

2010-11 NEW YORK STATE EXECUTIVE BUDGET

**ETHICS REFORM
ARTICLE VII LEGISLATION**

STATE OF NEW YORK

S. 6615

A. 9715

SENATE - ASSEMBLY

January 19, 2010

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the public officers law, in relation to creating a state government ethics commission and a designating commission; to amend the executive law, in relation to the duties of the attorney general; and to repeal article 1-A of the legislative law relating to the lobbying act; to repeal article 5 of the legislative law relating to legislative ethics; to repeal section 94 of the executive law relating to the commission on public integrity (Part A); to amend the retirement and social security law, the state finance law and the public officers law, in relation to establishing the employee retirement system board of trustees to operate the New York state and local employees' retirement system and the New York state and local police and fire retirement system, and regulating investment firms doing business with the common retirement fund (Part B); to amend the election law, in relation to campaign finance reform; to amend the legislative law, in relation to participation in fundraisers during a legislative session; to amend the election law, in relation to public financing; and to repeal certain provisions of the election law relating to campaign financing; to repeal subdivisions 7 and 9-A of section 3-102 of the election law relating to the state board of elections' power to enforce campaign receipts and expenditures provisions (Part C); and to amend the retirement and social security law, in relation to forfeiture of pension rights or retirement benefits upon conviction of a felony related to public employment (Part D)

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

1 Section 1. This act enacts into law major components of legislation
2 relating to ethics reform and campaign finance reform. Each component

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

LBD12677-01-0

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

10

PART A

11 Section 1. This act shall be known and may be cited as the "State
12 Government Ethics and Campaign Finance Enforcement Reform Act of 2010".

13 § 2. Article 1-A of the legislative law is REPEALED.

14 § 3. Article 5 of the legislative law is REPEALED.

15 § 4. The public officers law is amended by adding a new section 73-c
16 to read as follows:

17 § 73-c. State government ethics commission; functions, powers and
18 duties; review of financial disclosure statements; administration of
19 campaign finance practices; advisory opinions; investigation and
20 enforcement. 1. There is established within the department of state a
21 state government ethics commission which shall consist of five members
22 and shall have and exercise the powers and duties set forth in this
23 section with respect to state elected officials and state officers and
24 employees, as defined in sections seventy-three and seventy-three-a of
25 this article; candidates for state elected office, the political party
26 chairman as that term is defined in section seventy-three-a of this
27 article, lobbyists and the clients of lobbyists as such terms are
28 defined in section seventy-three-d of this article, members of the
29 legislature, legislative employees as defined in section seventy-three
30 of this article, candidates for members of the legislature and individ-
31 uals who have formerly held such positions or who have formerly been
32 such candidates. This act shall not revoke or rescind any regulations
33 duly promulgated or advisory opinions duly issued by the state commis-
34 sion on public integrity, the state ethics commission, the temporary
35 lobbying commission, the legislative ethics commission, the state board
36 of elections as such regulations or opinions pertain to article fourteen
37 of the election law, and the committee on open government as such regu-
38 lations or opinions pertain to article seven of this chapter in effect
39 upon the effective date of the chapter of the laws of two thousand ten
40 which added this section to the extent that such regulations or opinions
41 are not inconsistent with any law of the state of New York. The state
42 government ethics commission shall undertake a comprehensive review of
43 all such regulations and opinions, which will address the consistency
44 of such regulations and opinions among each other and with the new stat-
45 utory language. The state government ethics commission shall, before
46 June first, two thousand ten, report to the governor and legislature
47 regarding such review and shall propose any regulatory changes and
48 issue any advisory opinions necessitated by such review.

49 2. The members of the commission shall be appointed by the designating
50 commission as defined in section seventy-three-e of this article.

51 3. Members of the state government ethics commission shall serve for
52 terms of five years; provided, however, that of the members first
53 appointed by the designating commission, one shall serve for one year,
54 one shall serve for two years, one shall serve for three years, one



1 shall serve for four years and one shall serve for five years, as desig-
2 nated by random chance. The process for determining staggered terms
3 shall be made by a drawing of lots.

4 4. The chairman or any three members of the commission may call a
5 meeting.

6 5. Any vacancy occurring on the state government ethics commission
7 shall be filled within sixty days of its occurrence in the same manner
8 as the member whose vacancy is being filled was appointed. A person
9 appointed to fill a vacancy occurring other than by expiration of a term
10 of office shall be appointed for the unexpired term of the member he or
11 she succeeds.

12 6. Three members of the state government ethics commission shall
13 constitute a quorum, and the commission shall have power to act by
14 majority vote of the total number of members of the commission without
15 vacancy.

16 7. Members of the state government ethics commission may be removed
17 by application and motion of the attorney general in a state trial level
18 court for substantial neglect of duty, gross misconduct in office,
19 inability to discharge the powers or duties of office or violation of
20 this section, after written notice and opportunity for a reply. The
21 attorney general also may seek recusal of any member or members upon the
22 showing of a conflict of interest and any failure to recuse.

23 8. The members of the commission shall not receive compensation but
24 shall be reimbursed for reasonable expenses incurred in the performance
25 of their official duties.

26 9. The commission shall:

27 (a) Appoint and employ and at pleasure remove counsel, an executive
28 director, investigators, accountants, clerks and other such persons as
29 it may deem necessary who shall act in accordance with the policies of
30 the commission. The commission may delegate authority to the executive
31 director to act in the name of the commission between meetings of the
32 commission provided such delegation is in writing and the specific
33 powers to be delegated are enumerated.

34 (b) Appoint such other staff as are necessary to carry out its duties
35 under this section.

36 (c) Adopt, amend, and rescind rules and regulations to govern proce-
37 dures of the commission, which shall include, but not be limited to, the
38 procedure whereby a person who is required to file an annual financial
39 disclosure statement with the commission may request an additional peri-
40 od of time within which to file such statement, due to justifiable cause
41 or undue hardship; such rules or regulations shall provide for a date
42 beyond which in all cases of justifiable cause or undue hardship no
43 further extension of time will be granted.

44 (d) Adopt, amend, and rescind rules and regulations to assist appoint-
45 ing authorities in determining which persons hold policy-making posi-
46 tions for purposes of section seventy-three-a of this article.

47 (e) Make available forms for annual statements of financial disclosure
48 required to be filed pursuant to section seventy-three-a of this arti-
49 cle.

50 (f) Review financial disclosure statements in accordance with the
51 provisions of this section, provided however, that the commission may
52 delegate all or part of this review function to the executive director
53 who shall be responsible for completing staff review of such statements
54 in a manner consistent with the terms of the commission's delegation.

55 (f-1) Issue instructions and promulgate rules and regulations relating
56 to the administration of campaign finance practices consistent with

1 article fourteen of the election law in consultation with the state
2 board of elections and providing the government ethics commission with
3 the power and duty to:

4 (i) prepare uniform forms for the statements required by article four-
5 teen of the election law;

6 (ii) (A) develop an electronic reporting system to process the state-
7 ments of receipts, contributions, transfers and expenditures required to
8 be filed with the government ethics commission pursuant to the
9 provisions of sections 14-102 and 14-104 of the election law;

10 (B) prescribe the information required in the form for each statement
11 to be filed;

12 (C) establish a training program on the electronic reporting process
13 and make it available to any such candidate or committee;

14 (D) make the electronic reporting process available to any such candi-
15 date or committee which is required to file or which agrees to file such
16 statements by such electronic reporting process;

17 (E) cause all information contained in such a statement filed with the
18 government ethics commission which is not on such electronic reporting
19 system to be entered in such system as soon as practicable but in no
20 event later than ten business days after its receipt by the government
21 ethics commission; and

22 (F) make all data from the electronic reporting process available at
23 all times on the internet;

24 (iii) study and examine the administration of campaign financing and
25 campaign finance reporting within the state;

26 (iv) recommend such legislation or administrative measures as it finds
27 appropriate to adjust the contribution limitations set forth in article
28 fourteen of the election law; and

29 (v) institute such judicial proceedings as may be necessary to enforce
30 compliance with any provision of article fourteen of the election law or
31 any regulation promulgated thereunder including, but not limited to,
32 application, on notice served upon the respondent in the manner directed
33 by the court at least six hours prior to the time of return thereon, to
34 a justice of the supreme court within the judicial district in which an
35 alleged violation of any such provision or regulation occurred or is
36 threatened, for an order prohibiting the continued or threatened
37 violation thereof or for such other or further relief as the court may
38 deem just and proper.

39 (g) Receive complaints alleging a violation of section seventy-three,
40 seventy-three-a, seventy-three-d, or seventy-four of this article or
41 section one hundred seven of the civil service law or receive complaints
42 as authorized by subdivision one of section one hundred seven of this
43 chapter as it relates to state open meetings and article fourteen of the
44 election law.

45 (h) Permit any person required to file a financial disclosure state-
46 ment to request the commission to delete from the copy thereof made
47 available for public inspection one or more items of information which
48 may be deleted by the commission, after denial of a request for deletion
49 by the committee on open government pursuant to section eighty-nine of
50 this chapter, upon a finding by a majority of the total number of
51 members of the commission without vacancy that the information which
52 would otherwise be required to be made available for public inspection
53 will have no material bearing on the discharge of the reporting person's
54 official duties. If such request for deletion is denied, the commission,
55 in its notification of denial, shall inform the person of his or her
56 right to appeal the commission's determination pursuant to its rules

1 governing adjudicatory proceedings and appeals adopted pursuant to
2 subdivision thirteen of this section. The commission shall promulgate
3 rules and regulations governing the issuance of written decisions in
4 connection with appeals from the committee on open government pursuant
5 to section eighty-nine of this chapter.

6 (i) Permit any person required to file a financial disclosure state-
7 ment to request an exemption from any requirement to report one or more
8 items of information which pertain to such person's spouse or unemanci-
9 pated children which item or items may be exempted by the commission,
10 including the names of clients of public officers who are consultants or
11 other professionals where disclosure of such clients identity could
12 reveal the nature of an attorney-client communication or pursuant to
13 section eighty-nine of this chapter as provided in subdivision eighteen
14 of this section, upon a finding by a majority of the total number of
15 members of the commission without vacancy that the reporting individ-
16 ual's spouse, on his or her own behalf or on behalf of an unemancipated
17 child, objects to providing the information necessary to make such
18 disclosure and that the information which would otherwise be required to
19 be reported will have no material bearing on the discharge of the
20 reporting person's official duties, provided that the address and tele-
21 phone numbers of spouses and unemancipated children shall in no instance
22 be made available to the public. If such request for exemption is
23 denied, the commission, in its notification of denial, shall inform the
24 person of his or her right to appeal the commission's determination
25 pursuant to its rules governing adjudicatory proceedings and appeals
26 adopted pursuant to subdivision thirteen of this section. The commis-
27 sion shall promulgate rules and regulations governing the issuance of
28 written decisions in connection with appeals from the committee on open
29 government.

30 (j) Advise and assist any state officer, state agency or the legisla-
31 ture in establishing rules and regulations relating to possible
32 conflicts between private interests and official duties of present or
33 former state elected officials, members of the legislature and legisla-
34 tive employees, and state officers and employees.

35 (k) Permit any person who has not been determined by his or her
36 appointing authority or the legislature to hold a policy-making position
37 but who is otherwise required to file a financial disclosure statement
38 to request an exemption from such requirement in accordance with rules
39 and regulations governing such exemptions. Such rules and regulations
40 shall provide for exemptions to be granted either on the application of
41 an individual or on behalf of persons who share the same job title or
42 employment classification which the commission deems to be comparable
43 for purposes of this section. Such rules and regulations may permit the
44 granting of an exemption where, in the discretion of the commission, the
45 public interest does not require disclosure and the applicant's duties
46 do not involve the negotiation, authorization or approval of:

47 (i) contracts, leases, franchises, revocable consents, concessions,
48 variances, special permits, or licenses as defined in section seventy-
49 three of this article;

50 (ii) the purchase, sale, rental or lease of real property, goods or
51 services, or a contract therefor;

52 (iii) the obtaining of grants of money or loans; or

53 (iv) the adoption or repeal of any law, rule or regulation having the
54 force and effect of law.

55 (l) Prepare an annual report to the governor and legislature summariz-
56 ing the activities of the commission during the previous year and recom-

1 mending any changes in the laws governing the conduct of persons subject
2 to the jurisdiction of the commission, or the rules, regulations and
3 procedures governing the commission's conduct. Such report shall
4 include: (i) a listing by assigned number of each complaint and referral
5 received which alleged a possible violation within its jurisdiction,
6 including the current status of each complaint, and (ii) where a matter
7 has been resolved, the date and nature of the disposition and any sanc-
8 tion imposed, subject to the confidentiality requirements of this
9 section, provided, however, that such annual report shall not contain
10 any information for which disclosure is not permitted pursuant to subdi-
11 vision seventeen of this section.

