election for the office sought by the candidate or
47 thirty days before a primary election, that includes or references a
48 clearly identified candidate but does not otherwise qualify as an inde-
49 pendent expenditure under this section.

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

52 (c) [~~For purposes of this section, the term "person" shall mean~~
53 ~~person, group of persons, corporation, unincorporated business entity,~~
54 ~~labor organization or business, trade or professional association or~~
55 ~~organization, or political committee; provided, however, that such defi-~~

A. 10742

3

1 ~~nition shall not include any party or constituted committee,] An inde-~~
2 pendent expenditure committee shall not include payments or expenditures
3 made by a party or constituted committee that is required to file
4 disclosure reports under this chapter.

5 (d) Independent expenditures shall not include payments or expendi-
6 tures where coordination occurs in the creation, formation, or operation
7 of the independent expenditure committee making the payment or expendi-
8 ture.

9 Coordination shall include:

10 (i) The candidate or the candidate's authorized committee, or an agent
11 of the candidate or candidate's authorized committee, participated in
12 the creation or formation of the independent expenditure committee with-
13 in two years of the general election, primary or special election in
14 which the candidate is a candidate for nomination or election and the
15 payment or expenditure made is for the benefit of that candidate.

16 (ii) The candidate or an agent of the candidate appears at any
17 fundraising event hosted by an independent expenditure committee, or its
18 agent, making a payment or expenditure that benefits that candidate
19 within two years of the general election, primary or special election in
20 which the candidate is a candidate for nomination or election.

21 (iii) The independent expenditure committee making the payment or
22 expenditure, or its agent, employed or retained an individual, other
23 than an individual described in subparagraph (viii) of this paragraph,
24 who was employed by the candidate, the candidate's authorized committee
25 or an agent of the candidate or has held a policymaking, non-administra-
26 tive position in the office of the candidate's elected office within two
27 years of the general election, primary or special election in which the
28 candidate is a candidate for nomination or election, and the payment or
29 expenditure is made for the benefit of that candidate.

30 (iv) The independent expenditure committee making the payment or
31 expenditure, or its agent, is a member of the candidate's immediate
32 family or is established, directed, or managed by a member of the imme-
33 diante family of the candidate, and the payment or expenditure is made
34 for the benefit of that candidate.

35 (v) The independent expenditure committee making the payment or
36 expenditure benefiting the candidate, republishes, disseminates, or
37 distributes, in whole or in part, any video, audio, written, or other
38 campaign-related material prepared by the candidate or the candidate's
39 authorized committee or by an agent of the candidate or the candidate's
40 authorized committee. This paragraph shall not apply if the independent
41 expenditure committee making the payment or expenditure obtains the
42 communication or materials from a publicly available source.

43 (vi) The candidate or the candidate's authorized committee, or an
44 agent of the candidate or the candidate's authorized committee, shares
45 or rents space for a campaign-related purpose with or from the independ-
46 ent expenditure committee, or its agent, making the payment or expendi-
47 ture benefitting the candidate.

48 (vii) The independent expenditure committee, or its agent, making the
49 payment or expenditure benefitting the candidate has participated in
50 strategic discussions with the candidate, the candidate's authorized
51 committee, or an agent of the candidate or the candidate's authorized
52 committee within two years of the general election, primary or special
53 election in which the candidate is a candidate for nomination or
54 election. Discussions shall be deemed strategic if information about
55 the candidate's or opponent's electoral campaign plans, projects, or
56 activities that is not obtained from a publicly available source is

A. 10742

4

1 conveyed to the independent expenditure committee, or its agent, making
2 the payment or expenditure. This paragraph shall only apply to
3 discussions occurring after the independent expenditure committee is
4 formed or, one week after the candidate has been certified for that
5 election, whichever occurs first.

6 (viii) The independent expenditure committee, or its agent, making the
7 payment or expenditure benefitting the candidate, and the candidate or
8 the candidate's authorized committee knowingly retain the same individ-
9 ual or entity to provide professional campaign services within two years
10 of the general election, primary or special election in which the candi-
11 date is a candidate for nomination or election, and the professional
12 campaign services provider discloses strategic information regarding one
13 party with the other party. Information shall be deemed strategic if it
14 relates to either party's respective campaign or independent expenditure
15 plans, projects, or activities that are not obtained from a publicly
16 available source. This subparagraph shall not prohibit a candidate, a
17 candidate's authorized committee, or an agent of the candidate or the
18 candidate's authorized committee from retaining the same professional
19 campaign services provider as the independent expenditure committee, or
20 its agent, making the payment or expenditure benefitting the candidate
21 upon the professional campaign services provider entering into a confi-
22 dentiality agreement with both parties expressly stating that it will
23 not disclose strategic information regarding each party with the other
24 party.

25 (ix) The independent expenditure committee, or its agent, making the
26 payment or expenditure benefitting the candidate, utilizes strategic
27 information or data related to the candidate, that is not from a public-
28 ly available source and is not otherwise available by subscription, from
29 an individual who has been previously compensated, reimbursed or
30 retained by the candidate as a consultant, political, media or fundrais-
31 ing advisor, vendor or contractor within two years of the general
32 election, primary or special election in which the candidate is a candi-
33 date for nomination or election.

34 (e) The following shall not be coordination:

35 (i) A candidate's or a party or constituted committee's response to an
36 inquiry about that candidate's or party or constituted committee's posi-
37 tions on legislative or policy issues.

38 (ii) A public communication in which a candidate is clearly identified
39 only in his or her capacity as the owner or operator of a business that
40 existed prior to the candidacy is not a coordinated communication with
41 respect to the clearly identified candidate if: (A) The medium, timing,
42 content, and geographic distribution of the public communication are
43 consistent with public communications made prior to the candidacy; and
44 (B) The public communication does not promote, support, attack, or
45 oppose that candidate or another candidate in their capacity as candi-
46 dates who seeks the same office as that candidate.

47 (f) For purposes of this section, the term "immediate family" means
48 spouse, child, parent, grandparent, brother, half-brother, sister, or
49 half-sister of the candidate, and the spouses of such persons.

50 (g) For purposes of this section, "agent" means a person authorized by
51 the candidate or the candidate's authorized committee, who acts on
52 behalf of or at the direction of a candidate or the candidate's author-
53 ized committee; or a party committee or constituted committee acting on
54 behalf of a candidate; or a person authorized by an independent expendi-
55 ture committee who acts on behalf of or at the direction of such commit-
56 tee.

A. 10742

5

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

4 2. Whenever any person makes an independent expenditure that costs
5 ~~[more than]~~ one thousand dollars or more in the aggregate, such communi-
6 cation shall clearly state the name of the person who paid for, or
7 otherwise published or distributed the communication and state, with
8 respect to communications regarding candidates, that the communication
9 was not expressly authorized or requested by any candidate, or by any
10 candidate's political committee or any of its agents.

11 § 3. Subdivision 3 of section 14-107 of the election law, as added by
12 section 4 of subpart C of part H of chapter 55 of the laws of 2014, is
13 amended to read as follows:

14 3. ~~(a)~~ Any person prior to making any independent expenditure shall
15 first register with the state board of elections as a political commit-
16 tee and as an independent expenditure committee in conformance with this
17 article. Such person shall comply with all disclosure obligations
18 required for political committees by law[~~-~~

19 ~~(b) Any person who has registered with the state board of elections~~
20 ~~pursuant to paragraph (a) of this subdivision shall disclose to the~~
21 ~~state board of elections electronically, once a week on Friday any~~
22 ~~contribution to such person over one thousand dollars or expenditures by~~
23 ~~such person over five thousand dollars made prior to thirty days before~~
24 ~~any primary, general, or special election.~~

25 ~~(c) Any person who has registered with the state board of elections~~
26 ~~pursuant to paragraph (a) of this subdivision shall disclose to the~~
27 ~~state board of elections electronically, within twenty four hours of~~
28 ~~receipt, any contribution to such person over one thousand dollars or~~
29 ~~expenditure by such person over five thousand dollars made within thirty~~
30 ~~days before any primary, general, or special election.~~

31 ~~(d) A knowing and willful violation of the provisions of this subdivi-~~
32 ~~sion shall subject the person to a civil penalty equal to five thousand~~
33 ~~dollars or the cost of the communication, whichever is greater, in a~~
34 ~~special proceeding or civil action brought by the board or imposed~~
35 ~~directly by the board of elections.] and shall provide the following~~
36 additional information upon registration:

37 (a) Where the person making the statement is an individual, the name,
38 address, occupation and employer of the person.

39 (b) Where the person making the statement is an entity, the name and
40 employer of any individual who exerts operational or managerial influ-
41 ence or control over the entity, as well as any salaried employee of the
42 entity. The disclosures required by this paragraph shall include the
43 name of at least one natural person.

44 (c) Identification of individuals named in paragraphs (a) and (b) of
45 this subdivision who have, during the two-year period before the state-
46 ment is filed, been employed or retained as a political, media, or
47 fundraising adviser or consultant for a candidate, any entity directly
48 controlled by a candidate, or any party committee or constituted commit-
49 tee, or have held a formal position in the office of a candidate's
50 elected office, or any party committee or constituted committee, and the
51 name of the relevant employer.

52 (d) Identification of individuals named in paragraphs (a), (b) and (c)
53 of this paragraph who are members of a candidate's immediate family.

54 (e) The information provided pursuant to this subdivision shall be
55 updated within twenty-four hours of any change in ownership or control
56 of any registered entity.

A. 10742

6

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

4 4. (a) Required disclosures. (i) Any independent expenditure committee
5 who has registered pursuant to subdivision three of this section shall
6 disclose to the state board of elections electronically, once a week on
7 Monday any contribution to such committee of one thousand dollars or
8 more or expenditures by such person over five thousand dollars made
9 during the reporting period.

10 (ii) Any independent expenditure committee who has registered with the
11 state board of elections pursuant to subdivision three of this section
12 shall disclose to the state board of elections electronically, within
13 twenty-four hours of receipt, any contribution to such independent
14 expenditure committee of one thousand dollars or more made within thirty
15 days before any primary, general, or special election.

16 (b) The disclosures required by [~~subdivision three~~] paragraph (a) of
17 this [~~section~~] subdivision shall include, in addition to any other
18 information required by law:

19 [~~(a)~~] (i) the name, address, occupation and employer of the person
20 making the statement;

21 [~~(b) the name, address, occupation and employer of the person making~~
22 ~~the independent expenditure;~~

23 [~~(c) the name, address, occupation and employer of any person providing~~
24 ~~a contribution, gift, loan, advance or deposit of one thousand dollars~~
25 ~~or more for the independent expenditure, or the provision of services~~
26 ~~for the same, and the date it was given;~~

27 [~~(d)~~] (ii) For each expenditure or payment made: (1) the dollar amount
28 paid for each independent expenditure, the name and address of the
29 person or entity receiving the payment, the date the payment was made
30 and a description of the independent expenditure; [~~and~~

31 [~~(e)~~] (2) the election to which the independent expenditure pertains
32 and the name of the clearly identified candidate or the ballot proposal
33 referenced and whether the candidate or ballot proposal is supported or
34 opposed; and

35 (3) A list of all expenditures made by and liabilities incurred for
36 services rendered during the relevant reporting period.

