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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO ELECTIONS - CAMPAIGN CONTRIBUTIONS

Introduced By: Representatives Donovan, Ajello, Carson, Casimiro, and Marszalkowski

Date Introduced: March 17, 2017

Referred To: House Judiciary

(Board of Elections)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 17-25-3 and 17-25-10.1 of the General Laws in Chapter 17-25
2 entitled "Rhode Island Campaign Contributions and Expenditures Reporting" are hereby amended
3 to read as follows:

4 **17-25-3. Definitions.**

5 As used in this chapter, unless a different meaning clearly appears from the context:

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

17 (2) "Candidate" means any individual who undertakes any action, whether preliminary or
18 final, which is necessary under the law to qualify for nomination for election or election to public
19 office, and/or any individual who receives a contribution or makes an expenditure, or gives his or

1 her consent for any other person to receive a contribution or make an expenditure, with a view to
2 bringing about his or her nomination or election to any public office, whether or not the specific
3 public office for which he or she will seek nomination or election is known at the time the
4 contribution is received or the expenditure is made and whether or not he or she has announced
5 his or her candidacy or filed a declaration of candidacy at that time.

6 (3) "Conduit" or "intermediary" means any person who receives and forwards an
7 earmarked contribution to a candidate or a candidate's authorized committee, except as otherwise
8 limited in this chapter.

9 ~~(3)~~(4) "Contributions" and "expenditures" include all transfers of money, credit or debit
10 card transactions on-line or electronic payment systems such as "pay pal," paid personal services,
11 or other thing of value to or by any candidate, committee of a political party, or political action
12 committee or ballot question advocate. A loan shall be considered a contribution of money until it
13 is repaid.

14 (5) "Earmarked" means a designation, instruction, or encumbrance, whether direct or
15 indirect, express or implied, oral or written, which results in all or any part of a contribution or
16 expenditure being made to, or expended on behalf of, a clearly identified candidate or a
17 candidate's authorized committee.

18 ~~(4)~~(6) "Election" means any primary, general, or special election or town meeting for any
19 public office of the state, municipality, or district or for the determination of any question
20 submitted to the voters of the state, municipality, or district.

21 ~~(5)~~(7) "Election cycle" means the twenty-four (24) month period commencing on January
22 1 of odd number years and ending on December 31 of even number years; provided, with respect
23 to the public financing of election campaigns of general officers under §§ 17-25-19, 17-25-20,
24 and 17-25-25, "election cycle" means the forty-eight (48) month period commencing on January
25 1 of odd numbered years and ending December 31 of even numbered years.

26 ~~(6)~~(8) "In-Kind Contributions" means the monetary value of other things of value or paid
27 personal services donated to, or benefiting, any person required to file reports with the board of
28 elections.

29 ~~(7)~~(9) "Other thing of value" means any item of tangible real or personal property of a
30 fair market value in excess of one hundred dollars (\$100).

31 ~~(8)~~(10) "Paid personal services" means personal services of every kind and nature, the
32 cost or consideration for which is paid or provided by someone other than the committee or
33 candidate for whom the services are rendered, but shall not include personal services provided
34 without compensation by persons volunteering their time.

1 ~~(9)~~(11) "Person" means an individual, partnership, committee, association, corporation,
2 union, charity and/or any other organization. The term "person" shall not include any exempt
3 nonprofit as defined herein or any organization described in § 501(c)(3) of the Internal Revenue
4 Code of 1986, or any subsequent corresponding internal revenue code of the United States, as
5 amended from time to time, for the purposes of chapter 17-25.3 of the general laws only.

6 ~~(10)~~(12) "Political action committee" means any group of two (2) or more persons that
7 accepts any contributions to be used for advocating the election or defeat of any candidate or
8 candidates. Only political action committees that have accepted contributions from fifteen (15) or
9 more persons in amounts of ten dollars (\$10.00) or more within an election cycle shall be
10 permitted to make contributions, and those committees must make contributions to at least five
11 (5) candidates for state or local office within an election cycle.

