STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

AN ACT

RELATING TO ELECTIONS -- DISCLOSURE OF POLITICAL CONTRIBUTIONS AND EXPENDITURES

Introduced By: Representatives Blazejewski, Fox, Ajello, Marcello, and Edwards

Date Introduced: February 28, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. The legislature hereby finds and declares as follows:

1. (1) The amount of money spent in elections by persons, business entities or political action committees that are not coordinated with a candidate or political party is playing a greater role in elections.

2. (2) The Supreme Court's decision in Citizens United v. FEC has accelerated these trends by allowing unlimited political spending by outside groups via independent expenditures. This spending is often extremely difficult or impossible to trace, being funneled through "shadow groups" that are able to avoid many current campaign finance disclosure regulations.

3. (3) The legislature finds it to be in the public and governmental interest to revise Rhode Island's campaign finance disclaimer and disclosure laws to keep pace with the aforementioned developments and to protect and enhance core democratic values and maintain the integrity of elections.

   (i) The source of political spending is vital information for voters, allowing them to make knowledgeable decisions at election time. Disclosure allows voters to properly weigh speakers and messages based on their affiliations and other contexts, such as whether the speaker stands to personally benefit from their advocated positions.

   (ii) The United States Supreme Court has repeatedly upheld disclaimer and disclosure provisions as constitutionally protected methods of improving the integrity of electoral processes.
without unnecessarily restricting First Amendment free speech rights. The Court has noted that these requirements “impose no ceiling on campaign related activities” (Buckley v. Valeo) and “do not prevent anyone from speaking” (McConnell v. FEC). Whatever level of burden disclaimer and disclosure do place on the ability to speak is justified by a valid government interest in providing the electorate with information.

(iii) New communications technologies greatly increase the value and potential for disclosure by making disclosed information easily available to the average citizen. This potential should be embraced by encouraging electronic filing of campaign finance reports as much as is practicable and making this information as accessible as possible. New media and technological platforms also bring with them a risk of circumvention of existing regulation by funneling money through mediums unaddressed by extant law. Extension of disclaimer laws to new media will ensure that the interests bolstered by disclosure and disclaimer remain well supported.

(iv) By bringing political spending out into the light, stronger, modernized disclaimer and disclosure rules can serve as a powerful check on actual government corruption as well as reduce the perception of corruption. Armed with information about political spending, citizens can better detect improper political favors and then use this knowledge to hold those politicians accountable at the ballot box. By preventing the flooding of elections with untraceable money, these rules will leave the public with less reason to perceive “bought elections” in which the outcome is determined by outside or even out-of-state groups. Thus, improved disclosure and disclaimer laws can help restore citizen trust in government.

(v) Disclaimer and disclosure can also further the rights and interests of shareholders and group members. In both cases, an organization acts in a role representing its constituents’ interests, including in its political actions. However, if information on a group’s spending is not disclosed to members and shareholders, their interests are compromised as they may support or oppose certain political spending but not be made aware of the spending being done in their names.

(vi) At present, spending between the final pre-election filing date and election day is hidden from public view until after the election is over. This deprives voters of knowledge when it would be most relevant to their decision-making and reduces disclosure’s effectiveness in promoting accountability in the political process.

(vii) Stronger disclosure rules can also assist in the gathering of information necessary to avoid circumvention of other existing rules. Existing law, such as bans on campaign contributions by foreign nationals and contribution limits, rely on the type of transparency in political spending that these regulations would create.
SECTION 2. Section 17-25-3 of the General Laws in Chapter 17-25 entitled "Rhode Island Campaign Contributions and Expenditures Reporting" is hereby amended to read as follows:

17-25-3. Definitions. -- As used in this chapter, unless a different meaning clearly appears from the context:

(1) "Business entity" means any corporation, whether for profit or not for profit, domestic corporation or foreign corporation, as defined in section 7-1.2-106, financial institution, cooperative, association, receivership, trust, holding company, firm, joint stock company, public utility, sole proprietorship, partnership, limited partnership, or any other entity recognized by the laws of the United States and/or the state of Rhode Island for the purpose of doing business. The term "business entity" shall not include a political action committee organized pursuant to this chapter or a political party committee or an authorized campaign committee of a candidate or office holder. The term “business entity” shall not include any exempt nonprofit as defined herein or any organization described in section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, for the purposes of chapter 17-25.3 of the general laws only.