37 (iii) For each contribution received the name, address, occupation and
38 employer of any person providing a contribution, gift, loan, advance or
39 deposit of one thousand dollars or more for the independent expenditure,
40 or the provision of services for the same and the date it was given.

41 § 5. Section 14-107 of the election law is amended by adding a new
42 subdivision 8 to read as follows:

43 8. (a) All criminal liability related to this section shall require
44 knowing and willful violations in accordance with section 14-126 of this
45 article.

46 (b) A knowing and willful violation of the provisions of subdivisions
47 three and four of this section shall subject the person to a civil
48 penalty equal to five thousand dollars or the cost of the communication,
49 whichever is greater, in a special proceeding or civil action brought by
50 the board.

51 § 6. The opening paragraph of paragraph 3 of subdivision 9 of section
52 14-100 of the election law, as amended by chapter 70 of the laws of
53 1983, is amended to read as follows:

54 any payment, by any person other than a candidate or a political
55 committee authorized by the candidate, made in connection with the nomi-
56 nation for election or election of any candidate, including any payment

A. 10742

7

1 or expenditure where coordination has occurred as defined in section
 2 14-107 of this article, or any payment made to promote the success or
 3 defeat of a political party or principle, or of any ballot proposal
 4 including but not limited to compensation for the personal services of
 5 any individual which are rendered in connection with a candidate's
 6 election or nomination without charge; provided however, that none of
 7 the foregoing shall be deemed a contribution if it is made, taken or
 8 performed by a candidate or his spouse or by a person or a political
 9 committee independent of the candidate or his agents or authorized poli-
 10 tical committees. For purposes of this article, the term "independent of
 11 the candidate or his agents or authorized political committees" shall
 12 mean that the candidate or his agents or authorized political committees
 13 did not authorize, request, suggest, foster or cooperate in any such
 14 activity; and provided further, that the term contribution shall not
 15 include:

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

18 15. "independent expenditure committee" means a political committee,
 19 that makes only independent expenditures as defined in this article, and
 20 does not coordinate with a candidate, candidate's authorized committees
 21 or an agent of the candidate as defined in paragraph (g) of subdivision
 22 one of section 14-107 of this article.

23 For purposes of this section, an independent expenditure committee may
 24 be created by a person, group of persons, corporation, unincorporated
 25 business entity, labor organization or business, trade or professional
 26 association, or organization, or political committee.

27 16. "political action committee" means a political committee which
 28 makes no expenditures to aid or take part in the election or defeat of a
 29 candidate, or to promote the success or defeat of a ballot proposal,
 30 other than in the form of contributions, including in-kind contrib-
 31 utions, to candidates, candidate's authorized committees, party commit-
 32 tees, constituted committees, or independent expenditure committees
 33 provided there is no common operational control between the political
 34 action committee and the independent expenditure committee; or in the
 35 form of communications that are not distributed to a general public
 36 audience as described in subdivision thirteen of this section.

37 For purposes of this paragraph, "common operational control" means
 38 that (i) the same individual or individuals exercise actual and strate-
 39 gic control over the day-to-day affairs of both the political action
 40 committee and the independent expenditure committee, or (ii) employees
 41 of the political action committee and the independent expenditure
 42 committee engage in communications related to the strategic operations
 43 of either committee.

44 § 8. Section 14-112 of the election law, as amended by chapter 930 of
 45 the laws of 1981, is amended to read as follows:

46 § 14-112. Political committee authorization statement. Any political
 47 committee aiding or taking part in the election or nomination of any
 48 candidate, other than [~~by making contributions~~] a political action
 49 committee, shall file, in the office in which the statements of such
 50 committee are to be filed pursuant to this article, either a sworn veri-
 51 fied statement by the treasurer of such committee that the candidate has
 52 authorized the political committee to aid or take part in his election
 53 or that the candidate has not authorized the committee to aid or take
 54 part in his election.

55 § 9. Subdivision 1 of section 14-118 of the election law, as amended
 56 by chapter 156 of the laws of 2010, is amended to read as follows:

A. 10742

8

1 1. Every political committee shall have a treasurer and a depository,
2 and shall cause the treasurer to keep detailed, bound accounts of all
3 receipts, transfers, loans, liabilities, contributions and expenditures,
4 made by the committee or any of its officers, members or agents acting
5 under its authority or in its behalf. All such accounts shall be
6 retained by a treasurer for a period of five years from the date of the
7 filing of the final statement with respect to the election, primary
8 election or convention to which they pertain. No officer, member or
9 agent of any political committee shall receive any receipt, transfer or
10 contribution, or make any expenditure or incur any liability until the
11 committee shall have chosen a treasurer and depository and filed their
12 names in accordance with this subdivision. There shall be filed in the
13 office in which the committee is required to file its statements under
14 section 14-110 of this article, within five days after the choice of a
15 treasurer and depository, a statement giving the name and address of the
16 treasurer chosen, the name and address of any person authorized to sign
17 checks by such treasurer, the name and address of the depository chosen
18 and the candidate or candidates or ballot proposal or proposals the
19 success or defeat of which the committee is to aid or take part;
20 provided, however, that such statement shall not be required of a
21 constituted committee and provided further that a political action
22 committee which makes no expenditures, to aid or take part in the
23 election or defeat of a candidate, other than in the form of contribu-
24 tions, shall not be required to list the candidates being supported or
25 opposed by such committee and shall also disclose the name and employer
26 for any individual who exerts operational control over the political
27 action committee as well as any salaried employee of the political
28 action committee. Such statement shall be signed by the treasurer and
29 all other persons authorized to sign checks. Any change in the informa-
30 tion required in any statement shall be reported, in an amended state-
31 ment filed in the same manner and in the same office as an original
32 statement filed under this section, within two days after it occurs,
33 except that any change to the mailing address on any such statement
34 filed at the state board may also be made in any manner deemed accepta-
35 ble by the state board. Only a banking organization authorized to do
36 business in this state may be designated a depository hereunder.

37 § 10. The election law is amended by adding a new section 14-107-a to
38 read as follows:

39 § 14-107-a. Prohibited spending by independent expenditure committees
40 and political action committees. 1. An independent expenditure committee
41 shall not contribute to any candidate, constituted committee, political
42 committee, or party committee.

43 2. (a) A political action committee shall not make any independent
44 expenditures and may only make contributions to any independent expendi-
45 ture committee if such committee does not have common operational
46 control. For purposes of this paragraph, "common operational control"
47 means that (i) the same individual or individuals exercise actual and
48 strategic control over the day-to-day affairs of both the political
49 action committee and the independent expenditure committee, or (ii)
50 employees of the political action committee and the independent expendi-
51 ture committee engage in communications related to the strategic oper-
52 ations of either committee.

53 (b) No candidate, candidate's authorized committee, party committee,
54 or constituted committee shall contribute to an independent expenditure
55 committee that is making expenditures benefitting the candidate or the
56 candidate supported by such party or constituted committee.

A. 10742

9

1 § 11. Section 14-126 of the election law is amended by adding a new
2 subdivision 3-a to read as follows:

3 3-a. Any person who, acting as or on behalf of an independent expendi-
4 ture committee or a political action committee, knowingly and willfully
5 violates the provisions of section 14-107-a of this article shall be
6 subject to a civil penalty, up to one thousand dollars or up to the cost
7 of the communication, whichever is greater, to be recoverable in a
8 special proceeding or civil action to be brought by the state board of
9 elections.

10 § 12. Severability. If any clause, sentence, subdivision, paragraph,
11 section or part of this act be adjudged by any court of competent juris-
12 diction to be invalid, such judgment shall not affect, impair or invali-
13 date the remainder thereof, but shall be confined in its operation to
14 the clause, sentence, subdivision, paragraph, section or part thereof
15 directly involved in the controversy in which such judgment shall have
16 been rendered.

17 § 13. This act shall take effect on the thirtieth day after it shall
18 have become a law.

19

PART B

20 Section 1. Subdivision 3 of section 14-124 of the election law, as
21 amended by chapter 71 of the laws of 1988, is amended to read as
22 follows:

23 3. The contribution and receipt limits of this article shall not apply
24 to monies received and expenditures made by a party committee or consti-
25 tuted committee to maintain a permanent headquarters and staff and carry
26 on ordinary activities which are not for the express purpose of promot-
27 ing the candidacy of specific candidates; provided that such monies
28 described in this subdivision shall be deposited in a segregated
29 account.

30 § 2. This act shall take effect immediately.

31

PART C

32 Section 1. Subdivision 1 of section 14-104 of the election law, as
33 amended by chapter 430 of the laws of 1997, is amended to read as
34 follows:

35 1. Any candidate for election to public office, or for nomination for
36 public office at a contested primary election or convention, or for
37 election to a party position at a primary election, shall file state-
38 ments sworn, or subscribed and bearing a form notice that false state-
39 ments made therein are punishable as a class A misdemeanor pursuant to
40 section 210.45 of the penal law, at the times prescribed by this article
41 setting forth the particulars specified by section 14-102 of this arti-
42 cle, as to all moneys or other valuable things, paid, given, expended or
43 promised by him or her to aid his or her own nomination or election, or
44 to promote the success or defeat of a political party, or to aid or
45 influence the nomination or election or the defeat of any other candi-
46 date to be voted for at the election or primary election or at a conven-
47 tion, including contributions to political committees, officers, members
48 or agents thereof, and transfers, receipts and contributions to him or
49 her to be used for any of the purposes above specified, or in lieu ther-
50 eof, any such candidate may file such a sworn statement at the first
51 filing period, on a form prescribed by the state board of elections that
52 such candidate has made no such expenditures and does not intend to make

A. 10742

10

1 any such expenditures, except through a political committee authorized
 2 by such candidate pursuant to this article. Such candidate may desig-
 3 nate a committee of no less than three persons who shall be authorized
 4 to appoint and remove the treasurer of any authorized committee of the
 5 candidate. The designation or revocation of the committee shall be
 6 evidenced in a writing filed with the state board of elections by the
 7 candidate authorizing the committee. The candidate may revoke such
 8 designation at any time. A committee authorized by such a candidate may
 9 fulfill all of the filing requirements of this act on behalf of such
 10 candidate.

11 § 2. The election law is amended by adding a new section 14-132 to
 12 read as follows:

13 § 14-132. Disposition of campaign funds. 1. Upon the death of a
 14 candidate, former candidate or holder of elective office, where such
 15 candidate or candidate's authorized committee received campaign contrib-
 16 utions, all such funds shall be disposed of by any of the following
 17 means, or any combination thereof, within two years of the death of such
 18 person:

19 (a) returning, pro rata, to each contributor the funds that have not
 20 been spent or obligated;

21 (b) donating the funds to a charitable organization or organizations
 22 that meet the qualifications of section 501(c)(3) of the Internal Reven-
 23 ue Code;

24 (c) donating the funds to the state university of New York or the city
 25 university of New York;

26 (d) donating the funds to the state's general fund; or

27 (e) contributing or transferring the funds to a candidate, party,
 28 constituted or political committee in accordance with the applicable
 29 limits, if any, set forth in this article.