12 (m) Determine a question common to a class or defined category of
13 persons or items of information required to be disclosed, where determi-
14 nation of the question will prevent undue repetition of requests for
15 exemption or deletion or prevent undue complication in complying with
16 the requirements of such section.

17 10. The commission, or the executive director and staff of the commis-
18 sion if responsibility therefor has been delegated, shall regularly
19 inspect all financial disclosure statements filed with the commission to
20 ascertain whether any person subject to the reporting requirements of
21 section seventy-three-a of this article has failed to file such a state-
22 ment, has filed a deficient statement or has filed a statement which
23 reveals a possible violation of section seventy-three, seventy-three-a,
24 seventy-three-d, or seventy-four of this article or article seven as it
25 relates to state open meetings. The commission shall promulgate guide-
26 lines to conduct a program of regular and random reviews of annual
27 financial disclosure statements filed with the commission, subject to
28 the conditions of this section. Such program shall be carried out in the
29 following manner:

30 (a) The commission shall select annual financial disclosure statements
31 required to be filed pursuant to this article for review. Any such
32 selection shall be done in a manner pursuant to which the identity of
33 any particular person whose statement is selected for review is unknown
34 to the commission and its staff.

35 (b) The commission shall develop protocols for the conduct of such
36 regular and random reviews. Such regular and random reviews may require
37 the production of books, papers, records or memoranda relevant and mate-
38 rial to the preparation of the selected statements for examination. Any
39 such protocols shall ensure that similarly situated statements are
40 audited in a uniform manner.

41 (c) The commission may contract with an outside accounting entity,
42 which shall monitor the process pursuant to which the commission selects
43 statements for review, and the process pursuant to which the commission
44 carries out the provisions of paragraphs (a) and (b) of this subdivision
45 and certifies that such process complies with the provisions of such
46 paragraphs.

47 (d) Upon completion of a review by the commission conducted in accord-
48 ance with the provisions of paragraphs (a), (b) and (c) of this subdivi-
49 sion, the commission shall determine whether there is reasonable cause
50 to believe that any such statement or report is inaccurate or incom-
51 plete. Upon a determination that such reasonable cause exists, the
52 commission may require the production of further books, records or memo-
53 randa, subpoena witnesses, compel their attendance and testimony and
54 administer oaths or affirmations, to the extent the commission deter-
55 mines such actions are necessary to obtain information relevant and
56 material to investigating such inaccuracies or omissions.



1 11. (a) If a person required to file a financial disclosure statement
2 with the commission has failed to file a disclosure statement or has
3 filed a deficient statement, the commission shall notify the reporting
4 person in writing, state the failure to file or detail the deficiency,
5 provide the person with a fifteen day period to cure the deficiency, and
6 advise the person of the penalties for failure to comply with the
7 reporting requirements. Such notice shall be confidential. If the person
8 fails to make such filing or fails to cure the deficiency within the
9 specified time period, the commission shall send a notice of delinquen-
10 cy: (i) to the reporting person; and (ii) in the case of a state elected
11 official, member of the legislature, or legislative employee, to the
12 temporary president of the senate and the speaker of the assembly; and
13 (iii) in the case of a state officer or employee, to the appointing
14 authority for such person. Such notice of delinquency may be sent at
15 any time during the reporting person's service as a state elected offi-
16 cial, state officer or employee, member of the legislature, legislative
17 employee, political party chair or while a candidate for statewide
18 office or member of the legislature, or within one year after termi-
19 nation of such service or candidacy. The jurisdiction of the commission,
20 when acting pursuant to subdivision thirteen of this section with
21 respect to financial disclosure, shall continue notwithstanding that the
22 reporting person separates from state service, or ceases to hold office
23 as a state elected official, member of the legislature or political
24 party chair, or ceases to be a candidate, provided the commission noti-
25 fies such person of the alleged failure to file or deficient filing
26 pursuant to this subdivision.

27 (b) If the commission receives any complaint that a corporation is
28 using its not for profit status to conceal political campaign finance
29 support within its issue advocacy realm, the commission shall have the
30 authority to determine whether there have been violations of the state's
31 campaign finance laws. The commission shall file a summary proceeding in
32 the supreme court requiring the corporation to state any reasons why it
33 should not be compelled to open its fiscal books for inspection by the
34 commission in order to determine whether violations of the state's
35 campaign finance laws have taken place. Upon the finding of any
36 violations, the commission may issue a fine to such corporation or
37 corporations or may fine the participants found to have violated the
38 state's campaign finance laws in an amount not to exceed forty thousand
39 dollars. Further, upon any finding of a violation of the campaign
40 finance laws the commission shall also notify the federal Internal
41 Revenue Service, the district attorney of the county where the violation
42 occurred, as well as the attorney general of such violation or
43 violations.

44 12. (a) If the commission receives a sworn complaint alleging a
45 violation of section seventy-three, seventy-three-a, seventy-three-d or
46 seventy-four of this article or article seven of this chapter as it
47 relates to state open meetings, or receives complaints as authorized by
48 article fourteen of the election law or section one hundred seven of the
49 civil service law by a person or entity subject to such law under the
50 commission's jurisdiction, or if a reporting individual has filed a
51 statement which reveals a possible violation thereof, or if the commis-
52 sion determines on its own initiative to investigate a possible
53 violation, the commission shall notify the individual in writing,
54 describe the possible or alleged violation of such law and provide the
55 person with a fifteen day period in which to submit a written response
56 setting forth information relating to the activities cited as a possible

1 or alleged violation of law. If the commission thereafter makes a deter-
2 mination that further inquiry is justified, it shall give the individual
3 an opportunity to be heard. The commission shall also inform the indi-
4 vidual of its rules regarding the conduct of adjudicatory proceedings
5 and appeals and the due process procedural mechanisms available to such
6 individual. If the commission determines at any stage of the proceeding,
7 that there is no violation or that any potential conflict of interest
8 violation has been rectified, it shall so advise the individual and the
9 complainant, if any. All of the foregoing proceedings shall be confiden-
10 tial, except as relating to lobbyists and clients of lobbyists. The
11 commission shall promulgate a statement of non-disclosure and establish
12 rules for abiding by such statement. Every commissioner and every
13 employee of the commission shall be required to sign a non-disclosure
14 statement prior to reviewing any information.

15 (b) If the commission determines that there is reasonable cause to
16 believe that a violation has occurred, it shall send a notice of reason-
17 able cause: (i) to the reporting person; (ii) in the case of a state
18 elected official, to the temporary president of the senate and the
19 speaker of the assembly; (iii) in the case of a member of the senate or
20 employee of the senate, to the temporary president of the senate, (iv)
21 in the case of a member of the assembly or employee of the assembly, to
22 the speaker of the assembly; and (v) in the case of a state officer or
23 employee, to the appointing authority for such person.

24 (c) The jurisdiction of the commission when acting pursuant to this
25 section shall continue notwithstanding that a state elected official,
26 member of the legislature or legislative employee, or a state officer or
27 employee separates from state service, or a political party chair ceases
28 to hold such office, or a candidate ceases to be a candidate, or a
29 lobbyist or client of a lobbyist ceases to act as such, provided that
30 the commission notifies such individual or entity of the alleged
31 violation of law pursuant to paragraph (a) of this subdivision within
32 one year from his or her separation from state or legislative service,
33 or his or her termination of party service or candidacy, or his or her
34 or its termination of lobbying activity. Nothing in this section shall
35 serve to limit the jurisdiction of the commission in enforcement of
36 subdivision eight of section seventy-three of this article.

37 13. An individual subject to the jurisdiction of the commission who
38 knowingly and intentionally violates the provisions of subdivisions two
39 through five, seven, eight, twelve or subdivisions fourteen through
40 seventeen of section seventy-three of this article, section one hundred
41 seven of the civil service law, or a reporting individual who knowingly
42 and wilfully fails to file an annual statement of financial disclosure
43 or who knowingly and wilfully with intent to deceive makes a false
44 statement or omission or gives information which such individual knows
45 to be false on such statement of financial disclosure filed pursuant to
46 section seventy-three-a of this article shall be subject to a civil
47 penalty in an amount not to exceed forty thousand dollars plus the
48 disgorgement of the amount of the value of any gift, compensation or
49 benefit received as a result of such violation. An individual who know-
50 ingly and intentionally violates the provisions of paragraph b, c, d or
51 i of subdivision three of section seventy-four of this article shall be
52 subject to a civil penalty in an amount not to exceed forty thousand
53 dollars and the value of any gift, compensation or benefit received as a
54 result of such violation. An individual who knowingly and intentionally
55 violates the provisions of paragraph a, e or g of subdivision three of
56 section seventy-four of this article shall be subject to a civil penalty



1 in an amount not to exceed the value of any gift, compensation or bene-
2 fit received as a result of such violation. An individual who knowingly
3 violates the provisions of paragraph j of subdivision three of section
4 seventy-four of this article shall be subject to a civil penalty in an
5 amount not to exceed one hundred fifty dollars. Assessment of a civil
6 penalty hereunder shall be made by the commission with respect to
7 persons subject to its jurisdiction. For a violation of this subdivi-
8 sion, other than for conduct which constitutes a violation of subdivi-
9 sion twelve of section seventy-three or section seventy-four of this
10 article, the commission may, in lieu of a civil penalty, refer a
11 violation to the district attorney of the county or counties having
12 jurisdiction of the act or the state attorney general and upon
13 conviction, such violation shall be punishable as a class A misdemeanor,
14 except that a violation of section one hundred seven of the civil
15 service law shall be punishable as provided herein. A civil penalty for
16 false filing may not be imposed hereunder in the event a category of
17 "value" or "amount" reported hereunder is incorrect unless such reported
18 information is falsely understated. Notwithstanding any other provision
19 of law to the contrary, no other penalty, civil or criminal may be
20 imposed for a failure to file, or for a false filing, of such statement,
21 or a violation of section seventy-three of this article, except that the
22 appointing authority may impose disciplinary action as otherwise
23 provided by law. The state government ethics commission may refer
24 violations of this article to the appointing authority for disciplinary
25 action as otherwise provided by law. The state government ethics
26 commission shall be deemed to be an agency within the meaning of article
27 three of the state administrative procedure act and shall adopt rules
28 governing the conduct of adjudicatory proceedings and appeals taken
29 pursuant to a proceeding commenced under article seventy-eight of the
30 civil practice law and rules relating to the assessment of the civil
31 penalties herein authorized and commission denials of requests for
32 certain deletions or exemptions to be made from a financial disclosure
33 statement as authorized in paragraph (h) or paragraph (i) of subdivision
34 nine of this section. Such rules, which shall not be subject to the
35 approval requirements of the state administrative procedure act, shall
36 provide for due process procedural mechanisms substantially similar to
37 those set forth in article three of the state administrative procedure
38 act but such mechanisms need not be identical in terms or scope. Assess-
39 ment of a civil penalty or commission denial of such a request shall be
40 final unless modified, suspended or vacated within thirty days of impo-
41 sition, with respect to the assessment of such penalty, or unless such
42 denial of request is reversed within such time period, and upon becoming
43 final shall be subject to review at the instance of the affected report-
44 ing individuals in a proceeding commenced against the state government
45 ethics commission, pursuant to article seventy-eight of the civil prac-
46 tice law and rules.

47 14. A copy of any notice of delinquency or notice of reasonable cause
48 sent pursuant to subdivisions eleven and twelve of this section shall be
49 included in the reporting person's file and be available for public
50 inspection upon a finding or final determination of wrongdoing or a
51 notice of civil assessment is issued.

52 15. Upon written request from any person who is subject to the juris-
53 isdiction of the commission to the requirements of sections seventy-three,
54 seventy-three-a, seventy-three-d, seventy-four of this article or arti-
55 cle fourteen of the election law, the commission shall render advisory
56 opinions on the requirements of said provisions. An opinion rendered by

1 the commission, until and unless amended or revoked, shall be binding on
2 the commission in any subsequent proceeding concerning the person who
3 requested the opinion and who acted in good faith, unless material facts
4 were omitted or misstated by the person in the request for an opinion.
5 Such opinion may also be relied upon by such person, and may be intro-
6 duced and shall be a defense, in any criminal or civil action. Such
7 requests shall be confidential but the commission may publish such opin-
8 ions provided that the name of the requesting person and other identify-
9 ing details shall not be included in the publication.

10 16. In addition to any other powers and duties specified by law, the
11 commission shall have the power and duty to:

12 (a) Promulgate rules concerning restrictions on outside activities,
13 limitations on the receipt of gifts and honoraria by persons subject to
14 its jurisdiction, provided, however, a violation of such rules in and of
15 itself shall not be punishable pursuant to subdivision thirteen of this
16 section unless the conduct constituting the violation would otherwise
17 constitute a violation of this section; and

18 (b) Conduct training programs in cooperation with the governor's
19 office of employee relations, the legislature, the attorney general,
20 office of state comptroller and unified court system to provide educa-
21 tion to individuals subject to its jurisdiction; and

22 (c) Administer and enforce all the provisions of this section; and

23 (d) Conduct any investigation necessary to carry out the provisions of
24 this section. Pursuant to this power and duty, the commission may admin-
25 ister oaths or affirmations, subpoena witnesses, compel their attendance
26 and require the production of any books or records which it may deem
27 relevant or material.