(2) "Candidate" means any individual who undertakes any action, whether preliminary or final, which is necessary under the law to qualify for nomination for election or election to public office, and/or any individual who receives a contribution or makes an expenditure, or gives his or her consent for any other person to receive a contribution or make an expenditure, with a view to bringing about his or her nomination or election to any public office, whether or not the specific public office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at that time.

(3) "Contributions" and "expenditures" include all transfers of money, credit or debit card transactions on-line or electronic payment systems such as "pay pal," paid personal services, or other thing of value to or by any candidate, committee of a political party, or political action committee or ballot question advocate. A loan shall be considered a contribution of money until it is repaid.

(4) "Election" means any primary, general, or special election or town meeting for any public office of the state, municipality, or district or for the determination of any question submitted to the voters of the state, municipality, or district.

(5) "Election cycle" means the twenty-four (24) month period commencing on January 1 of odd number years and ending on December 31 of even number years; provided, with respect to
the public financing of election campaigns of general officers under sections 17-25-19, 17-25-20, and 17-25-25, "election cycle" means the forty-eight (48) month period commencing on January 1 of odd numbered years and ending December 31 of even numbered years.

(6) "In-Kind Contributions" means the monetary value of other things of value or paid personal services donated to, or benefiting, any person required to file reports with the board of elections.

(7) "Other thing of value" means any item of tangible real or personal property of a fair market value in excess of one hundred dollars ($100).

(8) "Paid personal services" means personal services of every kind and nature, the cost or consideration for which is paid or provided by someone other than the committee or candidate for whom the services are rendered, but shall not include personal services provided without compensation by persons volunteering their time.

(9) "Person" means an individual, partnership, committee, association, corporation, union, charity and/or any other organization. The term “person” shall not include any exempt nonprofit as defined herein or any organization described in section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, for the purposes of chapter 17-25.3 of the general laws only.

(10) "Political action committee" means any group of two (2) or more persons that accepts any contributions to be used for advocating the election or defeat of any candidate or candidates. Only political action committees that have accepted contributions from fifteen (15) or more persons in amounts of ten dollars ($10.00) or more within an election cycle shall be permitted to make contributions, and those committees must make contributions to at least five (5) candidates for state or local office within an election cycle.

(11) "Public office" means any state, municipal, school, or district office or other position that is filled by popular election, except political party offices. "Political party offices" means any state, city, town, ward, or representative or senatorial district committee office of a political party or delegate to a political party convention, or any similar office.

(12) "State" means state of Rhode Island.

(13) "Testimonial affair" means an affair of any kind or nature including, but not limited to, cocktail parties, breakfasts, luncheons, dinners, dances, picnics, or similar affairs expressly and directly intended to raise campaign funds in behalf of a candidate to be used for nomination or election to a public office in this state, or expressly and directly intended to raise funds in behalf of any state or municipal committee of a political party, or expressly and directly intended
to raise funds in behalf of any political action committee.

(14) "Electioneering communication" means any print, broadcast, cable, satellite, or electronic media communication not coordinated, as set forth in section 17-25-23, with any candidate, authorized candidate campaign committee, or political party committee and which unambiguously identifies a candidate or referendum and is made either within sixty (60) days before a general or special election or town meeting for the office sought by the candidate or referendum; or thirty (30) days before a primary election, for the office sought by the candidate; and is targeted to the relevant electorate.

