HOUSE No. 4087

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, September 25, 2019.

The committee on Ways and Means, to whom was referred the Bill relative to campaign finance (House, No. 4072), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4087).

For the committee,

AARON MICHLEWITZ.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court (2019-2020)

An Act relative to campaign finance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Section 1 of chapter 55 of General Laws, as appearing in the 2018 Official
- 2 Edition, is hereby amended by inserting after the definition of "Contribution" the following
- 3 definition:-
- 4 "County office", offices of a district attorney, clerk of court, register of probate, registrar
- 5 of deeds, county commissioner, county treasurer or sheriff.
- 6 SECTION 2. Said section 1 of said chapter 55, as so appearing, is hereby further
- 7 amended by inserting after the definition of "Political party committee" the following definition:-
- 8 "State office", the offices of governor, lieutenant governor, state secretary, attorney
- 9 general, state treasurer and receiver general, state auditor, state senate, house of representatives
- or governor's council.
- SECTION 3. Section 3 of said chapter 55, as so appearing, is hereby amended by striking
- out the first paragraph and inserting in place thereof the following paragraph:-

There shall be a commission of campaign and political finance, which shall consist of 5 members: 1 of whom shall be the governor; 1 of whom shall be the attorney general; 1 of whom shall be the state secretary; and 2 of whom shall be appointed by a majority vote of the governor, attorney general and the state secretary, 1 of whom shall be an elected municipal official and 1 of whom shall be an elected county official. The state secretary shall serve as the chair of the commission. The terms of the elected municipal official and the elected county official shall be 6 years but shall expire upon said official ceasing to hold elected office. Meetings of the commission may be called by the state secretary or by any 3 members of the commission. Not more than 3 commissioners shall be from the same political party.

SECTION 4. Said section 3 of said chapter 55, as so appearing, is hereby further amended by striking out, in line 12, the word "unanimous" and inserting in place thereof the following words:- a four fifths.

SECTION 5. Said chapter 55 is hereby further amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. (a) Each candidate and each treasurer of a political committee shall, except as provided in this section and section 24, file with the director reports of contributions received and expenditures made. A candidate and a committee organized on behalf of a candidate seeking public office at a municipal election shall file such reports with the director, if the candidate is seeking the office of mayor in a municipality or if the committee is required to file such reports with the director pursuant to section 19. All other candidates seeking public office at a city or town election shall file reports with the city or town clerk. A committee organized under section 5 to favor or oppose a question submitted to the voters shall file its reports with the director if the

question appears on ballots at a state election, or with the city or town clerk if the question appears on ballots at a city or town election or for use in a city or town at a state election.

Reports of contributions received and expenditures made shall be filed using forms prescribed by the director. Reports required pursuant to this section shall be filed as follows:

(1) by each candidate for nomination or election to city or town office, and by the nonelected political committee organized on behalf of such candidate, except a candidate required to
designate a depository by section 19 or a candidate seeking election as a member of a
representative town meeting or of a town or city ward committee, and any non-elected political
committee organized on behalf of such candidate, on or before: (i) the 8th day preceding a city or
town preliminary or primary, including a caucus, the 8th day preceding a city or town election,
and if a city election, as a final report, January 20th in the following year complete as to
December 31st of the prior year, and if a town election, as a final report, the 30th day following
said election; (ii) the 8th day preceding a special primary, including a caucus, the 8th day
preceding a special election, and, as a final report, the 30th day following a special election;

(2) by each candidate and each non-elected political committee required to designate a depository by section 19, on or before: (i) the 3rd business day following the designation of such depository, and (ii) as a final report, January 20th of the year following the election, complete as to December 31st of the prior year.

The reporting period of the initial report shall commence on the day following the preceding election for the office sought by the candidate, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the day such depository is designated.

The reporting period of the second report shall commence on the day following the designation of the depository and shall end as of December 31st of the year of the election;

(3) by the treasurer of each state committee referred to in section 1 of chapter 52 and required to designate a depository by section 19, on or before: (i) the 3rd business day following the designation of such depository; and (ii) as a final report, January 20th of the year following the election complete as to December 31st of the prior year.

The reporting period of the initial report shall commence on the day following the preceding biennial state election, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the day such depository is designated.