30 2. No such candidate's authorized political committee shall dispose of
 31 campaign funds by making expenditures for personal use as defined in
 32 section 14-130 of this article.

33 3. If funds are not disposed of within the time required by this
 34 section, such funds shall be recoverable by the chief enforcement coun-
 35 sel of the state board of elections in a special proceeding in state
 36 supreme court in the manner prescribed by section 16-116 of this chapter
 37 and deposited into the state's general fund.

38 § 3. This act shall take effect July 1, 2017, provided, however, that
 39 where the applicable time frame for disposing of funds established by
 40 section 14-132 of the election law, as added by section two of this act,
 41 has elapsed on such effective date, all funds shall be disposed of with-
 42 in 12 months of such effective date. INSERT

43

PART D

44 Section 1. Paragraph 4 of subdivision (c) of section 1-h of the
 45 legislative law, as added by section 1 of part B of chapter 399 of the
 46 laws of 2011, is amended to read as follows:

47 (4) Any lobbyist registered pursuant to section one-e of this article
 48 whose lobbying activity is performed on its own behalf and not pursuant
 49 to retention by a client:

50 (i) that has spent over [~~fifty~~] fifteen thousand dollars in the aggre-
 51 gate for reportable compensation and expenses for lobbying, either
 52 during the calendar year, or during the twelve-month period, prior to
 53 the date of this bi-monthly report, and

A. 10742

11

1 (ii) at least three percent of whose total expenditures during the
2 same period were devoted to lobbying in New York shall report to the
3 commission the names of each source of funding that has contributed over
4 [~~five~~] two thousand five hundred dollars from a single source that were
5 used to fund the lobbying activities reported and the [~~amounts~~] amount
6 of each contribution received from each identified source of funding;
7 provided, however, that amounts received from each identified source of
8 funding shall not be required to be disclosed if such amounts constitute
9 membership dues, fees, or assessments charged by the reporting entity to
10 enable an individual or entity to be a member of the reporting entity.

11 This disclosure shall not require disclosure of the sources of funding
12 whose disclosure, in the determination of the commission based upon a
13 review of the relevant facts presented by the reporting lobbyist, may
14 cause harm, threats, harassment, or reprisals to the source or to indi-
15 viduals or property affiliated with the source. The reporting lobbyist
16 may appeal the commission's determination and such appeal shall be heard
17 by a judicial hearing officer who is independent and not affiliated with
18 or employed by the commission, pursuant to regulations promulgated by
19 the commission. The reporting lobbyist shall not be required to disclose
20 the sources of funding that are the subject of such appeal pending final
21 judgment on appeal.

22 The disclosure shall not apply to:

23 (i) any corporation registered pursuant to article seven-A of the
24 executive law that is qualified as an exempt organization by the United
25 States Department of the Treasury under I.R.C. § 501(c)(3); provided,
26 however, that this disclosure shall apply to any in-kind donations of
27 staff, staff time, personnel, offices, office supplies, financial
28 support of any kind or any other resources to any corporation or entity
29 that is qualified as an exempt organization by the United States Depart-
30 ment of the Treasury under I.R.C. 501(c)(4) when such in-kind donations
31 are over two thousand five hundred dollars and from any corporation or
32 entity that is qualified as an exempt organization by the United States
33 Department of the Treasury under I.R.C. 501(c)(3). In such case the
34 entity receiving such in-kind donations shall disclose the fair market
35 value and identify the I.R.C. 501(c)(3) entity providing such in-kind
36 donations and give notice within a reasonable time to the 501(c)(3)
37 entity that it shall be required to file a report with the department of
38 law pursuant to section one hundred seventy-two-e of the executive law;

39 (ii) any corporation registered pursuant to article seven-A of the
40 executive law that is qualified as an exempt organization by the United
41 States Department of the Treasury under I.R.C. § 501(c)(4) and whose
42 primary activities concern any area of public concern determined by the
43 commission to create a substantial likelihood that application of this
44 disclosure requirement would lead to harm, threats, harassment, or
45 reprisals to a source of funding or to individuals or property affil-
46 iated with such source, including but not limited to the area of civil
47 rights and civil liberties and any other area of public concern deter-
48 mined pursuant to regulations promulgated by the commission to form a
49 proper basis for exemption on this basis from this disclosure require-
50 ment; or

51 (iii) any governmental entity.

52 The joint commission on public ethics shall promulgate regulations to
53 implement these requirements.

54 § 2. Paragraph 4 of subdivision (c) of section 1-j of the legislative
55 law, as added by section 2 of part B of chapter 399 of the laws of 2011,
56 is amended to read as follows:

A. 10742

12

1 (4) Any client of a lobbyist that is required to file a semi-annual
2 report and:

3 (i) that has spent over [~~fifty~~] fifteen thousand dollars in the aggre-
4 gate for reportable compensation and expenses for lobbying, either
5 during the calendar year, or during the twelve-month period, prior to
6 the date of this semi-annual report, and

7 (ii) at least three percent of whose total expenditures during the
8 same period were devoted to lobbying in New York shall report to the
9 commission the names of each source of funding that has contributed over
10 [~~five~~] two thousand five hundred dollars from a single source that were
11 used to fund the lobbying activities reported and the [~~amounts~~] amount
12 of each contribution received from each identified source of funding,
13 provided, however, that amounts received from each identified source of
14 funding shall not be required to be disclosed if such amounts constitute
15 membership dues, fees, or assessments charged by the reporting entity to
16 enable an individual or entity to be a member of the reporting entity.

17 This disclosure shall not require disclosure of the sources of funding
18 whose disclosure, in the determination of the commission based upon a
19 review of the relevant facts presented by the reporting client or lobby-
20 ist, may cause harm, threats, harassment, or reprisals to the source or
21 to individuals or property affiliated with the source. The reporting
22 lobbyist may appeal the commission's determination and such appeal shall
23 be heard by a judicial hearing officer who is independent and not affil-
24 iated with or employed by the commission, pursuant to regulations
25 promulgated by the commission. The reporting lobbyist shall not be
26 required to disclose the sources of funding that are the subject of such
27 appeal pending final judgment on appeal.

28 The disclosure shall not apply to:

29 (i) any corporation registered pursuant to article seven-A of the
30 executive law that is qualified as an exempt organization by the United
31 States Department of the Treasury under I.R.C. § 501(c)(3); provided,
32 however, that this disclosure shall apply to any in-kind donations of
33 staff, staff time, personnel, offices, office supplies, financial
34 support of any kind or any other resources to any corporation or entity
35 that is qualified as an exempt organization by the United States Depart-
36 ment of the Treasury under I.R.C. 501(c)(4) when such in-kind donations
37 are over two thousand five hundred dollars and from any corporation or
38 entity that is qualified as an exempt organization by the United States
39 Department of the Treasury under I.R.C. 501(c)(3). In such case the
40 entity receiving such in-kind donations shall disclose the fair market
41 value and identify the I.R.C. 501(c)(3) entity providing such in-kind
42 donations and give notice within a reasonable time to the 501(c)(3)
43 entity that it shall be required to file a report with the department of
44 law pursuant to section one hundred seventy-two-e of the executive law;

45 (ii) any corporation registered pursuant to article seven-A of the
46 executive law that is qualified as an exempt organization by the United
47 States Department of the Treasury under I.R.C. § 501(c)(4) and whose
48 primary activities concern any area of public concern determined by the
49 commission to create a substantial likelihood that application of this
50 disclosure requirement would lead to harm, threats, harassment, or
51 reprisals to a source of funding or to individuals or property affil-
52 iated with such source, including but not limited to the area of civil
53 rights and civil liberties and any other area of public concern deter-
54 mined pursuant to regulations promulgated by the commission to form a
55 proper basis for exemption on this basis from this disclosure require-
56 ment; or

A. 10742

13

1 (iii) any governmental entity.

2 The joint commission on public ethics shall promulgate regulations to
3 implement these requirements.

4 § 3. This act shall take effect on the thirtieth day after it shall
5 have become a law.

6

PART E

7 Section 1. Subdivision (b) of section 1-k of the legislative law, as
8 amended by chapter 1 of the laws of 2005, is amended to read as follows:

9 (b) No person shall accept such a retainer or employment. [~~A violation~~
10 ~~of~~] Any person who violates this section shall be subject to a civil
11 penalty not to exceed the greater of ten thousand dollars or the value
12 of the contingent fee, and such violation shall be a class A misdemea-
13 nor.

14 § 2. This act shall take effect immediately.

15

PART F

16 Section 1. The executive law is amended by adding a new section 172-e
17 to read as follows:

18 § 172-e. Disclosure of certain donations by charitable non-profit
19 entities. 1. Definitions. For the purposes of this section:

20 (a) "Covered entity" shall mean any corporation or entity that is
21 qualified as an exempt organization or entity by the United States
22 Department of the Treasury under I.R.C. 501(c)(3) that is required to
23 report to the department of law pursuant to this section.

24 (b) "In-kind donation" shall mean donations of staff, staff time,
25 personnel, offices, office supplies, financial support of any kind or
26 any other resources.

27 (c) "Donation" shall mean any contribution, including a gift, loan,
28 in-kind donation, advance or deposit of money or anything of value.

29 (d) "Recipient entity" shall mean any corporation or entity that is
30 qualified as an exempt organization or entity by the United States
31 Department of the Treasury under I.R.C. 501(c)(4) that is required to
32 file a source of funding report with the joint commission on public
33 ethics pursuant to sections one-h and one-j of the legislative law.

34 (e) "Reporting period" shall mean the six month period within a calen-
35 dar year starting January first and ending June thirtieth or the six
36 month period within a calendar year starting July first and ending
37 December thirty-first.

38 2. Funding disclosure reports to be filed by covered entities. (a) Any
39 covered entity that makes an in-kind donation in excess of two thousand
40 five hundred dollars to a recipient entity during a relevant reporting
41 period shall file a funding disclosure report with the department of
42 law. The funding disclosure report shall include:

43 (i) the name and address of the covered entity that made the in-kind
44 donation;

45 (ii) the name and address of the recipient entity that received or
46 benefitted from the in-kind donation;

47 (iii) the names of any persons who exert operational or managerial
48 control over the covered entity. The disclosures required by this para-
49 graph shall include the name of at least one natural person;

50 (iv) the date the in-kind donation was made by the covered entity;

A. 10742

14

1 (v) any donation in excess of two thousand five hundred dollars to the
2 covered entity during the relevant reporting period including the iden-
3 tity of the donor of any such donation; and

4 (vi) the date of any such donation to a covered entity.

5 (b) The covered entity shall file a funding disclosure report with the
6 department of law within thirty days of the close of a reporting period.

7 3. Public disclosure of funding disclosure reports. The department of
8 law shall promulgate any regulations necessary to implement these
9 requirements and shall forward the disclosure reports to the joint
10 commission on public ethics for the purpose of publishing such reports
11 on the commission's website, within thirty days of the close of each
12 reporting period; provided however that the attorney general, or his or
13 her designee, may determine that disclosure of donations to the covered
14 entity shall not be made public if, based upon a review of the relevant
15 facts presented by the covered entity, such disclosure may cause harm,
16 threats, harassment, or reprisals to the source of the donation or to
17 individuals or property affiliated with the source of the donation. The
18 covered entity may appeal the attorney general's determination and such
19 appeal shall be heard by a judicial hearing officer who is independent
20 and not affiliated with or employed by the department of law, pursuant
21 to regulations promulgated by the department of law. The covered enti-
22 ty's sources of donations that are the subject of such appeal shall not
23 be made public pending final judgment on appeal.