12 ~~(11)~~(13) "Public office" means any state, municipal, school, or district office or other
13 position that is filled by popular election, except political party offices. "Political party offices"
14 means any state, city, town, ward, or representative or senatorial district committee office of a
15 political party or delegate to a political party convention, or any similar office.

16 ~~(12)~~(14) "State" means state of Rhode Island.

17 ~~(13)~~(15) "Testimonial affair" means an affair of any kind or nature including, but not
18 limited to, cocktail parties, breakfasts, luncheons, dinners, dances, picnics, or similar affairs
19 expressly and directly intended to raise campaign funds in behalf of a candidate to be used for
20 nomination or election to a public office in this state, or expressly and directly intended to raise
21 funds in behalf of any state or municipal committee of a political party, or expressly and directly
22 intended to raise funds in behalf of any political action committee.

23 ~~(14)~~(16) "Electioneering communication" means any print, broadcast, cable, satellite, or
24 electronic media communication not coordinated, as set forth in § 17-25-23, with any candidate,
25 authorized candidate campaign committee, or political party committee and which
26 unambiguously identifies a candidate or referendum and is made either within sixty (60) days
27 before a general or special election or town meeting for the office sought by the candidate or
28 referendum; or thirty (30) days before a primary election, for the office sought by the candidate;
29 and is targeted to the relevant electorate.

30 (i) A communication which refers to a clearly identified candidate or referendum is
31 "targeted to the relevant electorate" if the communication can be received by two thousand
32 (2,000) or more persons in the district the candidate seeks to represent or the constituency voting
33 on the referendum.

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

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

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

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

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

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

16 ~~(15)~~(17) "Independent expenditure" means an expenditure which, when taken as a whole,
17 expressly advocates the election or defeat of a clearly identified candidate, or the passage or
18 defeat of a referendum, or amounts to the functional equivalent of such express advocacy, and is
19 in no way coordinated, as set forth in § 17-25-23, with any candidate's campaign, authorized
20 candidate committee, or political party committee. An expenditure amounts to the functional
21 equivalent of express advocacy if it can only be interpreted by a reasonable person as advocating
22 the election, passage, or defeat of a candidate or referendum, taking into account whether the
23 communication mentions a candidate or referendum and takes a position on a candidate's
24 character, qualifications, or fitness for office. An independent expenditure is not a contribution to
25 that candidate or committee.

26 (i) Exceptions: The term "independent expenditure" does not include:

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

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

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

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

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

8 ~~(16)~~(18) "Covered transfer" means any transfer or payment of funds by any person,
9 business entity or political action committee to another person, business entity, or political action
10 committee if the person, business entity, or political action committee making the transfer: (i)
11 Designates, requests, or suggests that the amounts be used for independent expenditures or
12 electioneering communications or making a transfer to another person for the purpose of making
13 or paying for such independent expenditures or electioneering communications; (ii) Made such
14 transfer or payment in response to a solicitation or other request for a transfer or payment for the
15 making of or paying for independent expenditures or electioneering communications or making a
16 transfer to another person for the purpose of marking or paying for such independent expenditures
17 or electioneering communications; (iii) Engaged in discussions with the recipient of the transfer
18 or payment regarding independent expenditures or electioneering communications or making a
19 transfer to another person for the purpose of marking or paying for such independent expenditures
20 or electioneering communications; or (iv) Made independent expenditures or electioneering
21 communications in an aggregate amount of five thousand dollars (\$5,000) or more during the two
22 (2) year period ending on the date of the transfer or payment, or knew or had reason to know that
23 the person receiving the transfer or payment made such independent expenditures or
24 electioneering communications in such an aggregate amount during that two (2) year period.

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

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

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

1 from any account used to make independent expenditures, electioneering communications, or
2 covered transfers.