(i) A communication which refers to a clearly identified candidate or referendum is "targeted to the relevant electorate" if the communication can be received by two thousand (2,000) or more persons in the district the candidate seeks to represent or the constituency voting on the referendum.

(ii) Exceptions: The term "electioneering communication" does not include:

(A) A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) A communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the board of elections or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(C) A communication made by any business entity to its members, owners, stockholders, or employees;

(D) A communication over the Internet, except for (I) Communications placed for a fee on the website of another person, business entity, or political action committee; and (II) Websites formed primarily for the purpose, or whose primary purpose is, to expressly advocate the election or defeat of a clearly identified candidate or the passage or defeat of a referendum; or

(E) Any other communication exempted under such regulations as the board of elections may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph.

(15) "Independent expenditure" means an expenditure which, when taken as a whole, expressly advocates the election or defeat of a clearly identified candidate, or the passage or defeat of a referendum, or amounts to the functional equivalent of such express advocacy, and is in no way coordinated, as set forth in section 17-25-23, with any candidate’s campaign, authorized candidate committee, or political party committee. An expenditure amounts to the functional equivalent of express advocacy if it can only be interpreted by a reasonable person as
advocating the election, passage, or defeat of a candidate or referendum, taking into account
whether the communication mentions a candidate or referendum and takes a position on a
candidate’s character, qualifications, or fitness for office. An independent expenditure is not a
contribution to that candidate or committee.

(i) Exceptions: The term “independent expenditure” does not include:

(A) A communication appearing in a news story, commentary, or editorial distributed
through the facilities of any broadcasting station, unless such facilities are owned or controlled by
any political party, political committee, or candidate;

(B) A communication which constitutes a candidate debate or forum conducted pursuant
to regulations adopted by the board of elections or which solely promotes such a debate or forum
and is made by or on behalf of the person sponsoring the debate or forum;

(C) A communication made by any business entity to its members, owners, stockholders,
or employees;

(D) A communication over the Internet, except for (I) Communications placed for a fee
on the website of another person, business entity, or political action committee; and (II) Websites
formed primarily for the purpose, or whose primary purpose is, to expressly advocates the
election or defeat of a clearly identified candidate or the passage or defeat of a referendum; or

(E) Any other communication exempted under such regulations as the board of elections
may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate
implementation of this paragraph.

(16) “Covered transfer” means any transfer or payment of funds by any person, business
entity or political action committee to another person, business entity, or political action
committee if the person, business entity, or political action committee making the transfer: (i)
Designates, requests, or suggests that the amounts be used for independent expenditures or
electioneering communications or making a transfer to another person for the purpose of making
or paying for such independent expenditures or electioneering communications; (ii) Made such
transfer or payment in response to a solicitation or other request for a transfer or payment for the
making of or paying for independent expenditures or electioneering communications or making a
transfer to another person for the purpose of marking or paying for such independent expenditures
or electioneering communications; (iii) Engaged in discussions with the recipient of the transfer
or payment regarding independent expenditures or electioneering communications or making a
transfer to another person for the purpose of marking or paying for such independent expenditures
or electioneering communications; or (iv) Made independent expenditures or electioneering
communications in an aggregate amount of five thousand dollars ($5,000) or more during the two
(2) year period ending on the date of the transfer or payment, or knew or had reason to know that
the person receiving the transfer or payment made such independent expenditures or
electioneering communications in such an aggregate amount during that two (2) year period.

(A) Exceptions: The term "covered transfer" does not include:

(I) A transfer or payment made by a person, business entity or political action committee
in the ordinary course of any trade or business conducted by the person, business entity or
political action committee or in the form of investments made by the person, business entity or
political action committee; or

(II) A transfer or payment made by a person, business entity or political action committee
if the person, business entity or political action committee making the transfer prohibited, in
writing, the use of such transfer or payment for independent expenditures, electioneering
communications, or covered transfers and the recipient of the transfer or payment agreed to
follow the prohibition and deposited the transfer or payment in an account which is segregated
from any account used to make independent expenditures, electioneering communications, or
covered transfers.