The reporting period of the second report shall commence on the day following the designation of the depository and shall end as of December 31st of the year of the election;

(4) by all other non-elected and elected political committees which are not required to file reports as aforesaid other than political action committees and people's committees as defined in section 1, independent expenditure PACs organized pursuant to section 18A and political committees organized under the provisions of section 5 to favor or oppose a question submitted to the voters, if the question appears on the ballot at the state election, on or before: (i) the same days and in accordance with the same schedule as set forth in paragraph (3) of subsection (b) of section 19, if the political committee is aiding or promoting the success or defeat of 1 or more candidates in a state primary, special or general election; or (ii) the same days and in accordance with the same schedule as set forth in clause (1), if the political committee is aiding or promoting the success or defeat of 1 or more candidates, or is favoring or opposing a question submitted to

the voters, in a city or town preliminary, primary, general or special election or for use on ballots in a city or town at a state election;

(5) by each political committee organized under the provisions of said section 5 to favor or oppose a question submitted to the voters, if the question appears on the ballot at the state election on (i) the day of the organization; and (ii) the 60th day prior to the election complete as of the preceding 5th day; on or before (iii) the 5th and 20th day of each month complete as of the preceding 1st and 15th day of the month, until the election, and thereafter; (iv) November 20th following such election complete as of November 15th; and (v) January 20th of each year complete as of December 31st of the prior year until all declared liabilities of such committee have been discharged.

The reporting period of the initial report shall commence on the day following the preceding biennial state election, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the day of organization.

The reporting period of the second report shall commence on the day following said day of organization and shall end as of the 60th day prior to the election.

The reporting period of all subsequent reports shall commence on the day following the end of the reporting period of the last report filed and shall end as of the 1st or 15th day of each month, as the case may be;

(6) by all candidates and all political committees, except those candidates seeking election as members of a representative town meeting, or of a city ward or town committee, and non-elected political committees organized on behalf of such candidates, on or before January

20th in each year in which they are not otherwise required to file a report on or before January 20th.

(b) For candidates, and non-elected political committees organized on behalf of such candidates for whom the report required pursuant to clause (6) of subsection (a) would be an initial report, the reporting period shall commence on the day following the preceding election for the office sought by such candidate and shall end as of December 31st of the year prior to the last day for filing; and for all other political committees for which said report would be an initial report, the reporting period shall commence on the day following the preceding state, city or town election, as the case may be, and in accordance with the provisions of this section governing said initial report of such committees, and shall end as of December 31st of the year prior to the last day for filing said report. The reporting period for the report required to be filed on or before January 20th in each odd-numbered year shall commence on the day following the end of the reporting period of the last report filed and shall end as of December 31st of the prior year.

The reports required to be filed in accordance with the provisions of clause (1) of subsection (a), except for the report to be filed in accordance with said provisions on or before January 20th of the year following the election, shall not be required of a candidate, or of the non-elected political committee organized on behalf of said candidate, if the candidate is not a candidate as defined in clause (2) of the definition of candidate in section 1.

Notwithstanding the provisions of clauses (1), (2) and (3) of subsection (a) for those contributions received subsequent to the end of the reporting period of the last report filed, which was identified in said clauses as a final report, by a candidate or political committee, and

intended for application to the preceding election of said candidate or of said reporting political committee, an additional report, which shall be the final report for such candidates and committees shall be required. This report shall be filed on or before January 20th following the last day for filing said final report of clauses (1), (2) and (3) of subsection (a) and shall be complete as of December 31st of the prior year. The reporting period of said report shall commence on the day following the end of the reporting period of the last report, or final report required to be filed by said clauses.

- (c) Except as otherwise provided, each candidate and the non-elected political committee organized on behalf of said candidate, shall, within the filing of the initial report, include all contributions received and expenditures made since the day of the preceding election for the office sought by the candidate, or since the end of the reporting period of the last report filed, if any, whichever reporting period is shorter, and all other political committees shall, within the filing of their initial report, include all contributions received and expenditures made since: (1) the day of the preceding biennial state election, or the end of the reporting period of the last report filed, if any, whichever period is shorter, if the political committee is either aiding or promoting the success or defeat of 1 or more candidates, or is favoring or opposing the adoption or rejection of a question submitted to the voters, at a state primary or election, or (2) the day of the preceding city or town election, or the end of the reporting period of the last report filed, if any, whichever period is shorter, if the political committee is either aiding or promoting the success or defeat of 1 or more candidates, or is favoring or opposing the adoption or rejection of a question submitted to the voters, at a city or town preliminary, primary or election.
- (d) Except as otherwise provided, the end of the reporting period of each report required to be filed under the provisions of this section shall be as of the 10th day preceding the last day

for filing. The beginning of the reporting period for each report subsequent to the initial report shall be the day following the end of the reporting period of the last report filed.

The reports required to be filed by this section shall be cumulative during the calendar year to which they relate.