3 ~~(17)~~(19) For the purposes of chapter 17-25.3 of the general laws, "donation" means all
4 transfers of money, credit or debit card transactions on-line or electronic payment systems such as
5 "pay pal," paid personal services, or other thing of value to or by any person, business entity, or
6 political action committee. A loan shall be considered a donation of money until it is repaid.

7 ~~(18)~~(20) For the purposes of chapter 17-25.3 of the general laws, "donor" means a
8 person, business entity, or political action committee that makes a donation.

9 ~~(19)~~(21) "Exempt nonprofit" means any organization described in § 501(c)(4) of the
10 Internal Revenue Code that spends an aggregate annual amount of no more than ten percent
11 (10%) of its annual expenses or no more than fifteen thousand dollars (\$15,000), whichever is
12 less, on independent expenditures, electioneering communications, and covered transfers as
13 defined herein and certifies the same to the board of elections seven (7) days before and after a
14 primary election and seven (7) days before and after a general or special election.

15 ~~(20)~~(22) For purposes of chapter 17-25.3 of the general laws, "referendum" means the
16 same as the definition set forth in § 17-5-1 of the general laws.

17 **17-25-10.1. Political contributions -- Limitations.**

18 (a) (1) No person, other than the candidate to his or her own campaign, nor any political
19 action committee shall make a contribution or contributions to any candidate, as defined by § 17-
20 25-3, or political action committee or political party committee which in the aggregate exceed
21 one thousand dollars (\$1,000) within a calendar year, ~~nor shall any person make contributions to~~
22 ~~more than one state or local candidate, to more than one political action committee, or to more~~
23 ~~than one political party committee, or to a combination of state and local candidates and political~~
24 ~~action committees and political party committees which in the aggregate exceed ten thousand~~
25 ~~dollars (\$10,000) within a calendar year,~~ nor shall any political action committee make such
26 contributions which in the aggregate exceed twenty-five thousand dollars (\$25,000) within a
27 calendar year, nor shall any candidate or any political action committee or any political party
28 committee accept a contribution or contributions which in the aggregate exceed one thousand
29 dollars (\$1,000) within a calendar year from any one person or political action committee.

30 (2) Notwithstanding the provisions of subdivision (1) of this subsection, a person or
31 political action committee or political party committee may contribute an amount which in the
32 aggregate does not exceed ten thousand dollars (\$10,000) within a calendar year to a political
33 party committee, which funds can be utilized for organizational and party building activities, but
34 shall not be used for contributions to candidates state and local for public office.

1 (b) Contributions to a named candidate made to any political committee authorized by
2 that candidate to accept contributions on the candidate's behalf shall be considered to be
3 contributions made to the candidate. Contributions to a candidate by a political committee for
4 another person shall be considered to be contributions by that person.

5 (c) Expenditures made by any person in cooperation, consultation or concert with, or at
6 the request or suggestion of, a candidate, the candidate's authorized political committees, or their
7 agents shall be considered to be a contribution to the candidate.

8 (d) The financing by any person of the dissemination, distribution, or republication, in
9 whole or in part, of any broadcast or any written, graphic, or other form of campaign materials
10 prepared by the candidate, the candidate's campaign committees, or their authorized agents shall
11 be considered to be a contribution to a candidate.

12 (e) Nothing in this section shall be construed to restrict political party committees
13 organized pursuant to this title from making contributions to the candidates of that political party;
14 provided, that these contributions, other than allowable "in-kind" contributions, shall not exceed,
15 in the aggregate, twenty-five thousand dollars (\$25,000) to any one candidate within a calendar
16 year, nor shall any candidate accept a contribution or contributions, other than allowable "in-
17 kind" contributions, which in the aggregate exceed twenty-five thousand dollars (\$25,000) within
18 a calendar year from all committees of his or her political party. There shall be no restriction on
19 the amount of "in-kind" contributions that a political party committee may make to a candidate of
20 its political party; provided, that for the purposes of this subsection only, the cost of any
21 preparation and airing of television and/or radio advertisements and the cost of any print
22 advertisements shall not be considered an allowable "in-kind" contribution and shall be subject to
23 the aggregate limitation of twenty-five thousand dollars (\$25,000).