28 16-a. Within one hundred twenty days of the effective date of this
29 subdivision, the commission shall create and thereafter maintain a
30 publicly accessible website which shall set forth the procedure for
31 filing a complaint with the commission, and which shall contain the
32 documents identified in subdivision seventeen of this section, other
33 than financial disclosure statements, and any other records or informa-
34 tion which the commission determines to be appropriate.

35 17. (a) Notwithstanding the provisions of article six of this chapter,
36 the only records of the commission which shall be available for public
37 inspection and copying are:

38 (1) the information set forth in an annual statement of financial
39 disclosure filed pursuant to section seventy-three-a of this chapter
40 except the categories of value or amount, which shall remain confiden-
41 tial, and any other item of information deleted pursuant to paragraph
42 (h) of subdivision nine of this section;

43 (2) notices of delinquency sent under subdivision eleven of this
44 section;

45 (3) notices of reasonable cause sent under paragraph (b) of subdivi-
46 sion twelve of this section;

47 (4) notices of civil assessments imposed under this section which
48 shall include a description of the nature of the alleged wrongdoing, the
49 procedural history of the complaint, the findings and determinations
50 made by the commission, and any sanction imposed; and

51 (5) the terms of any settlement or compromise of a complaint or refer-
52 ral which includes a fine, penalty or other remedy.

53 (b) Notwithstanding the provisions of article seven of this chapter,
54 no meeting or proceeding, including any such proceeding contemplated
55 under paragraph (h) or (i) of subdivision nine of this section, of the



1 commission shall be open to the public, except if expressly provided
2 otherwise by the commission.

3 (c) Pending any application for deletion or exemption to the commis-
4 sion, all information which is the subject or a part of the application
5 shall remain confidential. Upon an adverse determination by the commis-
6 sion, the reporting individual may request, and upon such request the
7 commission shall provide, that any information which is the subject or
8 part of the application remain confidential for a period of thirty days
9 following notice of such determination. In the event that the reporting
10 individual resigns his office and holds no other office subject to the
11 jurisdiction of the commission, the information shall not be made public
12 and shall be expunged in its entirety.

13 18. If any part or provision of this section or the application there-
14 of to any person or organization is adjudged by a court of competent
15 jurisdiction to be unconstitutional or otherwise invalid, such judgment
16 shall not affect or impair any other part or provision or the applica-
17 tion thereof to any other person or organization, but shall be confined
18 in its operation to such part or provision.

19 § 5. Legislative declaration. The legislature hereby declares that the
20 operation of responsible democratic government requires that the fullest
21 opportunity be afforded to the people to petition their government for
22 the redress of grievances and to express freely to appropriate officials
23 their opinions on legislation and governmental operations; and that, to
24 preserve and maintain the integrity of the governmental decision-making
25 process in this state, it is necessary that the identity, expenditures
26 and activities of persons and organizations retained, employed or desig-
27 nated to influence the passage or defeat of any legislation by either
28 house of the legislature or the approval, or veto, of any legislation by
29 the governor and attempts to influence the adoption or rejection of any
30 rule or regulation having the force and effect of law or the outcome of
31 any rate making proceeding by a state agency, and the attempts to influ-
32 ence the passage or defeat of any local law, ordinance, or regulation be
33 publicly and regularly disclosed.

34 § 6. The public officers law is amended by adding a new section 73-d
35 to read as follows:

36 § 73-d. Lobbying activity. 1. Short title. This section shall be
37 known and may be cited as the "Lobbying act".

38 2. Definitions. As used in this section unless the context otherwise
39 requires:

40 (a) The term "lobbyist" shall mean every person or organization
41 retained, employed or designated by any client to engage in directly or
42 to solicit others to communicate for the purposes of lobbying. The term
43 "lobbyist" shall not include any officer, director, trustee, employee,
44 counsel or agent of the state, or any municipality or subdivision there-
45 of of New York when discharging their official duties; except those
46 officers, directors, trustees, employees, counsels, or agents of
47 colleges, as defined by section two of the education law.

48 (b) The term "client" shall mean every person or organization who
49 retains, employs or designates any person or organization to carry on
50 lobbying activities on behalf of such client.

51 (c) The term "lobbying" or "lobbying activities" shall mean and
52 include any attempt by a person or entity to directly or to solicit
53 others to communicate for the purpose of influencing:

54 (i) the passage or defeat of any legislation by either house of the
55 state legislature or approval or disapproval of any legislation by the
56 governor;

1 (ii) the adoption, issuance, rescission, modification or terms of a
2 gubernatorial executive order;

3 (iii) the adoption or rejection of any procedure, rule or regulation
4 having the force and effect of law by a state agency;

5 (iv) the outcome of any rate making proceeding by a state agency;

6 (v) any determination: (A) by a public official, or by a person or
7 entity working in cooperation with a public official related to a
8 governmental procurement, (B) by an officer or employee of the unified
9 court system, or by a person or entity working in cooperation with an
10 officer or employee of the unified court system related to a govern-
11 mental procurement, or (C) by the state or New York city comptroller
12 working in cooperation with a person or entity for the investment of
13 public pension funds;

14 (vi) the approval, disapproval, implementation or administration of
15 tribal-state compacts, memoranda of understanding, or any other tribal-
16 state agreements and any other state actions related to Class III gaming
17 as provided in 25 U.S.C. § 2701, except to the extent designation of
18 such activities as "lobbying" is barred by the federal Indian Gaming
19 Regulatory Act, by a public official or by a person or entity working in
20 cooperation with a public official in relation to such approval, disap-
21 proval, implementation or administration;

22 (vii) the passage or defeat of any local law, ordinance, resolution,
23 or regulation by any municipality or subdivision thereof;

24 (viii) the adoption, issuance, rescission, modification or terms of an
25 executive order issued by the chief executive officer of a municipality;

26 (ix) the adoption or rejection of any rule, regulation, or resolution
27 having the force and effect of a local law, ordinance, resolution, or
28 regulation; or

29 (x) the outcome of any rate making proceeding by any municipality or
30 subdivision thereof.

31 The term "lobbying" shall not include:

32 (A) Persons engaged in drafting, advising clients on or rendering
33 opinions on proposed legislation, rules, regulations or rates, municipal
34 ordinances and resolutions, executive orders, procurement contracts, or
35 tribal-state compacts, memoranda of understanding, or any other tribal-
36 state agreements or other written materials related to Class III gaming
37 as provided in 25 U.S.C. § 2701, when such professional services are not
38 otherwise connected with state or municipal legislative or executive
39 action on such legislation, rules, regulations or rates, municipal ordi-
40 nances and resolutions, executive orders, procurement contracts, or
41 tribal-state compacts, memoranda of understanding, or any other tribal-
42 state agreements or other written materials related to Class III gaming
43 as provided in 25 U.S.C. § 2701;

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

54 (C) Persons who participate as witnesses, attorneys or other represen-
55 tatives in public proceedings of a state or municipal agency with
56 respect to all participation by such persons which is part of the public

1 record thereof and all preparation by such persons for such partic-
2 ipation;

3 (D) Persons who attempt to influence a state or municipal agency in an
4 adjudicatory proceeding, as "adjudicatory proceeding" is defined by
5 section one hundred two of the state administrative procedure act;

6 (E) Persons who prepare or submit a response to a request for informa-
7 tion or comments by the state legislature, the governor, or a state
8 agency or a committee or officer of the legislature or a state agency,
9 or by the unified court system, or by a legislative or executive body or
10 officer of a municipality or a commission, committee or officer of a
11 municipal legislative or executive body;

12 (F) Any attempt by a church, its integrated auxiliary, or a convention
13 or association of churches that is exempt from filing a federal income
14 tax return under paragraph (A) (i) of section 6033(a) of Title 26 of the
15 United States Code or a religious order that is exempt from filing a
16 federal income tax return under paragraph (2) (A) (iii) of such section
17 6033(a) to influence passage or defeat of a local law, ordinance, resol-
18 ution or regulation or any rule or regulation having the force and
19 effect of a local law, ordinance or regulation;

20 (G) Any activity relating to governmental procurements made under
21 section one hundred sixty-two of the state finance law undertaken by (i)
22 the non-profit-making agencies appointed pursuant to paragraph e of
23 subdivision six of section one hundred sixty-two of the state finance
24 law by the commissioner of the office of children and family services,
25 the commission for the blind and visually handicapped, or the commis-
26 sioner of education, and (ii) the qualified charitable non-profit-making
27 agencies for the blind, and qualified charitable non-profit-making agen-
28 cies for other severely disabled persons as identified in subdivision
29 two of section one hundred sixty-two of the state finance law; provided,
30 however, that any attempt to influence the issuance or terms of the
31 specifications that serve as the basis for bid documents, requests for
32 proposals, invitations for bids, or solicitations of proposals, or any
33 other method for soliciting a response from offerers intending to result
34 in a procurement contract with a state agency, the state legislature,
35 the unified court system, a municipal agency or local legislative body
36 shall not be exempt from the definition of "lobbying" or "lobbying
37 activities" under this clause;

38 (H) Participants, including those appearing on behalf of a client, in
39 a conference provided for in a request for proposals, invitation for
40 bids, or any other method for soliciting a response from offerers
41 intending to result in a procurement contract;

42 (I) Offerers who have been tentatively awarded a contract and are
43 engaged in communications with a state agency, either house of the state
44 legislature, the unified court system, a municipal agency or local
45 legislative body solely for the purpose of negotiating the terms of the
46 procurement contract after being notified of such award or, when a state
47 agency, either house of the state legislature, the unified court system,
48 a municipal agency or local legislative body is purchasing an article of
49 procurement pursuant to an existing state procurement contract, offerers
50 who are engaged in communications with the procuring entity solely for
51 the purpose of negotiating terms applicable to that purchase; or persons
52 who currently hold a franchise and who are engaged in negotiating the
53 terms of a tentative franchise renewal contract with a municipality, but
54 such negotiations, which do not constitute lobbying, do not include
55 communications to the local legislative body that must approve the
56 contract; provided, however, that any attempt to influence the final

1 issuance or terms of the specifications that serve as the basis for bid
2 documents, requests for proposals, invitations for bids, or solicita-
3 tions of proposals, or any other method for soliciting a response from
4 offerers intending to result in a procurement contract with a state
5 agency, the state legislature, the unified court system, a municipal
6 agency or local legislative body shall not be exempt from the definition
7 of "lobbying" or "lobbying activities" under this subparagraph;

8 (J) (i) Offerers or other persons who are a party to a protest, appeal
9 or other review proceeding (including the apparent successful bidder or
10 proposer and his or her representatives) before the governmental entity
11 conducting the procurement seeking a final administrative determination,
12 or in a subsequent judicial proceeding; or

13 (ii) Offerers or other persons who bring complaints of alleged improv-
14 er conduct in a governmental procurement to the attorney general,
15 inspector general, district attorney, or court of competent jurisdic-
16 tion; or

17 (iii) Offerers or other persons who submit written protests, appeals
18 or complaints to the state comptroller's office during the process of
19 contract approval, where the state comptroller's approval is required by
20 law, and where such communications and any responses thereto are made in
21 writing and shall be entered in the procurement record pursuant to
22 section one hundred sixty-three of the state finance law; or

23 (iv) Offerers or other persons who bring complaints of alleged improv-
24 er conduct in a governmental procurement conducted by a municipal agency
25 or local legislative body to the state comptroller's office; provided,
26 however, that nothing in this subparagraph shall be construed as recog-
27 nizing or creating any new rights, duties or responsibilities or abro-
28 gating any existing rights, duties or responsibilities of any govern-
29 mental entity as it pertains to implementation and enforcement of
30 article eleven of the state finance law or any other provision of law
31 dealing with the governmental procurement process;

32 (K) The submission of a bid or proposal (whether submitted orally, in
33 writing or electronically) in response to a request for proposals, invi-
34 tation for bids or any other method for soliciting a response from
35 offerers intending to result in a procurement contract;

36 (L) Offerers submitting written questions to a designated contact of a
37 state agency, either house of the state legislature, the unified court
38 system, a municipal agency or local legislative body set forth in a
39 request for proposals, or invitation for bids or any other method for
40 soliciting a response from offerers intending to result in a procurement
41 contract, when all written questions and responses are to be dissem-
42 inated to all offerers who have expressed an interest in the request for
43 proposals, or invitation for bids, or any other method for soliciting a
44 response from offerers intending to result in a procurement contract;