24 § 2. This act shall take effect on the ninetieth day after it shall
25 have become a law.

26 PART G

27 Section 1. The executive law is amended by adding a new section 172-f
28 to read as follows:

29 § 172-f. Disclosure of certain activities by non-charitable non-profit
30 entities. 1. Definitions. (a) "Covered Entity" means any corporation
31 or entity that is qualified as an exempt organization or entity by the
32 United States Department of the Treasury under I.R.C. 501(c)(4).

33 (b) "Covered communication" means a communication, that does not
34 require a report pursuant to article one-A of the legislative law or
35 article fourteen of the election law, by a covered entity conveyed to
36 five hundred or more members of a general public audience in the form
37 of: (i) an audio or video communication via broadcast, cable or satel-
38 lite; (ii) a written communication via advertisements, pamphlets, circu-
39 lars, flyers, brochures, letterheads; or (iii) other published statement
40 which: refers to and advocates for or against a clearly identified
41 elected official or the position of any elected official or administra-
42 tive or legislative body relating to the outcome of any vote or
43 substance of any legislation, potential legislation, pending legis-
44 lation, rule, regulation, hearing, or decision by any legislative, exec-
45 utive or administrative body.

46 Covered communication shall not include: (i) communications with a
47 professional journalist or newscaster, including an editorial board or
48 editorial writer of a newspaper, magazine, news agency, press associ-
49 ation or wire service, relating to news, as these terms are defined in
50 section seventy-nine-h of the civil rights law, and communications
51 relating to confidential and non-confidential news as described in
52 subdivisions (b) and (c) of section seventy-nine-h of the civil rights
53 law respectively and communications made pursuant to community outreach
54 efforts for broadcast stations required by federal law; or

A. 10742

15

1 (ii) a communication that is: (A) directed, sent or distributed by the
2 covered entity only to individuals who affirmatively consent to be
3 members of the covered entity, contribute funds to the covered entity,
4 or, pursuant to the covered entity's articles or bylaws, have the right
5 to vote directly or indirectly for the election of directors or offi-
6 cers, or on changes to bylaws, disposition of all or substantially all
7 of the covered entity's assets or the merger or dissolution of the
8 covered entity; or (B) for the purpose of promoting or staging any
9 candidate debate, town hall or similar forum to which at least two
10 candidates seeking the same office, or two proponents of differing posi-
11 tions on a referendum or question submitted to voters, are invited as
12 participants, and which does not promote or advance one candidate or
13 position over another.

14 (c) "Expenditures for covered communications" shall mean: (i) any
15 expenditure made, liability incurred, or contribution provided for
16 covered communications; or (ii) any other transfer of funds, assets,
17 services or any other thing of value to any individual, group, associ-
18 ation, corporation whether organized for profit or not-for-profit, labor
19 union, political committee, political action committee, or any other
20 entity for the purpose of supporting or engaging in covered communi-
21 cations by the recipient or a third party.

22 (d) "Donation" shall mean any contribution, including in-kind, gift,
23 loan, advance or deposit of money or anything of value made to a covered
24 entity unless such donation is deposited into an account the funds of
25 which are not used for making expenditures for covered communications.

26 (e) "Reporting period" shall mean the six month period within a calen-
27 dar year starting January first and ending June thirtieth or the six
28 month period within a calendar year starting July first and ending
29 December thirty-first.

30 2. Disclosure of expenditures for covered communications. (a) Any
31 covered entity that makes expenditures for covered communications in an
32 aggregate amount or fair market value exceeding ten thousand dollars in
33 a calendar year shall file a financial disclosure report with the
34 department of law. The financial disclosure report shall include:

35 (i) the name and address of the covered entity that made the expendi-
36 ture for covered communications;

37 (ii) the name or names of any individuals who exert operational or
38 managerial control over the covered entity. The disclosures required by
39 this paragraph shall include the name of at least one natural person;

40 (iii) a description of the covered communication;

41 (iv) the dollar amount paid for each covered communication, the name
42 and address of the person or entity receiving the payment, and the date
43 the payment was made; and

44 (iv) the name and address of any individual, corporation, association,
45 or group that made a donation of one thousand dollars or more to the
46 covered entity and the date of such donation.

47 (b) The covered entity shall file a financial disclosure report with
48 the department of law within thirty days of the close of a reporting
49 period.

50 (c) If a covered entity keeps one or more segregated bank accounts
51 containing funds used solely for covered communications and makes all of
52 its expenditures for covered communications from such accounts, then
53 with respect to donations included in subparagraph (iv) of paragraph (a)
54 of this subdivision, the financial report need only include donations
55 deposited into such accounts.

A. 10742

16

1 3. The department of law shall make the financial disclosure reports
 2 available to the public on the department of law website within thirty
 3 days of the close of each reporting period, provided however that the
 4 attorney general, or his or her designee, may determine that disclosure
 5 of donations shall not be made public if, based upon a review of the
 6 relevant facts presented by the covered entity, such disclosure may
 7 cause harm, threats, harassment, or reprisals to the source of the
 8 donation or to individuals or property affiliated with the source of the
 9 donation. The covered entity may appeal the attorney general's determi-
 10 nation and such appeal shall be heard by a judicial hearing officer who
 11 is independent and not affiliated with or employed by the department of
 12 law, pursuant to regulations promulgated by the department of law. The
 13 covered entity shall not be required to disclose the sources of
 14 donations that are the subject of such appeal pending final judgment on
 15 appeal.

16 § 2. This act shall take effect on the thirtieth day after it shall
 17 have become a law.

PART H

19 Section 1. The executive law is amended by adding a new section 109 to
 20 read as follows:

21 § 109. Registration of certain service providers. 1. For purposes of
 22 this section:

23 (a) "Client" shall mean a person or entity who in the preceding calen-
 24 dar year retained or hired the political consultant relating to matters
 25 before any state or local government agency, authority or official,
 26 including services, advice or consultation relating to any state or
 27 local government contract for real property, goods or services, an
 28 appearance in a ratemaking proceeding, an appearance in a regulatory
 29 matter, or an appearance in a legislative matter other than matters
 30 described in subparagraph (E) of the second undesignated paragraph of
 31 subdivision (c) of section one-c of the legislative law.

32 (b) "Political consulting services" shall mean services provided by a
 33 political consultant to or on behalf of an elected public official in
 34 New York state or to or on behalf of a candidate for elected office in
 35 New York state, or to or on behalf of a person nominated for elected
 36 public office which services: (1) assist or are intended to assist in a
 37 campaign for nomination for election or election to office in New York
 38 state, including fundraising activities, voter outreach, composition and
 39 distribution of promotional literature, advertisements, or other similar
 40 communications, as set forth in section 14-106 of the election law, or
 41 (2) consist of political advice to an elected public official or candi-
 42 date for elected public office in New York state or person nominated for
 43 elected public office; provided, however, that political consulting
 44 services shall not include bona fide legal work directly related to
 45 litigation or legal advice with regard to securing a place on the
 46 ballot, the petitioning process, the conduct of an election, or which
 47 involves the election law.

48 (c) "Political consultant" shall mean a person who holds himself or
 49 herself out to persons in this state as a person who performs political
 50 consulting services in a professional capacity and who is usually
 51 compensated, excluding reimbursement for expenses, for such services.

52 2. The secretary of state shall promulgate rules and regulations
 53 prescribing a registration form to be used by any political consultant
 54 who provides political consulting services to a sitting elected public

A. 10742

17

1 official, candidate for elected public office or person nominated for
2 elected public office and who has also been retained by a client for
3 such services.

4 3. Such registration form shall identify:

5 (a) the name, address, and telephone number of the political consult-
6 ant;

7 (b) the name, address, and telephone number of each sitting elected
8 public official, candidate for elected public office, and person nomi-
9 nated for elected public office who the political consultant provided
10 political consulting services to;

11 (c) the name, address, and telephone number of each client who retains
12 or hires a political consultant in the preceding calendar year provided,
13 that in the event the client is an entity, at least one natural person
14 who has a controlling interest in such entity shall be identified; and

15 (d) a brief description of the nature of the political consulting
16 services provided to each identified client.

17 4. Such registration shall be filed with the department of state and
18 shall cover a six month reporting period. The reporting period shall
19 mean the six month period within a calendar year starting January first
20 and ending June thirtieth or the six month period within a calendar year
21 starting July first and ending December thirty-first.

22 5. The secretary of state shall post the completed forms on the
23 department of state's website within thirty days of the close of each
24 reporting period.

25 6. The department of state may impose a civil penalty of up to seven
26 hundred fifty dollars upon any political consultant who fails to file a
27 registration required by this section provided, however, that the secre-
28 tary shall provide such political consultant a reasonable opportunity to
29 cure such a failure.

30 7. The department of state shall adopt, amend and rescind rules and
31 regulations defining the degree and extent of political consulting
32 services necessary to require the reporting pursuant to this section.

33 § 2. This act shall take effect on the sixtieth day after it shall
34 have become a law.

35

PART I

36 Section 1. Subparagraph (B) of the second undesignated paragraph of
37 subdivision (c) of section 1-c of the legislative law, as added by chap-
38 ter 1 of the laws of 2005, is amended to read as follows:

39 (B) (i) Newspapers and other periodicals and radio and television
40 stations, and owners and employees thereof, provided that their activ-
41 ities in connection with proposed legislation, rules, regulations or
42 rates, municipal ordinances and resolutions, executive orders, tribal-
43 state compacts, memoranda of understanding or other tribal-state agree-
44 ments related to Class III gaming as provided in 25 U.S.C. § 2701, or
45 procurement contracts by a state agency, municipal agency, local legis-
46 lative body, the state legislature, or the unified court system, are
47 limited to the publication or broadcast of news items, editorials or
48 other comments, or paid advertisements;

49 (ii) Communications with a professional journalist, or newscaster,
50 including an editorial board or editorial writer of a newspaper, maga-
51 zine, news agency, press association or wire service, relating to news,
52 as these terms are defined in section seventy-nine-h of the civil rights
53 law, and communications relating to confidential and non-confidential
54 news as described in subdivisions (b) and (c) of section seventy-nine-h

A. 10742

18

1 of the civil rights law respectively and communications made pursuant to
2 community outreach efforts for broadcast stations required by federal
3 law.

4 § 2. This act shall take effect immediately.