Where there has been no change in an item included in a previous report, only the amount of the item need be carried forward.

Whether or not a contribution has been received or an expenditure has been made during any reporting period as described in this section, a candidate or political committee shall file the required report for said reporting period.

- (e) Each report required to be filed pursuant to this section by a candidate or political committee shall disclose:
 - (1) the amount of money on hand at the beginning of the reporting period;
- (2) the full name and residential address, listed alphabetically, of each person who has made a contribution, except for those contributions identified in clauses (4), (5) and (6) and which shall be reported therein, in an amount or value in excess of \$50 in the reporting period, and such information for each contribution of less than or equal to the sum of \$50, if the aggregate of all contributions received from such contributor within said reporting period is in excess of \$50, as the case may be, and the amount or value and date of the contribution and the total of all contributions listed;
- (3) the total amount or value of contributions made in the reporting period, and not otherwise reported under clause (2);

(4) the name and address, listed alphabetically, of each candidate or political committee from which was received any money or anything of value in a reporting period, together with the amount or value thereof and the date received;

- (5) the name and address of the principal officers of any trust, foundation and association from which was received a contribution, as provided in section 10;
- (6) the amount or value and date of each loan to or from any person, in the reporting period, together with the name and residential address of the lender and endorser, if any, listed alphabetically;
- (7) the total sum of all contributions received, in the reporting period, which is the sum of clauses (2), (3), (4), (5) and (6);
- (8) the full name and address, listed alphabetically, of each person to whom an expenditure is made, in the reporting period, except for those identified in clause (10), and shall report therein, for each amount or value in excess of \$50, the amount and value, date and purpose of each expenditure and the total of all expenditures listed, and in the case of a political party committee organized in accordance with chapter 52 or a political committee supporting more than 1 candidate, the name and address, the elective office held, if any, and office sought by each candidate on whose behalf the expenditure was made;
- (9) the total amount or value of expenditures made in the reporting period, and not otherwise reported under clause (8);
- (10) in the case of a candidate or political committee, the name and address, listed alphabetically, of each candidate or political committee to which was transferred any money or

- anything of value, in the reporting period, together with the amount or value thereof and the date of such transfer;
 - (11) the total sum of expenditures made, in the reporting period, which is the sum of clauses (8), (9) and (10);
 - (12) the amount and date of each then existing liability remaining unfulfilled and in force when the report is made, the name and address of the person to whom the liability exists, and a clear statement of the purpose for which it was incurred;
 - (13) a listing of all banks or other financial institutions used;

- (14) in the event of a dissolution of a political committee, a statement of such dissolution detailing the intended or actual disposition of any residual funds; and
- (15) in the event of a dissolution of a political action committee, a statement that the political action committee has not received contributions pursuant to section 9A or, if it has received such contributions, a statement that the political action committee has given 60 days written notice of its intended dissolution to any contributor and said contributor's bank or other financial institution currently making contributions pursuant to said section 9A.
- (f) In addition, each report required to be filed under the provisions of this section shall also include the name, residential address, and amount contributed in that reporting period, of each person whose contributions in the aggregate exceed more than \$50 in the calendar year, for those contributions where said information does not otherwise appear on the report.
- (g) In addition, each report required to be filed under the provisions of this section shall also include the occupation and name of employer or employers for each person whose

contribution or contributions in the aggregate equals or exceeds the sum of \$200 within any calendar year; provided, however, that no candidate or political committee shall be required to include such occupation and employer if, upon compliance with the requirements of section 2 concerning the inclusion of such occupation and employer, said candidate or political committee has not been able to obtain such information.

- (h) Each year-end campaign finance report filed by a candidate or non-elected political committee required to designate a depository by section 19 and who also maintains or who has maintained a savings account or money market account, shall disclose, for each reporting period, all activity in any such account. Nothing in this section shall authorize a transfer made from any such savings or money market accounts to an account other than the depository account established by a candidate or committee in accordance with said section 19.
- (i) Every political committee organized on behalf of a candidate that files with the director, and every ballot question committee that files with the director, which receives and deposits a contribution in the amount of \$500 or more after the 18th day, but more than 72 hours, before the date of a special, preliminary, primary or general election, shall file a report to disclose the information required by this section, within 72 hours of depositing such contribution.
- (j) In addition, the report required to be filed on or before January 20th shall contain a statement detailing the intended or actual disposition of any residual funds. Such residual funds shall not be converted to the personal use of the candidate or any other person except as provided in this subsection. Such residual funds shall be donated to:
 - (1) the General Fund;