45 (M) Contacts during governmental procurements between designated staff
46 of a state agency, either house of the state legislature, the unified
47 court system, a municipal agency or local legislative body involved in
48 governmental procurements and officers or employees of bidders or poten-
49 tial bidders, or officers or employees of subcontractors of bidders or
50 potential bidders, who are charged with the performance of functions
51 relating to contracts and who are qualified by education, training or
52 experience to provide technical services to explain, clarify or demon-
53 strate the qualities, characteristics or advantages of an article of
54 procurement. Such authorized contacts shall: (i) be limited to providing
55 information to the staff of a state agency, either house of the state
56 legislature, the unified court system, a municipal agency and local

1 legislative body to assist them in understanding and assessing the qual-
2 ities, characteristics or anticipated performance of an article of
3 procurement; (ii) not include any recommendations or advocate any
4 contract provisions; and (iii) occur only at such times and in such
5 manner as authorized under the procuring entity's solicitation or guide-
6 lines and procedures. For the purposes of this subparagraph, the term
7 "technical services" shall be limited to analysis directly applying any
8 accounting, engineering, scientific, or other similar technical disci-
9 plines;

10 (N) Applications for licenses, certificates, and permits authorized by
11 statutes or local laws or ordinances;

12 (O) The activities of persons who are commission salespersons with
13 respect to governmental procurements;

14 (P) Communications made by an officer or employee of the offerer after
15 the award of the procurement contract when such communications are in
16 the ordinary course of providing the article of procurement provided by
17 the procurement contract and in the ordinary course of the assigned
18 duties of the officer or employee; provided, however, that nothing here-
19 in shall exempt: (i) an officer or employee whose primary purpose of
20 employment is to engage in lobbying activities with regard to govern-
21 mental procurements, or (ii) an agent or independent contractor hired by
22 an offerer and whose primary duty is to engage in lobbying activities
23 with regard to governmental procurements; and

24 (Q) Persons who communicate with public officials where such communi-
25 cations are limited to obtaining factual information related to benefits
26 or incentives offered by a state or municipal agency and where such
27 communications do not include any recommendations or advocate govern-
28 mental action or contract provisions, and further where such communi-
29 cations are not otherwise connected with pending legislative or execu-
30 tive action or determinations; provided, however, that any person who is
31 otherwise required to file a statement or report pursuant to this
32 section by virtue of engaging in lobbying activities as defined in this
33 paragraph shall not be deemed to fall within the exception provided for
34 under this subparagraph.

35 (d) The term "organization" shall mean any corporation, company, foun-
36 dation, association, college as defined by section two of the education
37 law, labor organization, firm, partnership, society, joint stock compa-
38 ny, state agency or public corporation.

39 (e) The term "state agency" shall mean any department, board, bureau,
40 commission, division, office, council, committee or officer of the
41 state, whether permanent or temporary, or a public benefit corporation
42 or public authority at least one of whose members is appointed by the
43 governor, authorized by law to make rules or to make final decisions in
44 adjudicatory proceedings but shall not include the judicial branch or
45 agencies created by interstate compact or international agreement.

46 (f) The term "commission" shall mean the state government ethics
47 commission created by section seventy-three-c of this article.

48 (g) The term "expense" or "expenses" shall mean any expenditures
49 incurred by or reimbursed to the lobbyist for lobbying but shall not
50 include contributions reportable pursuant to article fourteen of the
51 election law.

52 (h) The term "compensation" shall mean any salary, fee, gift, payment,
53 benefit, loan, advance or any other thing of value paid, owed, given or
54 promised to the lobbyist by the client for lobbying but shall not
55 include contributions reportable pursuant to article fourteen of the
56 election law.

1 (i) The term "public corporation" shall mean a municipal corporation,
2 a district corporation, or a public benefit corporation as defined in
3 section sixty-six of the general construction law.

4 (j) The term "gift" shall mean anything over ten dollars in value
5 given to a public official in any form including, but not limited to
6 money, service, loan, travel, lodging, meals, refreshments, enter-
7 tainment, discount, forbearance, or promise, having a monetary value.
8 The following are excluded from the definition of a gift:

9 (i) complimentary attendance, including food and beverage, at bona
10 fide charitable or political events, and food and beverage of a nominal
11 value greater than ten dollars offered other than as part of a meal;

12 (ii) complimentary attendance, food and beverage offered by the spon-
13 sor of an event that is widely attended or was in good faith intended to
14 be widely attended, when attendance at the event is related to the
15 attendee's duties or responsibilities as a public official or allows the
16 public official to perform a ceremonial function appropriate to his or
17 her position. For the purposes of this subparagraph, the term widely
18 attended shall mean that the intent of the event sponsor is to invite
19 more than twenty-five state officers who represent diverse views and to
20 encourage dialogue among the participants;

21 (iii) awards, plaques, and other ceremonial items which are publicly
22 presented, or intended to be publicly presented, in recognition of
23 public service, provided that the item or items are of the type custom-
24 arily bestowed at such or similar ceremonies and are otherwise reason-
25 able under the circumstances, and further provided that the functionali-
26 ty of such items shall not determine whether such items are permitted
27 under this paragraph;

28 (iv) an honorary degree bestowed upon a public official by a public or
29 private college or university;

30 (v) promotional items having no substantial resale value such as pens,
31 mugs, calendars, hats, and t-shirts which bear an organization's name,
32 logo, or message in a manner which promotes the organization's cause;

33 (vi) goods and services, or discounts for goods and services, offered
34 to the general public or a segment of the general public defined on a
35 basis other than status as a public official and offered on the same
36 terms and conditions as the goods or services are offered to the general
37 public or segment thereof;

38 (vii) gifts from a family member, member of the same household, or
39 person with a personal relationship with the public official, including
40 invitations to attend personal or family social events, when the circum-
41 stances establish that it is the family, household, or personal
42 relationship that is the primary motivating factor; in determining moti-
43 vation, the following factors shall be among those considered: (A) the
44 history and nature of the relationship between the donor and the recipi-
45 ent, including whether or not items have previously been exchanged; (B)
46 whether the item was purchased by the donor; and (C) whether or not the
47 donor at the same time gave similar items to other public officials; the
48 transfer shall not be considered to be motivated by a family, household,
49 or personal relationship if the donor seeks to charge or deduct the
50 value of such item as a business expense or seeks reimbursement from a
51 client;

52 (viii) contributions reportable under article fourteen of the election
53 law;

54 (ix) travel reimbursement or payment for transportation, meals and
55 accommodations for an attendee, panelist or speaker at an informational
56 event when such reimbursement or payment is made by a governmental enti-

1 ty or by an in-state accredited public or private institution of higher
2 education that hosts the event on its campus, provided, however, that
3 the public official may only accept lodging from an institution of high-
4 er education: (A) at a location on or within close proximity to the host
5 campus; and (B) for the night preceding and the nights of the days on
6 which the attendee, panelist or speaker actually attends the event;

7 (x) provision of local transportation to inspect or tour facilities,
8 operations or property owned or operated by the entity providing such
9 transportation, provided, however, that payment or reimbursement of
10 lodging, meals or travel expenses to and from the locality where such
11 facilities, operations or property are located shall be considered to be
12 gifts unless otherwise permitted under this subdivision; and

13 (xi) meals or refreshments when participating in a professional or
14 educational program and the meals or refreshments are provided to all
15 participants.

16 (k) The term "municipality" shall mean any jurisdictional subdivision
17 of the state, including but not limited to counties, cities, towns,
18 villages, improvement districts and special districts, with a population
19 of more than fifty thousand, and industrial development agencies in
20 jurisdictional subdivisions with a population of more than fifty thou-
21 sand; and public authorities, and public corporations, but shall not
22 include school districts.

23 (l) The term "public official" shall mean:

24 (i) the governor, lieutenant governor, comptroller or attorney gener-
25 al;

26 (ii) members of the state legislature;

27 (iii) state officers and employees including:

28 (A) heads of state departments and their deputies and assistants other
29 than members of the board of regents of the university of the state of
30 New York who receive no compensation or are compensated on a per diem
31 basis,

32 (B) officers and employees of state elected officials,

33 (C) officers and employees of state departments, boards, bureaus,
34 divisions, commissions, councils or other state agencies,

35 (D) members or directors of public authorities, other than multi-state
36 authorities, public benefit corporations and commissions at least one of
37 whose members is appointed by the governor, and employees of such
38 authorities, corporations and commissions;

39 (iv) officers and employees of the legislature; and

40 (v) municipal officers and employees including an officer or employee
41 of a municipal entity, whether paid or unpaid, including members of any
42 administrative board, commission or other agency thereof and in the case
43 of a county, shall be deemed to also include any officer or employee
44 paid from county funds. No person shall be deemed to be a municipal
45 officer or employee solely by reason of being a volunteer fireman or
46 civil defense volunteer, except a fire chief or assistant fire chief.

47 (m) The term "restricted period" shall mean the period of time
48 commencing with the earliest written notice, advertisement or sollicita-
49 tion of a request for proposal, invitation for bids, or solicitation of
50 proposals, or any other method for soliciting a response from offerers
51 intending to result in a procurement contract with a state agency,
52 either house of the state legislature, the unified court system, or a
53 municipal agency, as that term is defined by subparagraph (ii) of para-
54 graph (s) of this subdivision, and ending with the final contract award
55 and approval by the state agency, either house of the state legislature,
56 the unified court system, or a municipal agency, as that term is defined



1 by subparagraph (ii) of paragraph (s) of this subdivision, and, where
2 applicable, the state comptroller.

3 (n) The term "revenue contract" shall mean any written agreement
4 between a state or municipal agency or a local legislative body and an
5 offerer whereby the state or municipal agency or local legislative body
6 gives or grants a concession or a franchise.

7 (o) The term "article of procurement" shall mean a commodity, service,
8 technology, public work, construction, revenue contract, the purchase,
9 sale or lease of personal or real property or an acquisition or granting
10 of other interest in real property, that is the subject of a govern-
11 mental procurement.

12 (p) The term "governmental procurement" shall mean: (i) the prepara-
13 tion or terms of the specifications, bid documents, request for
14 proposals, or evaluation criteria for a procurement contract, (ii)
15 solicitation for a procurement contract, (iii) evaluation of a procure-
16 ment contract, (iv) award, approval, denial or disapproval of a procure-
17 ment contract, or (v) approval or denial of an assignment, amendment
18 (other than amendments that are authorized and payable under the terms
19 of the procurement contract as it was finally awarded or approved by the
20 comptroller, as applicable), renewal or extension of a procurement
21 contract, or any other material change in the procurement contract
22 resulting in a financial benefit to the offerer.

23 (q) The term "offerer" shall mean the individual or entity, or any
24 employee, agent, lobbyist or consultant of such individual or entity,
25 that contacts a state agency, either house of the state legislature, the
26 unified court system, a municipal agency or local legislative body about
27 a governmental procurement.

28 (r) The term "procurement contract" shall mean any contract or other
29 agreement for an article of procurement involving an estimated annual-
30 ized expenditure in excess of fifteen thousand dollars. Grants, article
31 eleven-B state finance law contracts, program contracts between not-for-
32 profit organizations, as defined in article eleven-B of the state
33 finance law, and the unified court system, intergovernmental agreements,
34 railroad and utility force accounts, utility relocation project agree-
35 ments or orders and eminent domain transactions shall not be deemed
36 procurement contracts.

37 (s) The term "municipal agency" shall mean: (i) any department, board,
38 bureau, commission, division, office, council, committee or officer of a
39 municipality, whether permanent or temporary; or (ii) an industrial
40 development agency, located in a jurisdictional subdivision of the state
41 with a population of more than fifty thousand, or local public benefit
42 corporation, as that term is defined in section sixty-six of the general
43 construction law.

44 (t) The term "local legislative body" shall mean the board of supervi-
45 sors, board of aldermen, common council, council, commission, town
46 board, board of trustees or other elective governing board or body of a
47 municipality now or hereafter vested by state statute, charter or other
48 law with jurisdiction to initiate and adopt local laws and ordinances,
49 whether or not such local laws or ordinances require approval of the
50 elective chief executive officer or other official or body to become
51 effective.

52 (u) The term "commission salesperson" shall mean any person the prima-
53 ry purpose of whose employment is to cause or promote the sale of, or to
54 influence or induce another to make a purchase of an article of procure-
55 ment, whether such person is an employee (as that term is defined for
56 tax purposes) of or an independent contractor for a vendor, provided

1 that an independent contractor shall have a written contract for a term
2 of not less than six months or for an indefinite term, and which person
3 shall be compensated, in whole or in part, by the payment of a percent-
4 age amount of all or a substantial part of the sales which such person
5 has caused, promoted, influenced or induced, provided, however, that no
6 person shall be considered a commission salesperson with respect to any
7 sale to or purchase by a state agency, either house of the state legis-
8 lature, the unified court system, a municipal agency or local legisla-
9 tive body if the percentage amount of any commission payable with
10 respect to such sale or purchase is substantially in excess of any
11 commission payable with respect to any comparable sale to a purchaser
12 that is not a state agency, either house of the state legislature, the
13 unified court system, a municipal agency or local legislative body;
14 further, provided, however, that any person that is required to file a
15 statement or report pursuant to this section by virtue of engaging in
16 lobbying activities as defined in subparagraphs (i) through (iv) and
17 (vi) through (x) of paragraph (c) of this subdivision shall not be
18 deemed to be a "commission salesperson" for purposes of this section.