5

PART J

6 Section 1. Paragraph (a) of subdivision 13 of section 94 of the execu-
7 tive law, as amended by section 6 of part A of chapter 399 of the laws
8 of 2011, is amended to read as follows:

9 (a) Investigations. If the commission receives a sworn complaint
10 alleging a violation of section seventy-three, seventy-three-a, or
11 seventy-four of the public officers law, section one hundred seven of
12 the civil service law or article one-A of the legislative law by a
13 person or entity subject to the jurisdiction of the commission including
14 members of the legislature and legislative employees and candidates for
15 member of the legislature, or if a reporting individual has filed a
16 statement which reveals a possible violation of these provisions, or if
17 the commission determines on its own initiative to investigate a possi-
18 ble violation, the commission shall notify the individual in writing,
19 describe the possible or alleged violation of such laws, provide a
20 description of the allegations against him or her and the evidence, if
21 any, supporting such allegations, provided however that the joint
22 commission shall redact any information that might, in the judgment of
23 the commission, be prejudicial to either the complainant or the investi-
24 gation; the letter also shall set forth the sections of law alleged to
25 have been violated and provide the person with a fifteen day period in
26 which to submit a written response, including any evidence, statements,
27 and proposed witnesses, setting forth information relating to the activ-
28 ities cited as a possible or alleged violation of law. The commission
29 shall, within [~~forty-five~~] sixty calendar days after a complaint or a
30 referral is received or an investigation is initiated on the commis-
31 sion's own initiative, vote on whether to commence a full investigation
32 of the matter under consideration to determine whether a substantial
33 basis exists to conclude that a violation of law has occurred. The staff
34 of the joint commission shall provide to the members prior to such vote
35 information regarding the likely scope and content of the investigation,
36 and a subpoena plan, to the extent such information is available. Such
37 investigation shall be conducted if at least eight members of the
38 commission vote to authorize it. Where the subject of such investigation
39 is a member of the legislature or a legislative employee or a candidate
40 for member of the legislature, at least two of the eight or more members
41 who so vote to authorize such an investigation must have been appointed
42 by a legislative leader or leaders from the major political party in
43 which the subject of the proposed investigation is enrolled if such
44 person is enrolled in a major political party. Where the subject of such
45 investigation is a state officer or state employee, at least two of the
46 eight or more members who so vote to authorize such an investigation
47 must have been appointed by the governor and lieutenant governor. Where
48 the subject of such investigation is a statewide elected official or a
49 direct appointee of such an official, at least two of the eight or more
50 members who so vote to authorize such an investigation must have been
51 appointed by the governor and lieutenant governor and be enrolled in the
52 major political party in which the subject of the proposed investigation
53 is enrolled, if such person is enrolled in a major political party.

A. 10742

19

1 § 2. Paragraph (b) of subdivision 13 of section 94 of the executive
2 law, as amended by section 6 of part A of chapter 399 of the laws of
3 2011, is amended to read as follows:

4 (b) Substantial basis investigation. Upon the affirmative vote of not
5 less than eight commission members to commence a substantial basis
6 investigation, written notice of the commission's decision shall be
7 provided to the individual who is the subject of such substantial basis
8 investigation. Such written notice shall include a copy of the commis-
9 sion's rules and procedures and shall also include notification of such
10 individual's right to be heard within thirty calendar days of the date
11 of the commission's written notice. If the commission votes to commence
12 a substantial basis investigation, the commission shall provide to the
13 individual a notice setting forth the alleged violations of law and the
14 factual basis for those allegations. The commission shall provide to
15 the individual any additional evidence supporting the allegations not
16 set forth in the letter sent pursuant to paragraph (a) of this subdivi-
17 sion in sufficient detail to enable the individual to respond, at least
18 seven days before the hearing. Such hearing shall afford the individual
19 with a reasonable opportunity to appear in person, and by attorney, give
20 sworn testimony and present evidence. Such hearing shall occur before
21 the commission votes on whether or not to issue a substantial basis
22 report. The commission shall also inform the individual of its rules
23 regarding the conduct of adjudicatory proceedings and appeals and the
24 other due process procedural mechanisms available to such individual. If
25 the commission determines at any stage that there is no violation [or],
26 that any potential [~~conflict of interest~~] violation has been rectified,
27 or if the investigation is closed for any other reason, it shall so
28 advise the individual and the complainant, if any in writing within
29 fifteen days of such decision. All of the foregoing proceedings shall
30 be confidential.

31 § 3. This act shall take effect immediately.

32

PART K

33 Section 1. Subdivision 3 of section 73 of the public officers law, as
34 amended by chapter 242 of the laws of 1989, is amended to read as
35 follows:

36 3. (a) No statewide elected official, member of the legislature,
37 legislative employee, full-time salaried state officer or employee shall
38 receive, directly or indirectly, or enter into any agreement express or
39 implied for, any compensation, in whatever form, for the appearance or
40 rendition of services by himself, herself or another against the inter-
41 est of the state in relation to any case, proceeding, application or
42 other matter before, or the transaction of business by himself, herself
43 or another with, the court of claims.

44 (b) No state officer or employee who is required to file an annual
45 statement of financial disclosure pursuant to the provisions of section
46 seventy-three-a of this article, and is not otherwise subject to the
47 provisions of this section, shall receive, directly or indirectly, or
48 enter into any agreement express or implied, for any compensation, in
49 whatever form, for the appearance or rendition of services by himself,
50 herself or another against the interest of the state agency by which he
51 or she is employed or affiliated in relation to any case, proceeding,
52 application or other matter before, or the transaction of business by
53 himself, herself or another with, the court of claims.

A. 10742

20

1 § 2. Subdivision 5 of section 73 of the public officers law, as
2 amended by chapter 14 of the laws of 2007, is amended to read as
3 follows:

4 5. No statewide elected official, state officer or employee, individ-
5 ual whose name has been submitted by the governor to the senate for
6 confirmation to become a state officer or employee, member of the legis-
7 lature or legislative employee shall, directly or indirectly:

8 (a) solicit, accept or receive any gift having more than a nominal
9 value, whether in the form of money, service, loan, travel, lodging,
10 meals, refreshments, entertainment, discount, forbearance or promise, or
11 in any other form, under circumstances in which it could reasonably be
12 inferred that the gift was intended to influence him or her, or could
13 reasonably be expected to influence him or her, in the performance of
14 his or her official duties or was intended as a reward for any official
15 action on his or her part. No person shall, directly or indirectly,
16 offer or make any such gift to a statewide elected official, or any
17 state officer or employee, member of the legislature or legislative
18 employee under such circumstances.

19 (b) solicit, accept or receive any gift, as defined in section one-c
20 of the legislative law, from any person who is prohibited from deliver-
21 ing such gift pursuant to section one-m of the legislative law unless
22 under the circumstances it is not reasonable to infer that the gift was
23 intended to influence him or her; or

24 (c) permit the solicitation, acceptance, or receipt of any gift, as
25 defined in section one-c of the legislative law, from any person who is
26 prohibited from delivering such gift pursuant to section one-m of the
27 legislative law to a third party including a charitable organization, on
28 such official's designation or recommendation or on his or her behalf,
29 under circumstances where it is reasonable to infer that the gift was
30 intended to influence him or her.

31 § 3. Subdivisions 6 and 7 of section 73 of the public officers law, as
32 amended by chapter 813 of the laws of 1987, paragraph (a) of subdivision
33 6 as amended by section 3 of part A of chapter 399 of the laws of 2011,
34 paragraph (b) of subdivision 6 as amended by chapter 14 of the laws of
35 2007, and paragraph (a) of subdivision 7 as amended and paragraph (h) of
36 subdivision 7 as added by chapter 530 of the laws of 2004, are amended
37 to read as follows:

38 6. (a) Every legislative employee not subject to the provisions of
39 section seventy-three-a of this chapter shall, on and after December
40 fifteenth and before the following January fifteenth, in each year, file
41 with the joint commission on public ethics and the legislative ethics
42 commission a financial disclosure statement of

43 (1) each financial interest, direct or indirect of himself or herself,
44 his or her spouse and his or her unemancipated children under the age of
45 eighteen years in any activity which is subject to the jurisdiction of a
46 regulatory agency or name of the entity in which the interest is had and
47 whether such interest is over or under five thousand dollars in value.

48 (2) every office and directorship held by him or her in any corpo-
49 ration, firm or enterprise which is subject to the jurisdiction of a
50 regulatory agency, including the name of such corporation, firm or
51 enterprise.

52 (3) any other interest or relationship which he or she determines in
53 his or her discretion might reasonably be expected to be particularly
54 affected by legislative action or in the public interest should be
55 disclosed.

A. 10742

21

1 (b) Copies of such statements shall be open for public inspection and
2 copying.

3 (c) Any such legislative employee who knowingly and wilfully with
4 intent to deceive makes a false statement or gives information which he
5 or she knows to be false in any written statement required to be filed
6 pursuant to this subdivision, shall be assessed a civil penalty in an
7 amount not to exceed ten thousand dollars. Assessment of a civil penalty
8 shall be made by the legislative ethics [~~committee~~] commission in
9 accordance with the provisions of subdivision [~~twelve~~] ten of section
10 eighty of the legislative law. For a violation of this subdivision, the
11 [~~committee~~] commission may, in lieu of a civil penalty, refer a
12 violation to the appropriate prosecutor and upon conviction, but only
13 after such referral, such violation shall be punishable as a class A
14 misdemeanor.

15 7. (a) No statewide elected official, or state officer or employee,
16 other than in the proper discharge of official state or local govern-
17 mental duties, or member of the legislature or legislative employee, or
18 political party chairman shall receive, directly or indirectly, or enter
19 into any agreement express or implied for, any compensation, in whatever
20 form, for the appearance or rendition of services by himself, herself or
21 another in relation to any case, proceeding, application or other matter
22 before a state agency where such appearance or rendition of services is
23 in connection with:

24 (i) the purchase, sale, rental or lease of real property, goods or
25 services, or a contract therefor, from, to or with any such agency;

26 (ii) any proceeding relating to rate making;

27 (iii) the adoption or repeal of any rule or regulation having the
28 force and effect of law;

29 (iv) the obtaining of grants of money or loans;

30 (v) licensing; or

31 (vi) any proceeding relating to a franchise provided for in the public
32 service law.

33 (b) No political party chairman in a county wholly included in a city
34 having a population of one million or more shall receive, directly or
35 indirectly, or enter into any agreement express or implied for, any
36 compensation, in whatever form, for the appearance or rendition of
37 services by himself, herself or another in relation to any case,
38 proceeding, application or other matter before any city agency where
39 such appearance or rendition of services is in connection with:

40 (i) the purchase, sale, rental or lease of real property, goods or
41 services, or a contract therefor, from, to or with any such agency;

42 (ii) any proceeding relating to ratemaking;

43 (iii) the adoption or repeal of any rule or regulation having the
44 force and effect of law;

45 (iv) the obtaining of grants of money or loans;

46 (v) licensing. For purposes of this paragraph, the term "licensing"
47 shall mean any city agency activity respecting the grant, denial,
48 renewal, revocation, enforcement, suspension, annulment, withdrawal,
49 recall, cancellation or amendment of a license, permit or other form of
50 permission conferring the right or privilege to engage in (i) a profes-
51 sion, trade, or occupation or (ii) any business or activity regulated by
52 a regulatory agency of a city agency which in the absence of such
53 license, permit or other form of permission would be prohibited; and

54 (vi) any proceeding relating to a franchise.