(17) For the purposes of chapter 17-25.3 of the general laws, “donation” means all
transfers of money, credit or debit card transactions on-line or electronic payment systems such as
"pay pal," paid personal services, or other thing of value to or by any person, business entity, or
political action committee. A loan shall be considered a donation of money until it is repaid.

(18) For the purposes of chapter 17-25.3 of the general laws, “donor” means a person,
business entity, or political action committee that makes a donation.

(19) “Exempt nonprofit” means any organization described in section 501(c)(4) of the
Internal Revenue Code that spends an aggregate annual amount of no more than ten percent
(10%) of its annual expenses or no more than fifteen thousand dollars ($15,000), whichever is
less, on independent expenditures, electioneering communications, and covered transfers as
defined herein and certifies the same to the board of elections seven (7) days before and after a
primary election and seven (7) days before and after a general or special election.

(20) For purposes of chapter 17-25.3 of the general laws, "referendum" means the same
as the definition set forth in section 17-5-1 of the general laws.

SECTION 3. Title 17 of the General Laws entitled "ELECTIONS" is hereby amended by
adding thereto the following chapter:

CHAPTER 25.3

INDEPENDENT EXPENDITURES AND ELECTIONEERING COMMUNICATIONS

17-25.3-1. Independent expenditures and electioneering communications for
elections. – (a) It shall be lawful for any person, business entity or political action committee, not otherwise prohibited by law and not acting in coordination with a candidate, authorized candidate campaign committee, political action committee, or political party committee, to expend personally from that person's own funds a sum which is not to be repaid to him or her for any purpose not prohibited by law to support or defeat a candidate or referendum. Whether a person, business entity or political action committee is "acting in coordination with a candidate, authorized candidate campaign committee, political action committee or political party committee" for the purposes of this subsection shall be determined by application of the standards set forth in section 17-25-23. All terms used in this chapter shall have the same meaning as defined in section 17-25-3.

(b) Any person, business entity or political action committee making independent expenditures, electioneering communications, or covered transfers shall report all such campaign finance expenditures and expenses to the board of elections, provided the total of the money so expended exceeds one thousand dollars ($1000) within a calendar year, to the board of elections within seven (7) days of making the expenditure.

(c) A person, business entity or political action committee who makes or contracts to make independent expenditures, electioneering communications, or covered transfers with an aggregate value of one thousand dollars ($1,000) or more shall electronically file a campaign finance report to the board of elections describing the expenditures.

(d) After a person, business entity or political action committee files a report under subsection (b), the person, business entity or political action committee shall file an additional report after each time the person, business entity or political action committee makes or contracts to make independent expenditures, electioneering communications, or covered transfers aggregating an additional one thousand dollars ($1,000) with respect to the same election as that to which the initial report relates.

(e) When a report is required by subsection (c) or (d) of this section within thirty (30) days prior to the election to which the expenditure was directed, it shall be filed with twenty-four (24) hours of the expenditure. When such a report is required at any other time, it shall be filed within seven (7) days after the expenditure.

(f) Reports of independent expenditures, electioneering communications, or covered transfers by a person shall contain the name, street address, city, state, zip code, occupation, employer (if self-employed, the name and place of business), of the person responsible for the expenditure, the name, street address, city, state, and zip code of the person receiving the expenditure the date and amount of each expenditure, and the year to date total.
(g) The report shall also include a statement identifying the candidate or referendum that
the independent expenditure or electioneering communication is intended to promote the success
or defeat, and affirm under penalty of false statement that the expenditure is not coordinated with
the campaign in question, and provide any information that the board of elections requires to
facilitate compliance with the provisions of this chapter.