19 (v) The term "unified court system", for the purposes of this chapter,
20 shall mean the unified court system of the state of New York, or the
21 office of court administration, where appropriate, other than town and
22 village justice courts in jurisdictions with a population under fifty
23 thousand, when it acts solely in an administrative capacity to engage in
24 governmental procurements and shall not include the unified court system
25 or any court of the state judiciary when it acts to hear and decide
26 cases of original or appellate jurisdiction or otherwise acts in its
27 judicial, as opposed to administrative, capacity.

28 3. Lobby-related powers of the commission. In addition to any other
29 powers and duties provided by section seventy-three-c of this article,
30 the commission shall, with respect to its lobbying-related functions
31 only, have the power and duty to:

32 (a) administer and enforce all the provisions of this section;

33 (b) conduct any investigation necessary to carry out the provisions of
34 this article at any place within the state. Pursuant to this power and
35 duty, the commission may administer oaths or affirmations, subpoena
36 witnesses, compel their attendance and require the production of any
37 books or records which it may deem relevant or material;

38 (c) conduct a program of regular as well as random audits subject to
39 the terms and conditions of this subdivision. Any such program shall be
40 carried out in the following manner:

41 (i) The commission may regularly and randomly select reports or regis-
42 tration statements required to be filed by lobbyists or clients pursuant
43 to this section for audit. Any such selection shall be done in a manner
44 pursuant to which the identity of any particular lobbyist or client
45 whose statement or report is selected for audit is unknown to the
46 commission, its staff or any of their agents prior to selection.

47 (ii) The commission shall develop protocols for the conduct of such
48 regular and random audits. Such regular and random audits may require
49 the production of books, papers, records or memoranda relevant and mate-
50 rial to the preparation of the selected statements or reports, for exam-
51 ination by the commission. Any such protocols shall ensure that similar-
52 ly situated statements or reports are audited in a uniform manner.

53 (iii) The commission may contract with an outside accounting entity,
54 which shall monitor the process pursuant to which the commission selects
55 statements or reports for audit and carries out the provisions of



1 subparagraphs (i) and (ii) of this paragraph and certifies that such
2 process complies with the provisions of such subparagraphs.

3 (iv) Upon completion of a regular or random audit conducted in accord-
4 ance with the provisions of subparagraphs (i), (ii) and (iii) of this
5 paragraph, the commission shall determine whether there is reasonable
6 cause to believe that any such statement or report is inaccurate or
7 incomplete. Upon a determination that such reasonable cause exists, the
8 commission may require the production of further books, records or memo-
9 randa, subpoena witnesses, compel their attendance and testimony and
10 administer oaths or affirmations, to the extent the commission deter-
11 mines such actions are necessary to obtain information relevant and
12 material to investigating such inaccuracies or omissions;

13 (d) conduct hearings pursuant to article seven of the public officers
14 law. Any hearing may be conducted as a video conference in accordance
15 with the provisions of subdivision four of section one hundred four of
16 the public officers law;

17 (e) prepare uniform forms for the lobbying-related statements and
18 reports required by this subdivision;

19 (f) meet at least once during each bi-monthly reporting period of the
20 year as established by paragraph (a) of subdivision seven of this
21 section and may meet at such other times as the commission, or the chair
22 and vice-chair jointly, shall determine; and

23 (g) submit by the first day of March next following the year for which
24 such report is made to the governor and the members of the legislature
25 an annual report summarizing the commission's work, listing the lobby-
26 ists and clients required to register pursuant to this section and the
27 expenses and compensation reported pursuant to this section and making
28 recommendations with respect to this section. The commission shall make
29 this report available free of charge to the public.

30 4. Statement of registration. (a) (i) Every lobbyist shall annually
31 file with the commission, on forms provided by the commission, a state-
32 ment of registration for each calendar year; provided, however, that the
33 filing of such statement of registration shall not be required of any
34 lobbyist who (1) in any year does not expend, incur or receive an amount
35 in excess of five thousand dollars of reportable compensation and
36 expenses, as provided in subparagraph (v) of paragraph (b) of subdivi-
37 sion seven of this section, for the purposes of lobbying or (2) is an
38 officer, director, trustee or employee of any public corporation, when
39 acting in such official capacity; provided however, that nothing in this
40 subdivision shall be construed to relieve any public corporation of the
41 obligation to file such statements and reports as required by this
42 section. The amounts expended, incurred, or received of reportable
43 compensation and expenses for lobbying activities shall be computed
44 cumulatively for all lobbying activities when determining whether the
45 thresholds set forth in this subdivision have been met.

46 (ii) Every lobbyist shall biennially file with the commission, on
47 forms provided by the commission, a statement of registration for each
48 biennial period beginning with the first year of the biennial cycle
49 commencing calendar year two thousand five and thereafter; provided,
50 however, that the biennial filing of such statement of registration
51 shall not be required of any lobbyist who (1) in any year does not
52 expend, incur or receive an amount in excess of five thousand dollars of
53 reportable compensation, as provided in subparagraph (v) of paragraph
54 (b) of subdivision seven of this section for the purposes of lobbying or
55 (2) is an officer, director, trustee or employee of any public corpo-
56 ration, when acting in such official capacity; provided however, that

1 nothing in this subdivision shall be construed to relieve any public
2 corporation of the obligation to file such statements and reports as
3 required by this section.

4 (iii) Such biennial filings shall be completed on or before January
5 first of the first year of a biennial cycle commencing in calendar year
6 two thousand five and thereafter, by those persons who have been
7 retained, employed or designated as lobbyist on or before December
8 fifteenth of the previous calendar year and who reasonably anticipate
9 that in the coming year they will expend, incur or receive combined
10 reportable compensation and expenses in an amount in excess of five
11 thousand dollars commencing in two thousand ten; for those lobbyists
12 retained, employed or designated after the previous December fifteenth,
13 and for those lobbyists who subsequent to their retainer, employment or
14 designation reasonably anticipate combined reportable compensation and
15 expenses in excess of such amount, such filing must be completed within
16 fifteen days thereafter, but in no event later than ten days after the
17 actual incurring or receiving of such reportable compensation and
18 expenses.

19 (b) (i) Such statements of registration shall be kept on file for a
20 period of three years for those filing periods where annual statements
21 are required, and shall be open to public inspection during such period;
22 (ii) Biennial statements of registration shall be kept on file for a
23 period of three biennial filing periods where biennial statements are
24 required, and shall be open to public inspection during such period.

25 (c) Such statement of registration shall contain: (i) the name,
26 address and telephone number of the lobbyist and the spouse, domestic
27 partner and unemancipated children of the lobbyist, and if the lobbyist
28 is an organization the names, addresses and telephone numbers of any
29 officer or employee of such lobbyist who engages in any lobbying activ-
30 ities or who is employed in an organization's division that engages in
31 lobbying activities of the organization and the spouse and unemancipated
32 children of such officers or employees, provided that the addresses and
33 telephone numbers of spouses and unemancipated children shall be not be
34 made available to the public; (ii) the name, address and telephone
35 number of the client by whom or on whose behalf the lobbyist is
36 retained, employed or designated; (iii) if such lobbyist is retained or
37 employed pursuant to a written agreement of retainer or employment, a
38 copy of such shall also be attached and if such retainer or employment
39 is oral, a statement of the substance thereof; such written retainer, or
40 if it is oral, a statement of the substance thereof, and any amendment
41 thereto, shall be retained for a period of three years; (iv) a written
42 authorization from the client by whom the lobbyist is authorized to
43 lobby, unless such lobbyist has filed a written agreement of retainer or
44 employment pursuant to subparagraph (iii) of this paragraph; (v) the
45 following information on which the lobbyist expects to lobby: (1) a
46 description of the general subject or subjects, (2) the legislative bill
47 numbers of any bills, (3) the numbers or subject matter (if there are no
48 numbers) of gubernatorial executive orders or executive orders issued by
49 the chief executive officer of a municipality, (4) the subject matter of
50 and tribes involved in tribal-state compacts, memoranda of understand-
51 ing, or any other state-tribal agreements and any state actions related
52 to class III gaming as provided in 25 U.S.C. § 2701, (5) the rule, regu-
53 lation, and ratemaking numbers of any rules, regulations, rates, or
54 municipal ordinances and resolutions, or proposed rules, regulations, or
55 rates, or municipal ordinances and resolutions, (6) the titles and any
56 identifying numbers of any state loans, state grants, procurement



1 contracts and other disbursements or documents disseminated by a state
2 agency, either house of the state legislature, the unified court system,
3 municipal agency or local legislative body in connection with a govern-
4 mental procurement, and the identity of any investment for public
5 pension funds; (vi) the name of the person, organization, or legislative
6 body before which the lobbyist is lobbying or expects to lobby; and
7 (vii) if the lobbyist is retained, employed or designated by more than
8 one client, a separate statement of registration shall be required for
9 each such client.

10 (d) Any amendment to the information filed by the lobbyist in the
11 original statement of registration shall be submitted to the commission
12 on forms supplied by the commission within ten days after such amend-
13 ment, however, this shall not require the lobbyist to amend the entire
14 registration form.

15 (e) (i) The first statement of registration filed annually by each
16 lobbyist shall be accompanied by a registration fee of two hundred
17 dollars except that no registration fee shall be required from any
18 lobbyist who in any year does not expend, incur or receive an amount in
19 excess of five thousand dollars of reportable compensation and expenses,
20 as provided in subparagraph (v) of paragraph (b) of subdivision seven of
21 this section, for the purposes of lobbying or of a public corporation. A
22 fee of two hundred dollars shall be required for any subsequent state-
23 ment of registration filed by a lobbyist during the same biennial peri-
24 od; (ii) The statement of registration filed after the due date of a
25 biennial registration shall be accompanied by a registration fee that is
26 prorated to one hundred dollars for any registration filed after January
27 first of the second calendar year covered by the biennial reporting
28 requirement. In addition to the fees authorized by this subdivision, the
29 commission may impose a fee for late filing of a registration statement
30 required by this subdivision not to exceed twenty-five dollars for each
31 day that the statement required to be filed is late, except that if the
32 lobbyist making a late filing has not previously been required by stat-
33 ute to file such a statement, the fee for late filing shall not exceed
34 ten dollars for each day that the statement required to be filed is
35 late.

36 4-a. Every lobbyist shall provide on the registration statement forms
37 provided by the commission a statement listing any business relation-
38 ships with state officers, members of the legislature, and legislative
39 employees regardless of whether or not for compensation. For the
40 purposes of this subdivision, business relationships shall include, but
41 not be limited to, referrals, oral agreements, or formal written
42 contractual agreements.

43 4-b. Beyond the items required to be listed pursuant to this section,
44 every lobbyist shall provide on the registration statement forms
45 provided by the commission a statement listing all lobbyist or client
46 solicitations of public officers within any department, agency, or
47 either house of the legislature.

48 5. Monthly registration docket. It shall be the duty of the commission
49 to compile a monthly docket of statements of registration containing all
50 information required by subdivision four of this section. Each such
51 monthly docket shall contain all statements of registration filed during
52 such month and all amendments to previously filed statements of regis-
53 tration. Copies shall be made available for public inspection.

54 6. Termination of retainer, employment or designation. Upon the termi-
55 nation of a lobbyist's retainer, employment or designation, such lobby-
56 ist and the client on whose behalf such service has been rendered shall

1 both give written notice to the commission within thirty days after the
2 lobbyist ceases the activity that required such lobbyist to file a
3 statement of registration; however, such lobbyist shall nevertheless
4 comply with the bi-monthly reporting requirements up to the date such
5 activity has ceased as required by this section and both such parties
6 shall each file the semi-annual report required by subdivision nine of
7 this section. The commission shall enter notice of such termination in
8 the appropriate monthly registration docket required by subdivision five
9 of this section.

10 7. Bi-monthly reports of certain lobbyists. (a) Any lobbyist required
11 to file a statement of registration pursuant to subdivision four of this
12 section who in any lobbying year reasonably anticipates that during the
13 year they will expend, incur or receive combined reportable compensation
14 and expenses in an amount in excess of five thousand dollars, as
15 provided in subparagraph (v) of paragraph (b) of this subdivision, for
16 the purpose of lobbying, shall file with the commission a bi-monthly
17 written report, on forms supplied by the commission, by the fifteenth
18 day next succeeding the end of the reporting period in which the lobby-
19 ist was first required to file a statement of registration. Such report-
20 ing periods shall be the period of January first to the last day of
21 February, March first to April thirtieth, May first to June thirtieth,
22 July first to August thirty-first, September first to October thirty-
23 first and November first to December thirty-first.

