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HOUSE BILL NO. 114

Offered January 13, 2010

Prefiled January 5, 2010

A BILL to amend and reenact § 24.2-945.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 24.2-947.2:1, 24.2-947.3:2, and 24.2-949.4:1, by adding in Article 4.1 of Chapter 9.3 of Title 24.2 a section numbered 24.2-949.9:5, and by adding sections numbered 24.2-950.3:1, 24.2-951.2:1, and 24.2-952.2:1, relating to campaign contributions; stored value cards; prohibition.

Patrons—Marshall, R.G. and Comstock

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-945.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-947.2:1, 24.2-947.3:2, and 24.2-949.4:1, by adding in Article 4.1 of Chapter 9.3 of Title 24.2 a section numbered 24.2-949.9:5, and by adding sections numbered 24.2-950.3:1, 24.2-951.2:1, and 24.2-952.2:1 as follows:

§ 24.2-945.1. Definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Authorization" means express approval or express consent by the candidate, the candidate's campaign committee, or an agent of the candidate or his campaign committee after coordination.

"Campaign committee" means the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election.

"Candidate" means "candidate" as defined in § 24.2-101.

"Contribution" means money and services of any amount, in-kind contributions, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political committee, or person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or to an inaugural committee for the purpose of defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services, or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of a filing fee for any party nomination method.

"Coordinated" or "coordination" refers to an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

"Designated contribution" means a contribution that is designated specifically and in writing for a particular candidate or candidates and that is made using a political committee solely as a conduit.

"Expenditure" means money and services of any amount, and any other thing of value, paid, loaned, provided, or in any other way disbursed by any candidate, campaign committee, political committee, or person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or by any inaugural committee for the purpose of defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General.

"Federal political action committee" means any political action committee registered with the Federal Election Commission that makes contributions to candidates or political committees registered in Virginia.

"Inaugural committee" means any organization, person, or group of persons that anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities.

"Independent expenditure" means an expenditure made by any person, candidate campaign committee, or political committee that is not made to, controlled by, coordinated with, or made with the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee. "Independent expenditure" includes an expenditure made by a candidate campaign committee (i) that is not related to the candidate's own campaign and (ii) that is not made to, controlled by, coordinated with, or made with the authorization of a different candidate, his campaign committee, or an agent of that candidate or his campaign committee.

"In-kind contribution" means the donation of goods, services, property, or other thing of value, other than money, including an expenditure controlled by, coordinated with, or made upon the authorization of

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59 a candidate, his campaign committee, or an agent of the candidate or his campaign committee, that is
60 provided for free or less than the usual and normal charge. The basis for arriving at the dollar value of
61 an in-kind contribution is as follows: new items are valued at retail value; used items are valued at fair
62 market value; and services rendered are valued at the actual cost of service per hour. Services shall not
63 be deemed to include personal services voluntarily rendered for which no compensation is asked or
64 given.

65 "Out-of-state political committee" means an entity covered by § 527 of the United States Internal
66 Revenue Code that is not registered as a political committee or candidate campaign committee in
67 Virginia and that does not have as its primary purpose expressly advocating the election or defeat of a
68 clearly identified candidate. The term shall not include a federal political action committee.

69 "Person" means any individual or corporation, partnership, business, labor organization, membership
70 organization, association, cooperative, or other like entity.

71 "Political action committee" means any organization, person, or group of persons, established or
72 maintained to receive and expend contributions for the primary purpose of expressly advocating the
73 election or defeat of a clearly identified candidate. The term shall not include a campaign committee,
74 federal political action committee, out-of-state political committee, political party committee, referendum
75 committee, or inaugural committee.

76 "Political committee" means and includes any political action committee, political party committee,
77 referendum committee, or inaugural committee. The term shall not include: (i) a federal political action
78 committee or out-of-state political committee; (ii) a campaign committee; (iii) a political party committee
79 exempted pursuant to § 24.2-950.1; or (iv) a person who receives no contributions from any source and
80 whose only expenditures are made solely from his own funds and are either contributions made by him
81 which are reportable by the recipient pursuant to this chapter or independent expenditures which are
82 reportable by him to the extent required by § 24.2-945.2, or a combination of such reportable
83 contributions and independent expenditures.

84 "Political party committee" means any state political party committee, congressional district political
85 party committee, county or city political party committee, other election district political party
86 committee, or organized political party group of elected officials. This definition is subject to the
87 provisions of § 24.2-950.1.

88 "Primary purpose" means that 50% or more of the committee's expenditures made in the form of
89 contributions shall be made to candidate campaign committees or political committees registered in
90 Virginia. Administrative expenditures and the transfer of funds between affiliated or connected
91 organizations shall not be considered in determining the committee's primary purpose. The primary
92 purpose of the committee shall not be determined on the basis of only one report or election cycle, but
93 over the entirety of the committee's registration.

94 "Referendum committee" means any organization, person, group of persons, or committee, that makes
95 expenditures in a calendar year in excess of (i) \$10,000 to advocate the passage or defeat of a statewide
96 referendum, (ii) \$5,000 to advocate the passage or defeat of a referendum being held in two or more
97 counties and cities, or (iii) \$1,000 to advocate the passage or defeat of a referendum held in a single
98 county or city.

99 "Residence" means "residence" or "resident" as defined in § 24.2-101.

100 "Statewide office" means the office of Governor, Lieutenant Governor, or Attorney General.

101 "Stored value card" means any card or electronic payment instrument containing encoded
102 information given in exchange for money or other similar consideration, where the card or electronic
103 payment instrument represents a dollar value that the authorized card user can utilize.

104 B. For the purpose of applying the filing and reporting requirements of this chapter, the terms
105 "person" and "political committee," shall not include an organization holding tax-exempt status under
106 § 501(c) (3), 501(c) (4), or 501(c) (6) of the United States Internal Revenue Code which, in providing
107 information to voters, does not advocate or endorse the election or defeat of a particular candidate,
108 group of candidates, or the candidates of a particular political party.

109 § 24.2-947.2:1. Deposit of contributions.

110 All contributions received shall be deposited in the campaign depository. No candidate, campaign
111 treasurer, or other individual shall retain a contribution of any amount or in any form that cannot be
112 identified to a person. A candidate, campaign treasurer, or other individual who receives a contribution
113 that cannot be identified to a person shall not pay any campaign expense with the funds and shall
114 disburse the amount received to a charity as defined in § 170(c) of the Internal Revenue Code.

115 § 24.2-947.3:2. Contributions; stored value cards; prohibited.

116 No candidate campaign committee shall accept contributions provided through a stored value card.

117 § 24.2-949.4:1. Contributions; stored value cards; prohibited.

118 No political action committee shall accept contributions provided through a stored value card.

119 § 24.2-949.9:5. Contributions; stored value cards; prohibited.

120 No out-of-state political committee shall accept contributions provided through a stored value card.

- 121 § 24.2-950.3:1. Contributions; stored value cards; prohibited.
- 122 No political party committee shall accept contributions provided through a stored value card.
- 123 § 24.2-951.2:1. Contributions; stored value cards; prohibited.
- 124 No referendum committee shall accept contributions provided through a stored value card.
- 125 § 24.2-952.2:1. Contributions; stored value cards; prohibited.
- 126 No inaugural committee shall accept contributions provided through a stored value card.