55 (c) Nothing contained in this subdivision shall prohibit a statewide
56 elected official, or a state officer or employee, unless otherwise

A. 10742

22

1 prohibited, or a member of the legislature or legislative employee, or
2 political party chairman, from appearing before a state agency in a
3 representative capacity if such appearance in a representative capacity
4 is in connection with a ministerial matter.

5 (d) Nothing contained in this subdivision shall prohibit a member of
6 the legislature, or a legislative employee on behalf of such member,
7 from participating in or advocating any position in any matter in an
8 official or legislative capacity, including, but not limited to, acting
9 as a public advocate whether or not on behalf of a constituent. Nothing
10 in this paragraph shall be construed to limit the application of the
11 provisions of section seventy-seven of this chapter.

12 (e) Nothing contained in this subdivision shall prohibit a state offi-
13 cer or employee from appearing before a state agency in a representative
14 capacity on behalf of an employee organization in any matter where such
15 appearance is duly authorized by an employee organization.

16 (f) Nothing contained in this subdivision shall prohibit a political
17 party chairman from participating in or advocating any matter in an
18 official capacity.

19 (g) Nothing contained in this subdivision shall prohibit internal
20 research or discussion of a matter, provided, however, that the time is
21 not charged to the client and the person does not share in the net
22 revenues generated or produced by the matter.

23 (h) Nothing contained in this subdivision shall prohibit a state offi-
24 cer or employee, unless otherwise prohibited, from appearing or render-
25 ing services in relation to a case, proceeding, application or trans-
26 action before a state agency, other than the agency in which the officer
27 or employee is employed, when such appearance or rendition of services
28 is made while carrying out official duties as an elected or appointed
29 official, or employee of a local government or one of its agencies.

30 § 4. Subdivision 8-b of section 73 of the public officers law, as
31 added by chapter 540 of the laws of 2004, is renumbered subdivision 8-c.

32 § 5. Subdivision 10 of section 73 of the public officers law, as
33 amended by section 13 of part A of chapter 399 of the laws of 2011, is
34 amended to read as follows:

35 10. Nothing contained in this section, the judiciary law, the educa-
36 tion law or any other law or disciplinary rule shall be construed or
37 applied to prohibit any firm, association or corporation, in which any
38 present or former statewide elected official, state officer or employee,
39 or political party chairman, member of the legislature or legislative
40 employee is a member, associate, retired member, of counsel or share-
41 holder, from appearing, practicing, communicating or otherwise rendering
42 services in relation to any matter before, or transacting business with
43 a state agency, or a city agency with respect to a political party
44 chairman in a county wholly included in a city with a population of more
45 than one million, otherwise proscribed by this section, the judiciary
46 law, the education law or any other law or disciplinary rule with
47 respect to such official, member of the legislature or officer or
48 employee, or political party chairman, where such statewide elected
49 official, state officer or employee, member of the legislature or legis-
50 lative employee, or political party chairman does not share in the net
51 revenues, as defined in accordance with generally accepted accounting
52 principles by the joint commission on public ethics or by the legisla-
53 tive ethics [committee] commission in relation to persons subject to
54 their respective jurisdictions, resulting therefrom, or, acting in good
55 faith, reasonably believed that he or she would not share in the net
56 revenues as so defined; nor shall anything contained in this section,

A. 10742

23

1 the judiciary law, the education law or any other law or disciplinary
 2 rule be construed to prohibit any firm, association or corporation in
 3 which any present or former statewide elected official, member of the
 4 legislature, legislative employee, full-time salaried state officer or
 5 employee or state officer or employee who is subject to the provisions
 6 of section seventy-three-a of this article is a member, associate,
 7 retired member, of counsel or shareholder, from appearing, practicing,
 8 communicating or otherwise rendering services in relation to any matter
 9 before, or transacting business with, the court of claims, where such
 10 statewide elected official, member of the legislature, legislative
 11 employee, full-time salaried state officer or employee or state officer
 12 or employee who is subject to the provisions of section seventy-three-a
 13 of this article does not share in the net revenues, as defined in
 14 accordance with generally accepted accounting principles by the joint
 15 commission on public ethics or by the legislative ethics [~~committee~~]
 16 commission in relation to persons subject to their respective jurisdic-
 17 tions, resulting therefrom, or, acting in good faith, reasonably
 18 believed that he or she would not share in the net revenues as so
 19 defined.

20 § 6. Paragraph 8 of subdivision 3 of section 73-a of the public offi-
 21 cers law, as amended by section 37 of subpart A of part H of chapter 55
 22 of the laws of 2014, subparagraphs (a), (b) and (c) as amended by
 23 section 1 and subparagraphs (b-1) and (b-2) as added by section 2 of
 24 part CC of chapter 56 of the laws of 2015, is amended to read as
 25 follows:

26 8. (a) If the reporting individual practices law, is licensed by the
 27 department of state as a real estate broker or agent or practices a
 28 profession licensed by the department of education, or works as a member
 29 or employee of a firm required to register pursuant to section one-e of
 30 the legislative law as a lobbyist, describe the services rendered for
 31 which compensation was paid including a general description of the prin-
 32 cipal subject areas of matters undertaken by such individual and princi-
 33 pal duties performed. Specifically state whether the reporting individ-
 34 ual provides services directly to clients. Additionally, if such an
 35 individual practices with a firm or corporation and is a partner or
 36 shareholder of the firm or corporation, give a general description of
 37 principal subject areas of matters undertaken by such firm or corpo-
 38 ration.

39 _____
 40 _____
 41 _____
 42 _____
 43 _____

44 (b) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE
 45 PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE AND BEFORE DECEMBER
 46 THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR FOR NEW MATTERS FOR EXISTING
 47 CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON
 48 OR AFTER JULY FIRST, TWO THOUSAND TWELVE AND BEFORE DECEMBER
 49 THIRTY-FIRST, TWO THOUSAND FIFTEEN:

50 If the reporting individual personally provides services to any person
 51 or entity, or works as a member or employee of a partnership or corpo-
 52 ration that provides such services (referred to hereinafter as a
 53 "firm"), then identify each client or customer to whom the reporting
 54 individual personally provided services, or who was referred to the firm

A. 10742

24

1 by the reporting individual, and from whom the reporting individual or
2 his or her firm earned fees in excess of \$10,000 during the reporting
3 period for such services rendered in direct connection with:

4 (i) A contract in an amount totaling \$50,000 or more from the state or
5 any state agency for services, materials, or property;

6 (ii) A grant of \$25,000 or more from the state or any state agency
7 during the reporting period;

8 (iii) A grant obtained through a legislative initiative during the
9 reporting period; or

10 (iv) A case, proceeding, application or other matter that is not a
11 ministerial matter before a state agency during the reporting period.

12 For purposes of this question, "referred to the firm" shall mean:
13 having intentionally and knowingly taken a specific act or series of
14 acts to intentionally procure for the reporting individual's firm or
15 knowingly solicit or direct to the reporting individual's firm in whole
16 or substantial part, a person or entity that becomes a client of that
17 firm for the purposes of representation for a matter as defined in
18 subparagraphs (i) through (iv) of this paragraph, as the result of such
19 procurement, solicitation or direction of the reporting individual. A
20 reporting individual need not disclose activities performed while
21 lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivi-
22 sion seven of section seventy-three of this article.

23 The disclosure requirement in this question shall not require disclo-
24 sure of clients or customers receiving medical or dental services,
25 mental health services, residential real estate brokering services, or
26 insurance brokering services from the reporting individual or his or her
27 firm. The reporting individual need not identify any client to whom he
28 or she or his or her firm provided legal representation with respect to
29 investigation or prosecution by law enforcement authorities, bankruptcy,
30 or domestic relations matters. With respect to clients represented in
31 other matters, where disclosure of a client's identity is likely to
32 cause harm, the reporting individual shall request an exemption from the
33 joint commission pursuant to paragraph [~~i~~] (i-1) of subdivision nine
34 of section ninety-four of the executive law, provided, however, that a
35 reporting individual who first enters public office after July first,
36 two thousand twelve, need not report clients or customers with respect
37 to matters for which the reporting individual or his or her firm was
38 retained prior to entering public office.

39 Client	Nature of Services Provided
40 _____	
41 _____	
42 _____	
43 _____	
44 _____	

45 (b-1) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES
46 ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR
47 FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE
48 SERVICES THAT ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOU-
49 SAND FIFTEEN (FOR PURPOSES OF THIS QUESTION, "SERVICES" SHALL MEAN
50 CONSULTATION, REPRESENTATION, ADVICE OR OTHER SERVICES):

51 If the reporting individual receives income from employment reportable
52 in question 8(a) and personally provides services to any person or enti-
53 ty, or works as a member or employee of a partnership or corporation
54 that provides such services (referred to hereinafter as a "firm"), the
55 reporting individual shall identify each client or customer to whom the

A. 10742

25

1 reporting individual personally provided services, or who was referred
2 to the firm by the reporting individual, and from whom the reporting
3 individual or his or her firm earned fees in excess of \$10,000 during
4 the reporting period in direct connection with:

5 (i) A contract in an amount totaling \$10,000 or more from the state or
6 any state agency for services, materials, or property;

7 (ii) A grant of \$10,000 or more from the state or any state agency
8 during the reporting period;

9 (iii) A grant obtained through a legislative initiative during the
10 reporting period; or

11 (iv) A case, proceeding, application or other matter that is not a
12 ministerial matter before a state agency during the reporting period.

13 For such services rendered by the reporting individual directly to
14 each such client, describe each matter that was the subject of such
15 representation, the services actually provided and the payment received.
16 For payments received from clients referred to the firm by the reporting
17 individual, if the reporting individual directly received a referral fee
18 or fees for such referral, identify the client and the payment so
19 received.

20 For purposes of this question, "referred to the firm" shall mean:
21 having intentionally and knowingly taken a specific act or series of
22 acts to intentionally procure for the reporting individual's firm or
23 having knowingly solicited or directed to the reporting individual's
24 firm in whole or substantial part, a person or entity that becomes a
25 client of that firm for the purposes of representation for a matter as
26 defined in clauses (i) through (iv) of this subparagraph, as the result
27 of such procurement, solicitation or direction of the reporting individ-
28 ual. A reporting individual need not disclose activities performed while
29 lawfully acting in his or her capacity as provided in paragraphs (c),
30 (d), (e) and (f) of subdivision seven of section seventy-three of this
31 article.

32	Client	Matter	Nature of Services Provided	Category of Amount (in Table I)
33				
34				
35				
36				
37				
38				
39				

40 (b-2) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES
41 ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR
42 FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE
43 SERVICES THAT ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOU-
44 SAND FIFTEEN (FOR PURPOSES OF THIS QUESTION, "SERVICES" SHALL MEAN
45 CONSULTATION, REPRESENTATION, ADVICE OR OTHER SERVICES):

46 (i) With respect to reporting individuals who receive ten thousand
47 dollars or more from employment or activity reportable under question
48 8(a), for each client or customer NOT otherwise disclosed or exempted in
49 question 8 or 13, disclose the name of each client or customer known to
50 the reporting individual to whom the reporting individual provided
51 services: (A) who paid the reporting individual in excess of five thou-
52 sand dollars for such services; or (B) who had been billed with the
53 knowledge of the reporting individual in excess of five thousand dollars

A. 10742

26

1 by the firm or other entity named in question 8(a) for the reporting
2 individual's services.