24 (b) Such bi-monthly report shall contain:

25 (i) the name, address and telephone number of the lobbyist;

26 (ii) the name, address and telephone number of the client by whom or
27 on whose behalf the lobbyist is retained, employed or designated;

28 (iii) the following information on which the lobbyist has lobbied,
29 solicited, or entered a business relationship with: (1) a description
30 of the general subject or subjects, (2) the legislative bill numbers of
31 any bills, (3) the numbers or subject matter (if there are no numbers)
32 of gubernatorial executive orders or executive orders issued by the
33 chief executive officer of a municipality, (4) the subject matter of and
34 tribes involved in tribal-state compacts, memoranda of understanding, or
35 any other state-tribal agreements and any state actions related to class
36 III gaming as provided in 25 U.S.C. § 2701, (5) the rule, regulation,
37 and ratemaking or municipal ordinance or resolution numbers of any
38 rules, regulations, or rates or ordinance or proposed rules, regu-
39 lations, or rates or municipal ordinances or resolutions, (6) titles and
40 any identifying numbers of any procurement contracts and other documents
41 disseminated by a state agency, either house of the state legislature,
42 the unified court system, municipal agency or local legislative body in
43 connection with a governmental procurement, and (7) the identity of any
44 investment for public pension funds;

45 (iv) the name of the person, organization, or legislative body before
46 which the lobbyist has lobbied;

47 (v) (1) the compensation paid or owed to the lobbyist, and any
48 expenses expended, received or incurred by the lobbyist for the purpose
49 of lobbying.

50 (2) expenses required to be reported pursuant to subparagraph (i) of
51 this paragraph shall be listed in the aggregate if seventy-five dollars
52 or less and if more than seventy-five dollars such expenses shall be
53 detailed as to amount, to whom paid, and for what purpose; and where
54 such expense is more than seventy-five dollars on behalf of any one
55 person, the name of such person shall be listed.

56 (3) for the purposes of this paragraph, expenses shall not include:

1 (A) personal sustenance, lodging and travel disbursements of such
2 lobbyist;

3 (B) expenses, not in excess of five hundred dollars in any one calen-
4 dar year, directly incurred for the printing or other means of reprod-
5 uction or mailing of letters, memoranda or other written communications.

6 (4) expenses paid or incurred for salaries other than that of the
7 lobbyist shall be listed in the aggregate.

8 (5) expenses of more than fifty dollars shall be paid by check or
9 substantiated by receipts and such checks and receipts shall be kept on
10 file by the lobbyist for a period of three years.

11 (c) (i) All such bi-monthly reports shall be subject to review by the
12 commission.

13 (ii) Such bi-monthly reports shall be kept on file for three years and
14 shall be open to public inspection during such time.

15 (iii) In addition to the filing fees authorized by this section, the
16 commission may impose a fee for late filing of a bi-monthly report
17 required by this subdivision not to exceed twenty-five dollars for each
18 day that the report required to be filed is late, except that if the
19 lobbyist making a late filing has not previously been required by stat-
20 ute to file such a report, the fee for late filing shall not exceed ten
21 dollars for each day that the report required to be filed is late.

22 8. Bi-monthly reports of public corporations. (a) Every public corpo-
23 ration required to file a statement of registration pursuant to subdivi-
24 sion four of this section which in any lobbying year reasonably antic-
25 ipates that during the year they will expend or incur expenses in an
26 amount in excess of five thousand dollars, as provided in subparagraph
27 (vi) of paragraph (b) of this subdivision, for the purpose of lobbying
28 shall file with the commission a bi-monthly written report, on forms
29 supplied by the commission, by the fifteenth day next succeeding the end
30 of the reporting period in which the public corporation was first
31 required to file a statement of registration. Such reporting periods
32 shall be the period of January first to the last day of February, March
33 first to April thirtieth, May first to June thirtieth, July first to
34 August thirty-first, September first to October thirty-first and Novem-
35 ber first to December thirty-first.

36 (b) Such bi-monthly report shall contain:

37 (i) the name, address and telephone number of such public corporation;

38 (ii) the name, address and telephone number of each lobbyist retained,
39 employed or designated by such public corporation;

40 (iii) copies of any amendments relating to a retainer, employment or
41 designation, as filed in the original statement of registration pursuant
42 to subdivision four of this section;

43 (iv) a description of the general subject or subjects, the legislative
44 bill numbers of any bills and the rule, regulation, and ratemaking
45 numbers of any rules, regulations, or rates or proposed rules, regu-
46 lations, rates, article of procurement or procurement contracts or
47 pension fund investments on which the lobbyist has lobbied, and on which
48 such public corporation has lobbied;

49 (v) the name of the person, organization or legislative body before
50 which the public corporation, or its lobbyists, has lobbied;

51 (vi) (1) the compensation paid or owed to the lobbyist and any
52 expenses expended, received or incurred by the lobbyist for the purpose
53 of lobbying; provided, however, any such expenses paid by such public
54 corporation to a lobbyist for the purpose of lobbying on behalf of such
55 public corporation shall be itemized in the same manner as if such
56 public corporation had directly paid or incurred such expenses.

1 (2) any expenses required to be reported pursuant to clause one of
2 this subparagraph shall be listed in the aggregate if seventy-five
3 dollars or less and if more than seventy-five dollars such expenses
4 shall be detailed as to amount, to whom paid, and for what purpose; and
5 where such expenses are more than seventy-five dollars on behalf of any
6 one person, the name of such person shall be listed.

7 (3) for the purposes of this subparagraph, expenses shall not include:

8 (A) personal sustenance, lodging and travel disbursements of each such
9 lobbyist;

10 (B) expenses, not in excess of five hundred dollars in any one calen-
11 dar year, directly incurred for the printing or other means of reprod-
12 uction or mailing of letters, memoranda or other written communications.

13 (4) expenses paid or incurred for compensation other than that of each
14 lobbyist shall be listed in the aggregate.

15 (5) expenses of more than fifty dollars must be paid by check or
16 substantiated by receipts and such checks and receipts shall be kept on
17 file by such public corporation for a period of three years.

18 (c) (i) All such bi-monthly reports shall be subject to review by the
19 commission.

20 (ii) Such bi-monthly reports shall be kept on file for a period of
21 three years and shall be open to public inspection during such period.

22 (iii) In addition to the filing fees authorized by this section, the
23 commission may impose a fee for late filing of a bi-monthly report
24 required by this subdivision not to exceed twenty-five dollars for each
25 day that the report required to be filed is late, except that if the
26 public corporation making a late filing has not previously been required
27 by statute to file such a report, the fee for late filing shall not
28 exceed ten dollars for each day that the report required to be filed is
29 late.

30 9. Semi-annual reports. (a) Semi-annual reports shall be filed by any
31 client retaining, employing or designating a lobbyist or lobbyists,
32 whether or not any such lobbyist was required to file a bi-monthly
33 report, if such client reasonably anticipates that during the year they
34 will expend or incur an amount in excess of five thousand dollars of
35 combined reportable compensation and expenses, as provided in subpara-
36 graph (v) of paragraph (b) of this subdivision, for the purposes of
37 lobbying.

38 (b) Such report shall be filed with the commission, on forms supplied
39 by the commission, by the fifteenth day of July of the year and by the
40 fifteenth day of January next following the year for which such report
41 is made and shall contain:

42 (i) the name, address and telephone number of the client;

43 (ii) the name, address and telephone number of each lobbyist retained,
44 employed or designated by such client;

45 (iii) the following information on which each lobbyist retained,
46 employed or designated by such client has lobbied, and on which such
47 client has lobbied: (1) a description of the general subject or
48 subjects, (2) the legislative bill numbers of any bills, (3) the numbers
49 or subject matter (if there are no numbers) of gubernatorial executive
50 orders or executive orders issued by the chief executive officer of a
51 municipality, (4) the subject matter of and tribes involved in tribal-
52 state compacts, memoranda of understanding, or any other state-tribal
53 agreements and any state actions related to class III gaming as provided
54 in 25 U.S.C. 2701, (5) the rule, regulation, and ratemaking or municipal
55 resolution or ordinance numbers of any rules, regulations, or rates, or
56 municipal resolutions or ordinances or proposed rules, regulations, or



1 rates, or municipal ordinances or resolutions and (6) the titles and any
2 identifying numbers of any procurement contracts and other documents
3 disseminated by a state agency, either house of the state legislature,
4 the unified court system, municipal agency or local legislative body in
5 connection with a governmental procurement;

6 (iv) the name of the person, organization, or legislative body before
7 which such client has lobbied;

8 (v) (1) the compensation paid or owed to each such lobbyist, and any
9 other expenses paid or incurred by such client for the purpose of lobby-
10 ing.

11 (2) any expenses required to be reported pursuant to clause one of
12 this subparagraph shall be listed in the aggregate if seventy-five
13 dollars or less and if more than seventy-five dollars such expenses
14 shall be detailed as to amount, to whom paid, and for what purpose; and
15 where such expenses are more than seventy-five dollars on behalf of any
16 one person, the name of such person shall be listed.

17 (3) for the purposes of this subparagraph, expenses shall not include:

18 (A) personal sustenance, lodging and travel disbursements of such
19 lobbyist and client;

20 (B) expenses, not in excess of five hundred dollars, directly incurred
21 for the printing or other means of reproduction or mailing of letters,
22 memoranda or other written communications.

23 (4) expenses paid or incurred for salaries other than that of the
24 lobbyist shall be listed in the aggregate.

25 (5) expenses of more than fifty dollars must be paid by check or
26 substantiated by receipts and such checks and receipts shall be kept on
27 file by such client for a period of three years.

28 (c) (i) All such semi-annual reports shall be subject to review by the
29 commission.

30 (ii) Such semi-annual reports shall be kept on file for a period of
31 three years and shall be open to public inspection during such period.

32 (iii) Each semi-annual report filed by a client pursuant to this
33 subdivision shall be accompanied by a filing fee of fifty dollars. In
34 addition to the filing fees authorized by this section, the commission
35 may impose a fee for late filing of a semi-annual report required by
36 this subdivision not to exceed twenty-five dollars for each day that the
37 report required to be filed is late, except that if the client making a
38 late filing has not previously been required by statute to file an annu-
39 al or semi-annual report, the fee for late filing shall not exceed ten
40 dollars for each day that the report required to be filed is late.

41 10. Contingent retainer. (a) No client shall retain or employ any
42 lobbyist for compensation, including, but not limited to, any bonus,
43 success fee, or other inducement to an individual that increases his or
44 her personal income or wealth, the rate or amount of which compensation
45 in whole or part is contingent or dependent upon:

46 (i) (1) the passage or defeat of any legislative bill or the approval
47 or veto of any legislation by the governor, (2) the terms, issuance,
48 modification or rescission of a gubernatorial executive order, (3) the
49 terms, approval or disapproval, or the implementation and administration
50 of tribal-state compacts, memoranda of understanding, or any other
51 tribal-state agreements and any state actions related to class III
52 gaming as provided in 25 U.S.C. 2701, or (4) the adoption or rejection
53 of any code, rule or regulation having the force and effect of law or
54 the outcome of any rate making proceeding by a state agency; (ii) (1) the
55 passage or defeat of any local law, ordinance, regulation or resolution
56 by any municipality or subdivision thereof, (2) the terms, issuance,

1 modification or rescission of an executive order issued by the chief
2 executive officer of a municipality, or (3) the adoption, rejection or
3 implementation of any rule, resolution or regulation having the force
4 and effect of a local law, ordinance or regulation or any rate making
5 proceeding by any municipality or subdivision thereof; (4) any determi-
6 nation by the office of the state or city of New York comptroller, a
7 state agency, including, but not limited to, public authorities and
8 public benefit corporations, either house of the state legislature, the
9 unified court system, municipal agency or local legislative body with
10 respect to a governmental procurement, article of procurement or a
11 grant, loan, purchase or lease of real or personal property, agreement
12 or investment involving the disbursement of public monies.

13 (b) No person shall accept such a retainer or employment. A violation
14 of this subdivision shall be a class A misdemeanor.

15 11. Reports of lobbying involving disbursement of public monies. (a)
16 Any lobbyist required to file a statement of registration pursuant to
17 subdivision four of this section who in any lobbying year reasonably
18 anticipates that during the year they will expend, incur or receive
19 combined reportable compensation and expenses in an amount in excess of
20 five thousand dollars shall file with the commission, on forms supplied
21 by the commission, a report of any attempts to influence a determination
22 by a public official, or by a person or entity working in cooperation
23 with a public official, with respect to the solicitation, award or
24 administration of a grant, loan, or agreement involving the disbursement
25 of public monies in excess of fifteen thousand dollars other than a
26 governmental procurement as defined in subdivision two of this section.