(h) Reports of independent expenditures, electioneering communications, or covered
transfers by a person, business entity or political action committee shall also disclose the identity
of all donors of an aggregate of one thousand dollars ($1000) or more to such person, business
entity or committee within the current election cycle, if applicable, unless the person, business
entity or political action committee has established a separate campaign-related account for
independent expenditures, electioneering communications, and covered transfers as detailed in
section 17-25.3-2 in which case this paragraph applies only to donors to the person’s, business
entity’s or political action committee’s separate campaign-related account; provided that no
person, business entity, or political action committee shall be required to disclose in a report to
the board of elections the identity, which includes name, address, place of employment, and
donation amount, of any donor who makes no donation to such person, business entity, or
political action committee after the date of enactment of this section.

(i) If a person, business entity or political action committee and a donor mutually agree,
at the time a donation, payment, or transfer to the person, business entity or political action
committee which is required to disclose the identification under subsection (f) that the person,
business entity or political action committee will not use the donation, payment, or transfer for
independent expenditures, electioneering communications, or covered transfers, then not later
than thirty (30) days after the person, business entity or political action committee receives the
donation, payment, or transfer the person, business entity or political action committee shall
transmit to the donor a written certification by the chief financial officer of the person, business
tility or political action committee (or, if the organization does not have a chief financial officer,
the highest ranking financial official of the organization) that:

(1) The person, business entity or political action committee will not use the donation,
payment, or transfer for independent expenditures, electioneering communications, or covered
transfers; and

(2) The person, business entity or political action committee will not include any
information on the donor in any report filed by the person, business entity or political action
committee under this section with respect to independent expenditures, electioneering
communications, or covered transfers, so that the donor will not be required to appear in the list
(3) Exception for payments made pursuant to commercial activities. Subsections (e) and (f) do not apply with respect to any payment or transfer made pursuant to commercial activities in the regular course of a person’s, business entity’s or political action committee’s business.

(i) For the purposes of this chapter, two (2) or more entities (other than an exempt nonprofit as defined in section 17-25-3 or an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time) are treated as a single entity if the entities:

(1) Share the majority of members on their boards of directors;

(2) Share two (2) or more officers;

(3) A candidate committee and a political committee other than a candidate committee are for the purposes of this section treated as a single committee if the committees both have the candidate or a member of the candidate’s immediate family as an officer;

(4) Are owned or controlled by the same majority shareholder or shareholders or persons;

(5) Are in a parent-subsidiary relationship; or

(6) Have bylaws so stating.

17-25.3-2. Optional use of separate campaign-related account by person, business entity or political action committee for independent expenditures, electioneering communications, and covered transfers. – (a)(1) Establishment of account: (i) A person, business entity or political action committee may make disbursements for independent expenditures, electioneering communications, or covered transfers using amounts from a bank account established and controlled by the person, business entity or political action committee to be known as the separate campaign-related account (hereafter in this section referred to as the “account”), which shall be maintained separately from all other accounts of the person, business entity or political action committee and which shall consist exclusively of funds that were paid directly to such account by one or more person, business entity, or political action committee other than the person, business entity, or political action committee that controls the account. A person, business entity, or political action committee shall not make transfers from its general treasury into an account established under this section that such person, business entity, or political action committee controls.

(ii) Mandatory use of account after establishment. If a person, business entity or political action committee establishes an account under this section, it may not make disbursements for independent expenditures, electioneering communications, or covered transfers from any source other than amounts from the account.
(iii) Exclusive use of account for independent expenditures, electioneering communications, and covered transfers. Amounts in the account shall be used exclusively for disbursements by the person, business entity or political action committee for independent expenditures, electioneering communications, or covered transfers. After such disbursements are made, information with respect to deposits made to the account shall be disclosed in accordance with subsection 17-25.3-1(f).