3 Client	Services	Category of Amount
4	Actually Provided	(in Table I)

5 FOLLOWING IS AN ILLUSTRATIVE, NON-EXCLUSIVE LIST OF EXAMPLES OF
6 DESCRIPTIONS OF "SERVICES ACTUALLY PROVIDED":

- 7 * REVIEWED DOCUMENTS AND CORRESPONDENCE;
- 8 * REPRESENTED CLIENT (IDENTIFY CLIENT BY NAME) IN LEGAL PROCEEDING;
- 9 * PROVIDED LEGAL ADVICE ON CLIENT MATTER (IDENTIFY CLIENT BY NAME);
- 10 * CONSULTED WITH CLIENT OR CONSULTED WITH LAW PARTNERS/ASSOCIATES/MEMBERS
- 11 OF FIRM ON CLIENT MATTER (IDENTIFY CLIENT BY NAME);
- 12 * PREPARED CERTIFIED FINANCIAL STATEMENT FOR CLIENT (IDENTIFY CLIENT BY
- 13 NAME);
- 14 * REFERRED INDIVIDUAL OR ENTITY (IDENTIFY CLIENT BY NAME) FOR
- 15 REPRESENTATION OR CONSULTATION;
- 16 * COMMERCIAL BROKERING SERVICES (IDENTIFY CUSTOMER BY NAME);
- 17 * PREPARED CERTIFIED ARCHITECTURAL OR ENGINEERING
- 18 RENDERINGS FOR CLIENT (IDENTIFY CUSTOMER BY NAME);
- 19 * COURT APPOINTED GUARDIAN OR EVALUATOR (IDENTIFY COURT NOT CLIENT).

20 (ii) With respect to reporting individuals who disclosed in question
21 8(a) that the reporting individual did not provide services to a client
22 but provided services to a firm or business, identify the category of
23 amount received for providing such services and describe the services
24 rendered.

25 <u>Services Actually Provided</u>	<u>Category of Amount (Table I)</u>
--------------------------------------	-------------------------------------

26 A reporting individual need not disclose activities performed while
27 lawfully acting in his or her capacity as provided in paragraphs (c),
28 (d), (e) and (f) of subdivision seven of section seventy-three of this
29 article.

30 The disclosure requirement in questions (b-1) and (b-2) shall not
31 require disclosing clients or customers receiving medical, pharmaceu-
32 tical or dental services, mental health services, or residential real
33 estate brokering services from the reporting individual or his or her
34 firm or if federal law prohibits or limits disclosure. The reporting
35 individual need not identify any client to whom he or she or his or her
36 firm provided legal representation with respect to investigation or
37 prosecution by law enforcement authorities, bankruptcy, family court,
38 estate planning, or domestic relations matters, nor shall the reporting
39 individual identify individuals represented pursuant to an insurance
40 policy but the reporting individual shall in such circumstances only
41 report the entity that provides compensation to the reporting individ-
42 ual; with respect to matters in which the client's name is required by
43 law to be kept confidential (such as matters governed by the family
44 court act) or in matters in which the reporting individual represents or
45 provides services to minors, the client's name may be replaced with
46 initials. To the extent that the reporting individual, or his or her
47 firm, provided legal representation with respect to an initial public

A. 10742

27

1 offering, and professional disciplinary rules, federal law or regu-
2 lations restrict the disclosure of information relating to such work,
3 the reporting individual shall (i) disclose the identity of the client
4 and the services provided relating to the initial public offering to the
5 office of court administration, who will maintain such information
6 confidentially in a locked box; and (ii) include in his or her response
7 to questions (b-1) and (b-2) that pursuant to this paragraph, a disclo-
8 sure to the office of court administration has been made. Upon such time
9 that the disclosure of information maintained in the locked box is no
10 longer restricted by professional disciplinary rules, federal law or
11 regulation, the reporting individual shall disclose such information in
12 an amended disclosure statement in response to the disclosure require-
13 ments in questions (b-1) and (b-2). The office of court administration
14 shall develop and maintain a secure portal through which information
15 submitted to it pursuant to this paragraph can be safely and confiden-
16 tially stored. With respect to clients represented in other matters not
17 otherwise exempt, the reporting individual may request an exemption to
18 publicly disclosing the name of that client from the joint commission
19 pursuant to paragraph ~~(i)~~ (i-1) of subdivision nine of section nine-
20 ty-four of the executive law, or from the office of court adminis-
21 tration. In such application, the reporting individual shall state the
22 following: "My client is not currently receiving my services or seeking
23 my services in connection with:

24 (i) A proposed bill or resolution in the senate or assembly during the
25 reporting period;

26 (ii) A contract in an amount totaling \$10,000 or more from the state
27 or any state agency for services, materials, or property;

28 (iii) A grant of \$10,000 or more from the state or any state agency
29 during the reporting period;

30 (iv) A grant obtained through a legislative initiative during the
31 reporting period; or

32 (v) A case, proceeding, application or other matter that is not a
33 ministerial matter before a state agency during the reporting period."

34 In reviewing the request for an exemption, the joint commission or the
35 office of court administration may consult with bar or other profes-
36 sional associations and the legislative ethics commission for individ-
37 uals subject to its jurisdiction and may consider the rules of profes-
38 sional conduct. In making its determination, the joint commission or the
39 office of court administration shall conduct its own inquiry and shall
40 consider factors including, but not limited to: (i) the nature and the
41 size of the client; (ii) whether the client has any business before the
42 state; and if so, how significant the business is; and whether the
43 client has any particularized interest in pending legislation and if so
44 how significant the interest is; (iii) whether disclosure may reveal
45 trade secrets; (iv) whether disclosure could reasonably result in retal-
46 iation against the client; (v) whether disclosure may cause undue harm
47 to the client; (vi) whether disclosure may result in undue harm to the
48 attorney-client relationship; and (vii) whether disclosure may result in
49 an unnecessary invasion of privacy to the client.

50 The joint commission or, as the case may be, the office of court
51 administration shall promptly make a final determination in response to
52 such request, which shall include an explanation for its determination.
53 The office of court administration shall issue its final determination
54 within three days of receiving the request. Notwithstanding any other
55 provision of law or any professional disciplinary rule to the contrary,
56 the disclosure of the identity of any client or customer in response to

A. 10742

29

1 tion confidentially in a locked box; and (ii) include in his or her
2 response a statement that pursuant to this paragraph, a disclosure to
3 the office of court administration has been made. Upon such time that
4 the disclosure of information maintained in the locked box is no longer
5 restricted by federal law or regulation, the reporting individual shall
6 disclose such information in an amended disclosure statement in response
7 to the disclosure requirements of this paragraph. The office of court
8 administration shall develop and maintain a secure portal through which
9 information submitted to it pursuant to this paragraph can be safely and
10 confidentially stored. With respect to clients represented in other
11 matters not otherwise exempt, the reporting individual may request an
12 exemption to publicly disclosing the name of that client from the joint
13 commission pursuant to paragraph [~~(i)~~] (i-1) of subdivision nine of
14 section ninety-four of the executive law, or from the office of court
15 administration. In such application, the reporting individual shall
16 state the following: "My client is not currently receiving my services
17 or seeking my services in connection with:

18 (i) A proposed bill or resolution in the senate or assembly during the
19 reporting period;

20 (ii) A contract in an amount totaling \$10,000 or more from the state
21 or any state agency for services, materials, or property;

22 (iii) A grant of \$10,000 or more from the state or any state agency
23 during the reporting period;

24 (iv) A grant obtained through a legislative initiative during the
25 reporting period; or

26 (v) A case, proceeding, application or other matter that is not a
27 ministerial matter before a state agency during the reporting period."

28 In reviewing the request for an exemption, the joint commission or the
29 office of court administration may consult with bar or other profes-
30 sional associations and the legislative ethics commission for individ-
31 uals subject to its jurisdiction and may consider the rules of profes-
32 sional conduct. In making its determination, the joint commission or the
33 office of court administration shall conduct its own inquiry and shall
34 consider factors including, but not limited to: (i) the nature and the
35 size of the client; (ii) whether the client has any business before the
36 state; and if so, how significant the business is; and whether the
37 client has any particularized interest in pending legislation and if so
38 how significant the interest is; (iii) whether disclosure may reveal
39 trade secrets; (iv) whether disclosure could reasonably result in retal-
40 iation against the client; (v) whether disclosure may cause undue harm
41 to the client; (vi) whether disclosure may result in undue harm to the
42 attorney-client relationship; and (vii) whether disclosure may result in
43 an unnecessary invasion of privacy to the client.

44 The joint commission or, as the case may be, the office of court
45 administration shall promptly make a final determination in response to
46 such request, which shall include an explanation for its determination.
47 The office of court administration shall issue its final determination
48 within three days of receiving the request. Notwithstanding any other
49 provision of law or any professional disciplinary rule to the contrary,
50 the disclosure of the identity of any client or customer in response to
51 this question shall not constitute professional misconduct or a ground
52 for disciplinary action of any kind, or form the basis for any civil or
53 criminal cause of action or proceeding. A reporting individual who first
54 enters public office after December thirty-first, two thousand fifteen,
55 need not report clients or customers with respect to matters for which

A. 10742

30

1 the reporting individual or his or her firm was retained prior to enter-
2 ing public office.

3	Client	Name of Lobbyist	<u>Description</u> <u>of Matter</u>	Category of Amount (in Table 1)
4				
5				
6				
7				
8				
9				

10 (d) List the name, principal address and general description or the
11 nature of the business activity of any entity in which the reporting
12 individual or such individual's spouse had an investment in excess of
13 \$1,000 excluding investments in securities and interests in real proper-
14 ty.

15 § 7. Subdivisions 2 and 3 of section 74 of the public officers law, as
16 amended by chapter 1012 of the laws of 1965, paragraph d of subdivision
17 3 as amended by chapter 1 of the laws of 2010, are amended to read as
18 follows:

19 2. Rule with respect to conflicts of interest. No officer or employee
20 of a state agency, member of the legislature or legislative employee
21 should have any interest, financial or otherwise, direct or indirect, or
22 engage in any business or transaction or professional activity or incur
23 any obligation of any nature, which is in substantial conflict with the
24 proper discharge of his or her duties in the public interest.

25 3. Standards.

26 a. No officer or employee of a state agency, member of the legislature
27 or legislative employee should accept other employment which will impair
28 his or her independence of judgment in the exercise of his or her offi-
29 cial duties.

30 b. No officer or employee of a state agency, member of the legislature
31 or legislative employee should accept employment or engage in any busi-
32 ness or professional activity which will require him or her to disclose
33 confidential information which he or she has gained by reason of his or
34 her official position or authority.

35 c. No officer or employee of a state agency, member of the legislature
36 or legislative employee should disclose confidential information
37 acquired by him or her in the course of his or her official duties nor
38 use such information to further his or her personal interests.