27 (b) Such public monies lobbying reports shall contain:

28 (i) the name, address and telephone number of the lobbyist and the
29 individuals employed by the lobbyist engaged in such public monies
30 lobbying activities;

31 (ii) the name, address and telephone number of the client by whom or
32 on whose behalf the lobbyist is retained, employed or designated on
33 whose behalf the lobbyist engaged in lobbying reportable under this
34 paragraph;

35 (iii) a description of the grant, loan, or agreement involving the
36 disbursement of public monies on which the lobbyist has lobbied;

37 (iv) the name of the person, organization, or legislative body before
38 which the lobbyist has engaged in lobbying reportable under this para-
39 graph; and

40 (v) the compensation paid or owed to the lobbyist, and any expenses
41 expended, received or incurred by the lobbyist for the purpose of lobby-
42 ing reportable under this paragraph.

43 (c) Public monies lobbying reports required pursuant to this paragraph
44 shall be filed in accordance with the schedule applicable to the filing
45 of bi-monthly reports pursuant to subdivision seven of this section and
46 shall be filed not later than the fifteenth day next succeeding the end
47 of such reporting period.

48 (d) In addition to any other fees authorized by this section, the
49 commission may impose a fee for late filing of a report required by this
50 subdivision not to exceed fifty dollars for each day that the report
51 required to be filed is late, except that if the lobbyist making a late
52 filing has not previously been required by statute to file such a
53 report, the fee for late filing shall not exceed twenty-five dollars for
54 each day that the report required to be filed is late.

1 (e) All reports filed pursuant to this subdivision shall be subject to
2 review by the commission. Such reports shall be kept in electronic form
3 by the commission and shall be available for public inspection.

4 12. Prohibition of gifts. No individual or entity required to be
5 listed on a statement of registration pursuant to this section shall
6 offer or give a gift to any public official as defined within this
7 section, unless under the circumstances it is not reasonable to infer
8 that the gift was intended to influence such public official. No indi-
9 vidual or entity required to be listed on a statement of registration
10 pursuant to this section shall offer or give a gift to the spouse or
11 unemancipated child of any public official as defined within this
12 section under circumstances where it is reasonable to infer that the
13 gift was intended to influence such public official. No spouse or
14 unemancipated child of an individual required to be listed on a state-
15 ment of registration pursuant to this section shall offer or give a gift
16 to a public official under circumstances where it is reasonable to infer
17 that the gift was intended to influence such public official. This
18 section shall not apply to gifts to officers, members or directors of
19 boards, commissions, councils, public authorities or public benefit
20 corporations who receive no compensation or are compensated on a per
21 diem basis, unless the person listed on the statement of registration
22 appears or has matters pending before the board, commission or council
23 on which the recipient sits.

24 13. Restricted contacts. (a) During the restricted period, no person
25 or organization required to file a statement or report pursuant to this
26 section shall engage in lobbying activities concerning a governmental
27 procurement by a state agency, either house of the state legislature,
28 the unified court system, or a municipal agency, as that term is defined
29 by subparagraph (ii) of paragraph (s) of subdivision two of this
30 section, by contacting a person within the procuring entity who has not
31 been designated pursuant to section one hundred thirty-nine-j of the
32 state finance law to receive communications relative to the governmental
33 procurement. Further, during the restricted period, no person or organ-
34 ization required to file a lobbying registration statement or report
35 pursuant to this section shall engage in lobbying activities concerning
36 a governmental procurement by contacting any person in a state agency
37 other than the state agency conducting the governmental procurement
38 about that governmental procurement. The prohibitions set forth in this
39 paragraph shall not apply to any contacts described in paragraph (b) or
40 (c) of this subdivision.

41 (b) A complaint by an offerer regarding the failure of the person or
42 persons designated by the procuring entity pursuant to section one
43 hundred thirty-nine-j of the state finance law to respond in a timely
44 manner to authorized offerer contacts shall not be deemed to be "lobby-
45 ing" or "lobbying activities" and shall be exempt from the provisions of
46 paragraph one of this subdivision and shall be made in writing to the
47 office of general counsel of the state agency, either house of the state
48 legislature or the unified court system that is conducting the procure-
49 ment. Further, the following contacts shall not be deemed to be "lobby-
50 ing" or "lobbying activities" and shall be exempt from the provisions of
51 paragraph (a) of this subdivision:

52 (i) contacts by offerers in protests, appeals or other review
53 proceedings (including the apparent successful bidder or proposer and
54 his or her representatives) before the governmental entity conducting
55 the procurement seeking a final administrative determination, or in a
56 subsequent judicial proceeding; or

1 (ii) complaints of alleged improper conduct in a governmental procure-
2 ment to the attorney general, inspector general, district attorney, or
3 court of competent jurisdiction; or

4 (iii) written protests, appeals or complaints to the state comp-
5 troller's office during the process of contract approval, where the
6 state comptroller's approval is required by law, and where such communi-
7 cations and any responses thereto are made in writing and shall be
8 entered in the procurement record pursuant to section one hundred
9 sixty-three of the state finance law; or

10 (iv) complaints of alleged improper conduct in a governmental procure-
11 ment conducted by a municipal agency or local legislative body to the
12 state comptroller's office; provided, however, that nothing in this
13 paragraph shall be construed as recognizing or creating any new rights,
14 duties or responsibilities or abrogating any existing rights, duties or
15 responsibilities of any governmental entity as it pertains to implemen-
16 tation and enforcement of article eleven of the state finance law or any
17 other provision of law dealing with the governmental procurement proc-
18 ess.

19 (c) Nothing in this subdivision shall be deemed to prohibit a person
20 or organization required to file a statement or report pursuant to this
21 section from contacting a member of the state legislature concerning a
22 governmental procurement in a state agency, the unified court system, or
23 a municipal agency, as that term is defined by subparagraph (ii) of
24 paragraph (s) of subdivision two of this section.

25 14. Penalties. (a) (i) Any lobbyist, public corporation, or client
26 who knowingly and wilfully fails to file timely a report or statement
27 required by this section or knowingly and wilfully files false informa-
28 tion or knowingly and wilfully violates subdivision twelve of this
29 section shall be guilty of a class A misdemeanor; and (ii) any lobbyist,
30 public corporation, or client who knowingly and wilfully fails to file
31 timely a report or statement required by this section or knowingly and
32 wilfully files false information or knowingly and wilfully violates
33 subdivision twelve of this section, after having previously been
34 convicted in the preceding five years of the crime described in subpara-
35 graph (i) of this paragraph, shall be guilty of a class E felony. Any
36 lobbyist convicted of or pleading guilty to a misdemeanor under the
37 provisions of this section shall be barred from acting as a lobbyist for
38 a period of one year from the date of the conviction. Any lobbyist
39 convicted of or pleading guilty to a felony under the provisions of this
40 section shall be barred from acting as a lobbyist for a period of four
41 years from the date of the conviction. For the purposes of this para-
42 graph, the chief administrative officer of any organization required to
43 file a statement or report shall be the person responsible for making
44 and filing such statement or report unless some other person prior to
45 the due date thereof has been duly designated to make and file such
46 statement or report.

47 (b) (i) A lobbyist, public corporation, or client who knowingly and
48 wilfully fails to file a statement or report within the time required
49 for the filing of such report or knowingly and wilfully violates subdivi-
50 vision twelve of this section shall be subject to a civil penalty for
51 each such failure or violation, in an amount not to exceed the greater
52 of twenty-five thousand dollars or three times the amount the person
53 failed to report properly or unlawfully contributed, expended, gave or
54 received, to be assessed by the commission.

55 (ii) A lobbyist, public corporation, or client who knowingly and
56 wilfully files a false statement or report shall be subject to a civil

1 penalty, in an amount not to exceed the greater of fifty thousand
2 dollars or five times the amount the person failed to report properly,
3 to be assessed by the commission.

4 (iii) (1) A lobbyist or client who knowingly and wilfully violates the
5 provisions of paragraph (a) of subdivision thirteen of this section
6 shall be subject to a civil penalty not to exceed ten thousand dollars
7 for an initial violation.

8 (2) If, after a lobbyist or client has been found to have violated
9 paragraph (a) of subdivision thirteen of this section, a lobbyist or
10 client knowingly and wilfully violates the provisions of paragraph (a)
11 of subdivision thirteen of this section within four years of such find-
12 ing, the lobbyist or client shall be subject to a civil penalty not to
13 exceed twenty-five thousand dollars.

14 (iv) Any lobbyist or client that knowingly and wilfully fails to file
15 a statement or report within the time required for the filing of such
16 report, knowingly and wilfully files a false statement or report, or
17 knowingly and wilfully violates subdivision twelve or subdivision thir-
18 teen of this section shall be subject to a determination that the lobby-
19 ist or client is prohibited from engaging in lobbying activities, as
20 that term is defined in subparagraph (v) of paragraph (c) of subdivision
21 two of this section, for a period of up to one year.

22 (v) Any lobbyist or client that knowingly and wilfully engages in
23 lobbying activities, as that term is defined in subparagraph (v) of
24 paragraph (c) of subdivision two of this section, during the period in
25 which they are prohibited from engaging in lobbying activities, as that
26 term is defined in subparagraph (v) of paragraph (c) of subdivision two
27 of this section pursuant to this paragraph, may be subject to a determi-
28 nation that the lobbyist or client is prohibited from engaging in lobby-
29 ing activities, as that term is defined in subparagraph (v) of paragraph
30 (c) of subdivision two of this section, for a period of up to four
31 years, and shall be subject to a civil penalty not to exceed fifty thou-
32 sand dollars, plus a civil penalty in an amount equal to the value of
33 any gift, compensation or benefit received as a result of the violation.

34 (vi) A lobbyist, public corporation, or client who knowingly and
35 wilfully fails to retain their records pursuant to subparagraph (iii) of
36 paragraph (c) of subdivision four of this section, clause five of
37 subparagraph (v) of paragraph (b) of subdivision seven of this section,
38 or subparagraph (v) of paragraph (b) of subdivision nine of this section
39 shall be subject to a civil penalty in an amount of two thousand dollars
40 per violation to be assessed by the commission.

41 (c) (i) Any assessment or order to debar shall be determined only after
42 a hearing at which the party shall be entitled to appear, present
43 evidence and be heard. Any assessment or order to debar pursuant to this
44 paragraph may only be imposed after the commission sends by certified
45 and first-class mail written notice of intent to assess a penalty or
46 order to debar and the basis for the penalty or order to debar. Any
47 assessment may be recovered in an action brought by the attorney gener-
48 al.

49 (ii) In assessing any fine or penalty pursuant to this subdivision,
50 the commission shall consider: (1) as a mitigating factor that the
51 lobbyist, public corporation or client has not previously been required
52 to register, and (2) as an aggravating factor that the lobbyist, public
53 corporation or client has had fines or penalties assessed against it in
54 the past. The amount of compensation expended, incurred or received
55 shall be a factor to consider in determining a proportionate penalty.

1 (iii) Any lobbyist, public corporation or client who receives a notice
2 of intent to assess a penalty for knowingly and willfully failing to
3 file a report or statement pursuant to paragraph (b) of this subdivision
4 and who has never previously registered with or reported to the commis-
5 sion shall be granted fifteen days within which to file the statement of
6 registration or report without being subject to the fine or penalty set
7 forth in paragraph (b) of this subdivision. Upon the failure of such
8 lobbyist, public corporation or client, to file within such fifteen day
9 period, such lobbyist, public corporation or client, shall be subject to
10 the fine or penalty pursuant to paragraph (b) of this subdivision.

11 (d) All moneys recovered by the attorney general or received by the
12 commission from the assessment of civil penalties authorized by this
13 section shall be deposited to the general fund.

14 15. Enforcement. (a) All statements and reports required under this
15 section shall be subject to a declaration by the person making and
16 filing such statement and report that the information is true, correct
17 and complete to the best knowledge and belief of the signer under the
18 penalties of perjury.

19 (b) The commission shall be charged with the duty of reviewing all
20 statements and reports required under this section for violations, and
21 it shall be its duty, if it deems such to be wilful, to report such
22 determination to the attorney general or other appropriate authority.

23 (c) Upon receipt of notice of such failure from the commission, the
24 attorney general or other appropriate authority shall take such action
25 as he or she deems appropriate to secure compliance with the provisions
26 of this section.

27 16. Record of appearances. The commission shall promulgate all rules
28 or regulations and any procedures, forms, or instructions necessary to
29 implement the provisions of section one hundred sixty-six of the execu-
30 tive law relating to the quarterly filing of the record of appearances
31 before regulatory agencies.

32 17. Publication of statement on lobbying regulations. The commission
33 shall publish a statement on lobbying regulations setting forth the
34 requirements of this section in a clear and brief manner. Such state-
35 ment shall contain an explanation of the registration and filing
36 requirements and the penalties for violation thereof, together with such
37 other information as the commission shall determine, and copies thereof
38 shall be made available to the public at convenient locations throughout
39 the state.

40 18. Public access to records; format of records and reports. The
41 commission shall make information furnished by lobbyists and clients
42 available to the public for inspection and copying in electronic and
43 paper formats. Access to such information shall also be made available
44 for remote computer users through the internet network.