17-25.3-3. Disclaimers. – (a) No person, business entity or political action committee shall make or incur an independent expenditure or fund an electioneering communication for any written, typed, or other printed communication, unless such communication bears upon its face the words "Paid for by" and the name of the entity, the name of its chief executive officer or equivalent, and its principal business address. In the case of a person, business entity or political action committee making or incurring such an independent expenditure or electioneering communication, which entity is a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) or an exempt nonprofit as defined in section 17-25-3, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, or an organization organized under Section 527 of said code, such communication shall also bear upon its face the words "Top Five Donors" followed by a list of the five (5) persons or entities making the largest aggregate donations to such person, business entity or political action committee during the twelve (12) month period before the date of such communication, provided that no donor shall be listed who is not required to be disclosed in a report to the board of elections by the person, business entity, or political action committee.

(b) The provisions of subsections (a) of this section shall not apply to:

(1) Any editorial, news story, or commentary published in any newspaper, magazine or journal on its own behalf and upon its own responsibility and for which it does not charge or receive any compensation whatsoever;

(2) Political paraphernalia including pins, buttons, badges, emblems, hats, bumper stickers or other similar materials; or

(3) Signs or banners with a surface area of not more than thirty-two (32) square feet.

(c) No person, business entity or political action committee shall make or incur an independent expenditure or fund an electioneering communication for paid television advertising or paid Internet video advertising, unless at the end of such advertising there appears simultaneously, for a period of not less than four (4) seconds:

(1) A clearly identifiable video, photographic or similar image of the entity's chief
executive officer or equivalent; and

(2) A personal audio message, in the following form: "I am … (name of entity's chief executive officer or equivalent), … (title) of … (entity), and I approved its content."

(3) In the case of a person, business entity or political action committee making or incurring such an independent expenditure or electioneering communication, which person, business entity or political action committee is a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) or an exempt nonprofit as defined in section 17-25-3, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, or an organization organized under Section 527 of said code, such advertising shall also include a written message in the following form: "The top five (5) donors to the organization responsible for this advertisement are" followed by a list of the five (5) persons or entities making the largest aggregate donations during the twelve (12) month period before the date of such advertisement, provided that no donor shall be listed who is not required to be disclosed in a report to the board of elections by the person, business entity, or political action committee.

(d) No person, business entity or political action committee shall make or incur an independent expenditure or fund an electioneering communication for paid radio advertising or paid Internet audio advertising, unless the advertising ends with a personal audio statement by the entity's chief executive officer or equivalent;

(1) Identifying the entity paying for the expenditure; and

(2) A personal audio message, in the following form: "I am … (name of entity's chief executive officer or equivalent), … (title), of … (entity), and I approved its content."

(3) In the case of a person, business entity or political action committee making or incurring such an independent expenditure or electioneering communication, which entity is a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) or an exempt nonprofit as defined in section 17-25-3, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, or an organization organized under Section 527 of said code, such advertising shall also include:

(A) An audio message in the following form: "The top five (5) donors to the organization responsible for this advertisement are" followed by a list of the five (5) persons or entities making the largest aggregate donations during the twelve (12) month period before the date of such advertisement, provided that no donor shall be listed who is not required to be disclosed in a report to the board of elections by the person, business entity, or political action committee; or
(B) In the case of such an advertisement that is thirty (30) seconds in duration or shorter, an audio message providing a website address that lists such five (5) persons or entities, provided that no contributor shall be listed who is not required to be disclosed in a report to the board of elections by the person, business entity, or political action committee. In such case, the person, business entity or political action committee shall establish and maintain such a website with such listing for the entire period during which such person, business entity or political action committee makes such advertisement.

(e) No person, business entity or political action committee shall make or incur an independent expenditure or fund an electioneering communication for automated telephone calls, unless the narrative of the telephone call identifies the person, business entity or political action committee making the expenditure and its chief executive officer or equivalent. In the case of a person, business entity or political action committee making or incurring such an independent expenditure, which entity is a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) or an exempt nonprofit as defined in section 17-25-3, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, or an organization organized under Section 527 of said code, such narrative shall also include an audio message in the following form: "The top five (5) donors to the organization responsible for this telephone call are" followed by a list of the five (5) persons or entities making the largest aggregate donations during the twelve (12) month period before the date of such telephone call, provided that no donor shall be listed who is not required to be disclosed in a report to the board of elections by the person, business entity, or political action committee.