39 d. No officer or employee of a state agency, member of the legislature
40 or legislative employee should use or attempt to use his or her official
41 position to secure unwarranted privileges or exemptions for himself or
42 herself or others, including but not limited to, the misappropriation to
43 himself, herself or to others of the property, services or other
44 resources of the state for private business or other compensated non-go-
45 vernmental purposes.

46 e. No officer or employee of a state agency, member of the legislature
47 or legislative employee should engage in any transaction as represen-
48 tative or agent of the state with any business entity in which he or she
49 has a direct or indirect financial interest that might reasonably tend
50 to conflict with the proper discharge of his or her official duties.

51 f. An officer or employee of a state agency, member of the legislature
52 or legislative employee should not by his or her conduct give reasonable
53 basis for the impression that any person can improperly influence him or
54 her or unduly enjoy his or her favor in the performance of his or her

A. 10742

31

1 official duties, or that he or she is affected by the kinship, rank,
2 position or influence of any party or person.

3 g. An officer or employee of a state agency should abstain from making
4 personnel investments in enterprises which he or she has reason to
5 believe may be directly involved in decisions to be made by him or her
6 or which will otherwise create substantial conflict between his or her
7 duty in the public interest and his or her private interest.

8 h. An officer or employee of a state agency, member of the legislature
9 or legislative employee should endeavor to pursue a course of conduct
10 which will not raise suspicion among the public that he or she is likely
11 to be engaged in acts that are in violation of his or her trust.

12 i. No officer or employee of a state agency employed on a full-time
13 basis nor any firm or association of which such an officer or employee
14 is a member nor corporation a substantial portion of the stock of which
15 is owned or controlled directly or indirectly by such officer or employ-
16 ee, should sell goods or services to any person, firm, corporation or
17 association which is licensed or whose rates are fixed by the state
18 agency in which such officer or employee serves or is employed.

19 § 8. This act shall take effect immediately; and shall apply to annual
20 statements of financial disclosure filed for calendar years commencing
21 on or after January 1, 2017.

22 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
23 sion, section or part of this act shall be adjudged by any court of
24 competent jurisdiction to be invalid, such judgment shall not affect,
25 impair, or invalidate the remainder thereof, but shall be confined in
26 its operation to the clause, sentence, paragraph, subdivision, section
27 or part thereof directly involved in the controversy in which such judg-
28 ment shall have been rendered. It is hereby declared to be the intent of
29 the legislature that this act would have been enacted even if such
30 invalid provisions had not been included herein.

31 § 3. This act shall take effect immediately provided, however, that
32 the applicable effective date of Parts A through K of this act shall be
33 as specifically set forth in the last section of such Parts.

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A10742

Revised 06/20/16

SPONSOR: Rules (Heastie)

TITLE OF BILL: An act to amend the election law, in relation to independent expenditures during election campaigns (Part A); to amend the election law, in relation to monies received and expenditures made by a party committee or constituted committee (Part B); to amend the election law, in relation to disposition of campaign funds (Part C); to amend the legislative law, in relation to reports by lobbyists (Part D); to amend the legislative law, in relation to contingent fees (Part E); to amend the executive law, in relation to the disclosure of certain donations by charitable non-profit entities (Part F); to amend the executive law, in relation to disclosure of certain activities by non-charitable non-profit entities (Part G); to amend the executive law, in relation to the registration of certain service providers (Part H); to amend the legislative law, in relation to communications with professional journalists and newscasters; and in relation to reporting of certain funding by lobbyists (Part I); to amend the executive law, in relation to investigations by the joint commission on public ethics and to violations of the lobbying act (Part J); and to amend the public officers law, in relation to financial disclosure forms (Part K)

PURPOSE OF THE BILL:

The purpose of this bill is to provide New York State with comprehensive ethics, lobbying, campaign finance, and public officer's law reform.

SUMMARY OF PROVISIONS:

PART A

Section 1 of the bill would add "coordination" to the list of non-independent expenditures and define the following scenarios as prohibited coordination:

- *The independent expenditure committee was formed by the candidate or the candidate's agents;
- *The candidate or the candidate's agents appeared at events sponsored by the independent expenditure committee;
- *The independent expenditure committee retained a candidate's former staffer;
- *The independent expenditure committee is operated by a member of the candidate's immediate family;
- *The communication reproduces non-public campaign-related material;
- *The independent expenditure committee shares space with the candidate or the candidate's agents;
- *The independent expenditure committee has strategic discussions with the candidate or the candidate's agents;
- *The independent expenditure committee and the candidate or the candidate's agents share a professional campaign services provider, provided that a campaign services provider shall be permitted to maintain a

confidentiality agreement with both parties in order to serve in a shared role;

*The independent expenditure committee utilizes non-public information from a person who was previously retained by the candidate;

Section 1 would also define certain relevant terms and establish non-coordination status for responses to policy issue inquiries and for communications related to preexisting commercial interests. Section 2 would make a conforming change in the election law related to the monetary disclosure threshold for independent expenditures.

Section 3 would require persons making independent expenditures to register as independent expenditure committees and would require additional disclosures for such committees upon registration.

Section 4 would require independent expenditure committees to make certain additional disclosures as part of their filing obligations.

Section 5 would establish that any criminal penalties resulting from section 14-107 of the election law shall require a knowing and willful violation in accordance with existing section 14126 of the election law, and that a knowing and willful violation of certain provisions of section 14-107 the election law shall result in a civil penalty.

Section 6 would amend the definition of "contribution" in the election law to reference coordinated communications as defined in this bill.

Section 7 would create and define the terms "independent expenditure committee" and "political action committee."

Section 8 would make a conforming change in the election law related to authorization statements filed by political committees.

Section 9 would require political action committees to disclose any individuals who exert operational control over the political action committee, as well as any salaried employees of the political action committee.

Section 10 would prohibit certain foul's of spending by independent expenditure committees and political action committees.

Section 11 would establish a civil penalty for a knowing and willful violation of the spending restrictions on independent expenditure committees and political action committees.

Section 12 would establish severability.

Section 13 would establish an effective date of 30 days.

PART B

Section 1 would amend section 14-124 of the election law to require housekeeping accounts to be deposited in a segregated account.

Section 2 would establish an immediate effective date.

PART C

Section 1 of this bill would amend section 14-104-of the election law to permit a candidate to designate a three-person committee to be charged with appointing or removing the treasurer of the candidate's authorized committee. The candidate would retain the right to revoke designation of committee members at any time.

Section 2 of this bill would amend section 14-132 of the election law to facilitate the winding down of an authorized candidate committee and to set a two-year time frame for winding down upon the death of a candidate. The bill would provide multiple possible uses for funds in an authorized account upon wind down including: Returning donations to the contributor; Donating the funds to a charity; Donating the funds to SUNY or CUNY; Donating the funds to the state general fund; Contributing the funds to a candidate or party.

Section 3 would set forth the effective date of the bill.

PART D

Section 1 and 2 would amend section 1-h and 1-j of the legislative law to require lobbyists to disclose their source of funding to the Joint Commission on Public Ethics (JCOPE) when lobbying spending totals over fifteen thousand dollars, or when at least 3% of their expenditures were devoted to lobbying, and would require registration for each expense over two thousand five hundred dollars. Membership dues, fees and assessments would not be required to be disclosed. 501(c)(4)'s would also be required to disclose in-kind donations from 501(c)(3)'s. These sections would also trigger a reporting requirement for a 501(c)(3) who gives an in-kind donation of over \$2500 to a 501(c)(4), to disclose their sources of funding to the Attorney General.

Section 3 would make it effective on the 30th day after enactment.

PART E

Section 1 would amend section 1-k of the legislative law to require that any lobbyist in receipt of contingent fees be subject to a misdemeanor A charge as well as the greater of a \$10,000 civil penalty or disgorgement of any ill-gotten gains from the illegal contingency fee arrangement.

Section 2 would establish an immediate effective date.

PART F

Section 1 would add a new section 172-e to the executive law that would require a 501(c)(3) to report their sources of funding to the Department of Law when such entity makes an in kind donation to a 501(c)(4) of over \$2500. Reporting would be mandated on a semi-annual basis. The source of funding reports would be shared with JCOPE for the purpose of posting such reports on the commission's website. The bill also articulates a disclosure waiver, and appeal, process.

Section 2 would make the bill effective the ninetieth day after becoming law.

PART G

Section 1 would add a new section 172-f to the executive law that would require 501(c)(4) organizations who engage in issue advocacy to make certain disclosures regarding the issue advocacy to the Department of law. The bill requires the Department of Law to make such disclosures public on their website and provides for a disclosure waiver, and appeal, process.

Section 2 would make the bill effective the thirtieth day after becoming law.

PART H

Section 1 would add a new section 109 to the executive law that would require persons providing political consulting services to, or on behalf of an elected official or candidate for elected office, to register with the Department of State and provide certain information to the department of state in their registration.

Section 2 would make the bill effective the sixtieth day after becoming law.

PART I

Section 1 would amend section 1-c of the Legislative Law to exclude communications with journalists and editorial boards from the definition of lobbying.

Section 2 would provide for an immediate effective date.

PART J

Sections 1 and 2 would amend section 94 of the executive law to require JCOPE to provide persons under investigation with several due process rights including the right to be heard prior to a final determination by the commission, and a right to be notified about charges and information when such information is not prejudicial to the complainant or investigation. Section 1 of the bill would also allow JCOPE sixty days to complete an investigation and would require JCOPE to notify the subject of an investigation when such investigation is closed.

Section 3 would provide for an immediate effective date.

PART K

Section 1 through 10 would make technical amendments including using gender inclusive pronouns and substituting "commission" for "committee" to conform with an updated agency name for JCOPE.

Section 2 would make it effective immediately and provide for specific effective dates pertaining to the technical amendments to the Financial Disclosure Statement.

STATEMENT IN SUPPORT

This bill strengthens New York State's election, lobbying, ethics, and public officer's laws. First, in response to the Supreme Court's Citizens United decision, this bill would institute the strictest anti-coordination law in the nation, and specifically prohibit coordination in New York State election law for the first time. The bill would also expressly identify which activities constitute prohibited coordination, and strictly prohibit coordination in egregious scenarios, such as the "independent" spender being an immediate family member of the candidate, as well as in subtle scenarios, such as the dissemination of a candidate's campaign material by supposedly "independent" groups. This will allow New York's electoral politics to achieve a clear and meaningful demarcation between candidates and unlimited expenditures and will provide a much-needed reform to New York's campaign finance system.

Second, the bill would increase penalties for egregious lobbying violations, while also providing for enhanced due process for persons

under investigation for ethics and lobbying violations. The bill would also require political consultants that provide services to sitting elected officials or candidates for elected office and who also have clients with business before the state or a locality to register with the state and to disclose their clients. This reform prevents organizations from corrupting the political process and utilizing funds that are not intended for political purposes. Disclosure of political relationships and funding behaviors widely recognized to be influential, but which operate in the shadows, is essential to restoring the public's faith and trust in our political process.

BUDGET IMPLICATIONS:

None

EFFECTIVE DATE:

This act shall take effect immediately provided, however, that the applicable effective date of Parts B through K of this act shall be as specifically set forth in the last section of such Parts.