(2) an entity subject to chapter 67 or section 8 of chapter 12; provided, however, that the candidate, treasurer or any official of the political committee shall not be related by consanguinity or affinity to any trustee, officer, principal or beneficiary of said entity either at the time of the gift or within 10 years from the date of such gift; provided, further, that no entity may employ as a trustee, officer, principal or beneficiary any person related by consanguinity or affinity to the candidate, treasurer or any official of the political committee either at the time of the gift or within 10 years from the date of such gift;

- (3) a scholarship fund; provided, however, that the candidate, treasurer or any official of the political committee shall not participate in the selection of the beneficiary of any scholarship awarded from such fund; and, provided further, the beneficiary of any scholarship awarded from such fund shall not be related by consanguinity or affinity to the candidate, treasurer or any official of the political committee; or
 - (4) the general fund of any city or town in the commonwealth.
- (k) The director may petition the supreme judicial court for the dissolution of a political committee, if (1) such political committee fails to comply for 2 consecutive years with provisions of this section requiring the filing of reports of contributions received and expenditures made; (2) the candidate on whose behalf such political committee has been organized has died; or (3) such political committee was organized for the purpose of favoring or opposing the adoption or rejection of a question submitted to the voters and there has been a final determination made as to the adoption or rejection of such question.

By such petition, the director may request the court to authorize the administration of any funds held by such political committee in accordance with the provisions of this section

regarding residual funds. The court, after notice by mail or otherwise as it may order, may dissolve such political committee. The director may include more than 1 political committee in a single application.

- (l) Any person nominated by the governor for a position that requires confirmation by the executive council shall, within 6 months of the date of confirmation, dissolve any political committee organized on behalf of such person and disperse all funds remaining in such committee's account in accordance with this section.
- (m) Violation of any provision of this section shall be punished by imprisonment for not more than 1 year, or by a fine of not more than \$1,000, or both.
- (n) The provisions of this section requiring candidates to file reports shall not apply to candidates who during any reporting period have not received contributions, incurred any liabilities, nor made expenditures on their own behalf independent from the political committee organized on their behalf. Said candidates shall sign an affidavit under the pains and penalties of perjury that they have not received any contributions, incurred any liabilities, nor made any expenditures on their own behalf during that reporting period. Said affidavit shall be made on the report filed by the candidate's political committee for that reporting period.
- (o) Candidates who have no political committee organized on their behalf and who have not received any campaign contributions, incurred any liabilities, nor expended money on their behalf during any reporting period need only sign an affidavit on a form provided by the director stating that they have not received a campaign contribution, incurred any liabilities, nor made any expenditure on their own behalf. Said statement shall be signed under the pains and penalties of perjury.

(p) The provisions of this section requiring city, town and ward committees established under the provisions of chapter 52 to file reports shall not apply to any city, town or ward committee which has not received contributions or made expenditures in excess of \$100 during any reporting period, nor incurred liabilities or acquired or disposed of assets in excess of \$100 during any reporting period.

SECTION 6. Section 19 of said chapter 55, as so appearing, is hereby amended by striking out, in lines 1 through 6, inclusive, the words "Candidates for nomination or election to the offices of governor, lieutenant governor, state secretary, attorney general, state treasurer and receiver general, state auditor, governor's council, district attorney, clerk of court, register of probate, registrar of deeds, county commissioner, county treasurer and sheriff, mayor or" and inserting in place thereof the following words:- Candidates for state office or for county office, or mayor, and candidates for.

SECTION 7. Said section 19 of said chapter 55, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

- (b) (1) A candidate and the treasurer of a political committee required to designate a depository shall deposit contributions in the form received within 7 days of receipt.
- (2) Any candidate or treasurer required to designate a depository, except a candidate or a treasurer of a candidate's committee for nomination or election to the state senate or house of representatives, shall file with the director, by the fifth day of each month, the following information: (i) a list of all contributions of more than \$50 deposited as of the last day of the preceding month and since the last statement, including an alphabetical list of names and addresses of each person making a contribution; (ii) for a person who has made a contribution in

an amount of or with a value of \$200 or more in any calendar year, the occupation and employer of the contributor and the information for each contribution of less than \$200 if the aggregate of all contributions received from the contributor within any calendar year is \$200 or more; and (iii) a summary of all contributions of \$50 or less deposited that are not itemized on the report.