17-25.3-4. Penalties. – (a) Any person who willfully and knowingly violates the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than one thousand dollars ($1,000) per violation.

(b) The state board of elections may impose a civil penalty upon any person, business entity, or political action committee who violates the provisions of this chapter in the amount of one thousand dollars ($1,000), or up to one hundred fifty percent (150%) of the aggregate amount of the independent expenditures, electioneering communications, or covered transfers per violation, whichever is greater.

SECTION 4. Section 17-25.2-3 of the General Laws in Chapter 17-25.2 entitled "Ballot Question Advocacy and Reporting" is hereby amended to read as follows:

17-25.2-3. Definitions. -- As used in this chapter, unless a different meaning clearly appears from the context:
(1) "Ballot question" means any question, charter change, constitutional amendment, referendum or voter initiated petition placed on any state, district, city, town or municipal ballot for a general or special election.

(2) "Ballot question advocacy" means advocating the passage or defeat of a ballot question.

(3) "Ballot question advocate" means (i) for purposes of referenda as defined in section 17-5-1 of the general laws only, any exempt nonprofit as defined in section 17-25-3 or any organization described under section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States; and (ii) for all other ballot questions as defined herein, any person making an expenditure with a cumulative total that exceeds one thousand dollars ($1,000) in a calendar year for ballot-question advocacy on a particular ballot question.

(4) "Contributions" means donations to a ballot-question advocate in the form of money, gifts, loans, paid personal services, or in-kind contributions as defined herein.

(5) "In-Kind Contributions" means the monetary value of other things of value or paid personal services donated to any person required to file reports with the board of elections, except for newsletters and other communications paid for and transmitted by an organization to its own members and not to the general public;

(6) "Paid personal services" means personal services of every kind and nature, the cost or consideration for which is paid or provided by someone other than the ballot-question advocate for whom the services are rendered, but shall not include personal services provided without compensation by persons volunteering their time.

(7) "Expenditures" means the payment for any goods and services for the purpose of ballot-question advocacy as set forth in this paragraph:

(i) Any media advertising services or products, including, but not limited to, newspapers, radio stations or television stations;

(ii) General advertising in letters, brochures, flyers, handbills, lawn signs, posters, bumper stickers, buttons or other materials except for newsletters and other communications paid for and transmitted by an organization to its own members and not to the general public; or

(iii) Paid personal services donated to any ballot-question advocate including advertising agency services or other professional services including accounting services, printing, secretarial services, public opinion polls, research and professional campaign consultation or management, media production or computer services. A written contract, agreement or promise to make an expenditure, is an expenditure as of the date such contract expenditure or obligation is made.
(8) “Person” means any individual, partnership, committee, association, corporation, city, town, or other governmental unit and any other organization.

(9) “Election cycle” means the twenty-four (24) month period commencing on January 1 of odd number years and ending on December 31 of even number years.

SECTION 5. Severability. If any provision of this act or amendment made by this act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this act and amendments made by this act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SECTION 6. This act shall take effect upon passage; provided, however, that any report which would be required by the terms of this act to be filed between the effective date of this act and August 1, 2012, shall be filed on or before August 1, 2012.

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LC02090/SUB B/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO ELECTIONS -- DISCLOSURE OF POLITICAL CONTRIBUTIONS AND EXPENDITURES

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1 This act would impose a regulatory structure relating to the sources of political spending.
2 This act would take effect upon passage; provided, however, that any report which would
3 be required by the terms of this act to be filed between the effective date of this act and August 1,
4 2012, shall be filed on or before August 1, 2012.