24 (f) (1) A contribution from an individual's dependent children, as defined in § 36-14-2,
25 shall be deemed a contribution from the individual for the purpose of determining whether
26 aggregate contributions exceed either the one hundred dollar (\$100) threshold for reporting
27 purposes or the one thousand dollar (\$1,000) maximum for contributions to a single candidate or
28 political action committee ~~or the ten thousand dollar (\$10,000) maximum for contributing to all~~
29 ~~candidates and political action committees~~ within a calendar year.

30 (2) No dependent child shall contribute an amount which, when added to contributions
31 already made by that child's parent or legal guardian and by other dependent children of that
32 parent or legal guardian, exceed the one thousand dollar (\$1,000) maximum for contributions to a
33 single candidate or political action committee ~~or exceed the ten thousand dollar (\$10,000)~~
34 ~~maximum for contributions to all state or local candidates and political action committees~~ within

1 a calendar year.

2 (g) Nothing in this section shall be construed to restrict the amount of money that a
3 candidate can borrow in his or her own name, and subsequently contribute or loan to his or her
4 own campaign.

5 (h) (1) It shall be unlawful for any corporation, whether profit or non-profit, domestic
6 corporation or foreign corporation, as defined in § 7-1.2-106, or other business entity to make any
7 campaign contribution or expenditure, as defined in § 17-25-3, to or for any candidate, political
8 action committee, or political party committee, or for any candidate, political action committee,
9 or political party committee to accept any campaign contribution or expenditure from a
10 corporation or other business entity. Any contribution made in the personal name of any
11 employee of a corporation or other business entity, for which the employee received or will
12 receive reimbursement from the corporation or other business entity, shall be considered as a
13 contribution by the corporation or other business entity, in violation of this section.

14 (2) Any voluntary payroll deduction and/or contribution made by employees of a
15 corporation or other business entity shall not be deemed a contribution of a corporation or other
16 business entity, notwithstanding that the contributions were sent to the recipient by the
17 corporation or other business entity.

18 (i) All contributions of funds shall be by check, money order, or credit card and may be
19 made over the Internet, but in each case the source of the funds must be identified; provided, that
20 candidates, [political action committees and political party committees](#) may accept contributions in
21 cash which do not exceed twenty-five dollars (\$25.00) in the aggregate from an individual within
22 a calendar year. The cash contribution must be delivered directly by the donor to the candidate,
23 ~~his or her~~ [the](#) campaign treasurer, or deputy treasurer. The treasurer or deputy treasurer shall
24 maintain a record of the name and address of all persons making these cash contributions.

25 (j) Except as provided in subsection (h) of this section, no entity other than an individual,
26 a political action committee which is duly registered and qualified pursuant to the terms of this
27 chapter, political party committee authorized by this title, or an authorized committee of an
28 elected official or candidate established pursuant to this chapter shall make any contribution to or
29 any expenditure on behalf of or in opposition to any candidate, political action committee, or
30 political party.

31 [\(k\) For purposes of the limitations imposed by this section, all contributions made by a](#)
32 [person, either directly or indirectly, on behalf of a particular candidate, including contributions](#)
33 [which are in any way earmarked or otherwise directed through an intermediary or conduit to such](#)
34 [candidate, shall be treated as contributions from such person to such candidate. The intermediary](#)

1 [or conduit shall report the original source and the intended recipient of such contribution to the](#)
2 [board of elections and to the intended recipient, in accordance with regulations and reporting](#)
3 [requirements promulgated by the board of elections.](#)

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ELECTIONS - CAMPAIGN CONTRIBUTIONS

1 This act would define the terms "conduit" and "earmarked" for purposes of reporting
2 campaign contributions. In addition, it would eliminate aggregate contributions limits and add a
3 prohibition on earmarked contributions. It also recognizes political action committees and
4 political party committees as lawful recipients of minimal cash contributions.

5 This act would take effect upon passage.

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