- (3) A candidate or a treasurer of a candidate's committee for nomination or election to the state senate or house of representatives shall file with the director the information required pursuant to paragraph (2) according to the following schedule:
- (i) on or before: (A) in each odd-numbered year: January 20th, complete as to December 31st of the previous year; April 20th, complete as to March 31st; July 20th, complete as to June 30th; and October 20th, complete as to September 30th; (B) in each even-numbered year: January 20th, complete as to December 31st of the previous year; April 20th, complete as to March 31st; July 20th, complete as to June 30th; the 8th day preceding a primary; and the 8th day preceding a biennial state election.
- (ii) Each such candidate participating in a special election shall file the following additional reports, on or before: the 8th day preceding a special primary, including a convention or a caucus; the 8th day preceding a special election; the 30th day following a special election; and January 20th of the following year, complete as to the December 31st of the prior year.
- (iii) Except as otherwise provided, the end of the reporting period of each report required to be filed under the provisions of this paragraph shall be as of the 10th day preceding the last day for filing. The beginning of the reporting period for each report subsequent to the initial report shall be the day following the end of the reporting period of the last report filed.

The reports required to be filed by this paragraph shall be cumulative during the calendar year to which they relate.

SECTION 8. Said section 19 of said chapter 55, as so appearing, is hereby further amended by inserting, in line 72, after the word "director" the following:-; provided further, that a candidate or a treasurer of a candidate's committee for nomination or election to the state senate or house of representatives, shall provide such disclosures on the same schedule as set forth in paragraph (3) of subsection (b).

SECTION 9. Said section 19 of said chapter 55, as so appearing, is hereby further amended by striking out, in line 75, the words "and twentieth day".

SECTION 10. Said section 19 of said chapter 55, as so appearing, is hereby further amended by striking out, in lines 76 to 77, inclusive, the words "preceding first day or fifteenth day of the month" and inserting in place thereof the following words:- last day of the preceding month.

SECTION 11. Notwithstanding any general or special law to the contrary, the office of campaign and political finance shall, pursuant to section 3 of chapter 55 of the General Laws, promulgate regulations, in consultation with the state ethics commission, relative to the appropriate use of websites and social media for campaign purposes; and provided further, that said regulations may provide for exemptions to the prohibition on indirect solicitation in section 13 of said chapter 55. These regulations shall be made effective no later than December 31, 2019.

SECTION 12. Notwithstanding any general or special law to the contrary, the office of campaign and political finance shall promulgate regulations relative to the filing of any reports

required to be filed by candidates not subject to section 19 of chapter 55 of General Laws as of July 1, 2019 who, after the effective date of this act, are subject to said section 19 of said chapter 55 of the General Laws; and provided further, that said regulations may provide that candidates not subject to section 19 of chapter 55 of General Laws as of July 1, 2019 who, after the effective date of this act, are subject to said section 19 of said chapter 55 of the General Laws may, after the effective date of this act, continue to file in the non-depository system.

SECTION 13. (a) There shall be established a special legislative commission pursuant to section 2A of chapter 4 of the General Laws to examine the feasibility of authorizing the use of campaign funds to pay for the provision of child care services by candidates for state, county or municipal elected office.

- (b) The special legislative commission shall consist the house and senate chairs of the joint committee on election laws, who shall serve as chairs of the commission; the house and senate chairs of the Massachusetts caucus of women legislators; 1 member of the house who shall be appointed by the minority leader; 1 member of the senate who shall be appointed by the minority leader; the director of the office of campaign and political finance; a person appointed by the governor; and the executive director of Common Cause Massachusetts.
- (c) The special legislative commission shall: (1) review and evaluate state and federal law, regulations and legal advisories regarding the use of campaign funds to pay for the provision of child care services by candidates for state, county or municipal elected office; (2) analyze campaign finance laws in other states regarding the use of campaign funds for child care expenses; (3) examine whether the expenditure of campaign funds for child care services would constitute a "personal use" of such funds under section 6 of chapter 55 of the General Laws; (4)

make recommendations on defining the term "child care expenses," including, but not limited to, what specific expenditures and child care services should and should not fall under such definition; (5) determine whether child care expenditures occurring in the normal course of an elected official's duties or expenditures that would exist irrespective of an individual running for elected office should be considered an authorized use of campaign funds under section 6 of chapter 55 of the General Laws; and (6) determine the capacity of the office of campaign and political finance to scrutinize potential expenditures of campaign funds for child care services to prevent unauthorized or impermissible uses of such funds.

- (d) The special legislative commission shall submit a report together with recommendations for legislation, if any, to the clerks of the house of representatives and the senate on or before December 1, 2020.
- 372 SECTION 14. Section 12 is hereby repealed.

373 SECTION 15. Section 14 shall take effect on April 30, 2020.