45 19. Annual report. The commission shall annually report to the gover-
46 nor, the office of court administration, the comptroller and the legis-
47 lature any problems in the implementation of such provisions that
48 pertain to procurement lobbying. The commission shall include in the
49 report any recommended changes to increase the effectiveness of that
50 implementation.

51 19-a. Review of complaints. The commission shall review any
52 complaints made pursuant to section one hundred thirty-nine-j of the
53 state finance law, including:

54 (a) contacts during the restricted period between designated staff of
55 a state agency, either house of the state legislature, the unified court
56 system, or a municipal agency, as that term is defined in subparagraph



1 (ii) of paragraph (s) of subdivision two of this section, involved in
2 governmental procurements and officers or employees of offerers, or
3 officers or employees of subcontractors of offerers, who are charged
4 with the performance of functions relating to contracts and who are
5 qualified by education, training or experience to provide technical
6 services to explain, clarify or demonstrate the qualities, character-
7 istics or advantages of an article of procurement. Such authorized
8 contacts shall: (i) be limited to providing information to staff of a
9 state agency, either house of the state legislature, the unified court
10 system, or a municipal agency, as that term is defined in subparagraph
11 (ii) of paragraph (s) of subdivision two of this section, to assist them
12 in understanding and assessing the qualities, characteristics or antic-
13 ipated performance of an article of procurement, (ii) not include any
14 recommendations or advocate any contract provisions, and (iii) occur
15 only at such times and in such manner as authorized under the procuring
16 entity's solicitation or guidelines and procedures. For the purposes of
17 this subparagraph, the term "technical services" shall be limited to
18 analysis directly applying any accounting, engineering, scientific, or
19 other similar technical disciplines;

20 (b) contacts between offerers and public officials and officers or
21 employees of the unified court system during the preparation of specifi-
22 cations, bid documents or request for proposals, invitation for bids, or
23 any other method for soliciting a response from offerers for a procure-
24 ment contract prior to the restricted period.

25 20. Restrictions on political contributions by lobbyists. A lobbyist
26 shall not solicit, make or transmit a contribution or a request for a
27 contribution from or to any person, including a political committee for
28 the benefit of a public official or party committee, for election or
29 nomination to any state or municipal corporation office; except that a
30 lobbyist may make a political contribution up to two hundred fifty
31 dollars per candidate per election or nomination. Such contributions
32 shall not be subject to matchable contributions under title two of arti-
33 cle fourteen of the election law.

34 21. Restrictions on acceptance of political contributions by public
35 officials. A public official shall not knowingly accept, solicit, or
36 transmit a contribution or a request for a contribution for himself or
37 herself or any public official, political committee, or candidate from
38 or on behalf of any lobbyist regulated by this article, except that a
39 public official may accept political contributions from a lobbyist, up
40 to two hundred fifty dollars per election.

41 22. Applicability of certain laws. The provisions of this section
42 including, but not limited to, any proceeding or hearing conducted
43 pursuant hereto, shall be subject to the applicable provisions of the
44 state administrative procedure act and section seventy-three of the
45 civil rights law.

46 § 6-a. Subdivision 3 of section 74 of the public officers law is
47 amended by adding a new paragraph j to read as follows:

48 j. An officer or employee of a state agency or member of the legisla-
49 ture shall abide by the terms of article seven of this chapter.

50 § 7. Section 94 of the executive law is REPEALED.

51 § 7-a. Paragraphs (c) and (d) of subdivision 1 of section 73-a of the
52 public officers law, paragraph (c) as added by chapter 813 of the laws
53 of 1987, and subparagraphs (ii) and (iii) of paragraph (c) and paragraph
54 (d) as amended by chapter 242 of the laws of 1989, are amended to read
55 as follows:

56 (c) The term "state officer or employee" shall mean:

1 (i) heads of state departments and their deputies and assistants;
2 (ii) officers and employees of statewide elected officials, officers
3 and employees of state departments, boards, bureaus, divisions, commis-
4 sions, councils or other state agencies, who receive annual compensation
5 in excess of the filing rate established by paragraph (1) of this subdivi-
6 sion or who hold policy-making positions, as annually determined by
7 the appointing authority and set forth in a written instrument which
8 shall be filed with the state government ethics commission established
9 by section [ninety-four of the executive law] seventy-three-c of this
10 article during the month of February, provided, however, that the
11 appointing authority shall amend such written instrument after such date
12 within thirty days after the undertaking of policy-making responsibil-
13 ities by a new employee or any other employee whose name did not appear
14 on the most recent written instrument; and

15 (iii) members or directors of public authorities, other than multi-
16 state authorities, public benefit corporations and commissions at least
17 one of whose members is appointed by the governor, and employees of such
18 authorities, corporations and commissions who receive annual compen-
19 sation in excess of the filing rate established by paragraph (1) of this
20 subdivision or who hold policy-making positions, as determined annually
21 by the appointing authority and set forth in a written instrument which
22 shall be filed with the state government ethics commission established
23 by section [ninety-four of the executive law] seventy-three-c of this
24 article during the month of February, provided, however, that the
25 appointing authority shall amend such written instrument after such date
26 within thirty days after the undertaking of policy-making responsibil-
27 ities by a new employee or any other employee whose name did not appear
28 on the most recent written instrument.

29 (d) The term "legislative employee" shall mean any officer or employee
30 of the legislature who receives annual compensation in excess of the
31 filing rate established by paragraph (1) [below] of this subdivision or
32 who is determined to hold a policy-making position by the appointing
33 authority as set forth in a written instrument which shall be filed with
34 the [legislative] state government ethics [committee established by
35 section eighty of the legislative law] commission.

36 § 7-b. Subdivision 2 of section 73-a of the public officers law, as
37 added by chapter 813 of the laws of 1987, subparagraphs (v), (vi) and
38 (vii) of paragraph (a) and paragraphs (e) and (g) as amended, and
39 subparagraph (viii) of paragraph (a) and paragraph (j) as added by chap-
40 ter 242 of the laws of 1989, is amended to read as follows:

41 2. (a) Every statewide elected official, state officer or employee,
42 member of the legislature, legislative employee and political party
43 chairman and every candidate for statewide elected office or for member
44 of the legislature shall file an annual statement of financial disclo-
45 sure containing the information and in the form set forth in subdivision
46 three hereof. Such statement shall be filed on or before the fifteenth
47 day of May with respect to the preceding calendar year, except that:

48 (i) a person who is subject to the reporting requirements of this
49 subdivision and who timely filed with the internal revenue service an
50 application for automatic extension of time in which to file his or her
51 individual income tax return for the immediately preceding calendar or
52 fiscal year shall be required to file such financial disclosure state-
53 ment on or before May fifteenth but may, without being subjected to any
54 civil penalty on account of a deficient statement, indicate with respect
55 to any item of the disclosure statement that information with respect
56 thereto is lacking but will be supplied in a supplementary statement of

1 financial disclosure, which shall be filed on or before the seventh day
2 after the expiration of the period of such automatic extension of time
3 within which to file such individual income tax return, provided that
4 failure to file or to timely file such supplementary statement of finan-
5 cial disclosure or the filing of an incomplete or deficient supplementa-
6 ry statement of financial disclosure shall be subject to the notice and
7 penalty provisions of this section respecting annual statements of
8 financial disclosure as if such supplementary statement were an annual
9 statement;

10 (ii) a person who is required to file an annual financial disclosure
11 statement with the state government ethics commission [or with the
12 legislative ethics committee], and who is granted an additional period
13 of time within which to file such statement due to justifiable cause or
14 undue hardship, in accordance with required rules and regulations on the
15 subject adopted pursuant to paragraph c of subdivision nine of section
16 ninety-four of the executive law or pursuant to [paragraph c of subdivi-
17 sion eight of section eighty of the legislative law] section seventy-
18 three-c of this article, shall file such statement within the additional
19 period of time granted;

20 (iii) candidates for statewide office who receive a party designation
21 for nomination by a state committee pursuant to section 6-104 of the
22 election law shall file such statement within seven days after the date
23 of the meeting at which they are so designated;

24 (iv) candidates for statewide office who receive twenty-five percent
25 or more of the vote cast at the meeting of the state committee held
26 pursuant to section 6-104 of the election law and who demand to have
27 their names placed on the primary ballot and who do not withdraw within
28 fourteen days after such meeting shall file such statement within seven
29 days after the last day to withdraw their names in accordance with the
30 provisions of such section of the election law;

31 (v) candidates for statewide office and candidates for member of the
32 legislature who file party designating petitions for nomination at a
33 primary election shall file such statement within seven days after the
34 last day allowed by law for the filing of party designating petitions
35 naming them as candidates for the next succeeding primary election;

36 (vi) candidates for independent nomination who have not been desig-
37 nated by a party to receive a nomination shall file such statement with-
38 in seven days after the last day allowed by law for the filing of inde-
39 pendent nominating petitions naming them as candidates in the next
40 succeeding general or special election;

41 (vii) candidates who receive the nomination of a party for a special
42 election shall file such statement within seven days after the date of
43 the meeting of the party committee at which they are nominated; and

44 (viii) a candidate substituted for another candidate, who fills a
45 vacancy in a party designation or in an independent nomination, caused
46 by declination, shall file such statement within seven days after the
47 last day allowed by law to file a certificate to fill a vacancy in such
48 party designation or independent nomination.

49 (b) As used in this subdivision, the terms "party", "committee" (when
50 used in conjunction with the term "party"), "designation", "primary",
51 "primary election", "nomination", "independent nomination" and "ballot"
52 shall have the same meanings as those contained in section 1-104 of the
53 election law.

54 (c) [If the reporting individual is a senator or member of assembly,
55 candidate for the senate or member of assembly or a legislative employ-
56 ee, such statement shall be filed with the legislative ethics committee

1 established by section eighty of the legislative law.] If the reporting
2 individual is a statewide elected official, senator or member of the
3 assembly, candidate for statewide elected office, a state officer or
4 employee or a political party chairman, such statement shall be filed
5 with the state government ethics commission [established by section
6 ninety-four of the executive law].

7 (d) The [legislative ethics committee and the] state government ethics
8 commission shall obtain from the state board of elections a list of all
9 candidates for statewide office and for member of the legislature, and
10 from such list, shall determine and publish a list of those candidates
11 who have not, within ten days after the required date for filing such
12 statement, filed the statement required by this subdivision.

13 (e) Any person required to file such statement who commences employ-
14 ment after May fifteenth of any year and political party chairman shall
15 file such statement within thirty days after commencing employment or of
16 taking the position of political party chairman, as the case may be.

17 [(f) A person who may otherwise be required to file more than one
18 annual financial disclosure statement with both the state ethics commis-
19 sion and the legislative ethics committee in any one calendar year may
20 satisfy such requirement by filing one such statement with either body
21 and by notifying the other body of such compliance.]

22 (g) A person who is employed in more than one employment capacity for
23 one or more employers certain of whose officers and employees are
24 subject to filing a financial disclosure statement with the [same] state
25 government ethics commission [or ethics committee, as the case may be],
26 and who receives distinctly separate payments of compensation for such
27 employment shall be subject to the filing requirements of this section
28 if the aggregate annual compensation for all such employment capacities
29 is in excess of the filing rate notwithstanding that such person would
30 not otherwise be required to file with respect to any one particular
31 employment capacity. [A person not otherwise required to file a finan-
32 cial disclosure statement hereunder who is employed by an employer
33 certain of whose officers or employees are subject to filing a financial
34 disclosure statement with the state ethics commission and who is also
35 employed by an employer certain of whose officers or employees are
36 subject to filing a financial disclosure statement with the legislative
37 ethics committee shall not be subject to filing such statement with
38 either such commission or such committee on the basis that his aggregate
39 annual compensation from all such employers is in excess of the filing
40 rate.]

41 (h) A statewide elected official or member of the legislature, who is
42 simultaneously a candidate for statewide elected office or member of the
43 legislature, shall satisfy the filing deadline requirements of this
44 subdivision by complying only with the deadline applicable to one who
45 holds a statewide elected office or who holds the office of member of
46 the legislature.

47 (i) A candidate whose name will appear on both a party designating
48 petition and on an independent nominating petition for the same office
49 or who will be listed on the election ballot for the same office more
50 than once shall satisfy the filing deadline requirements of this subdivi-
51 sion by complying with the earliest applicable deadline only.

52 (j) A member of the legislature who is elected to such office at a
53 special election prior to May fifteenth in any year shall satisfy the
54 filing requirements of this subdivision in such year by complying with
55 the earliest applicable deadline only.

1 § 7-c. Subdivision 4 of section 73-a of the public officers law, as
2 amended by chapter 242 of the laws of 1989, is amended to read as
3 follows:

4 4. A reporting individual who knowingly and wilfully fails to file an
5 annual statement of financial disclosure or who knowingly and wilfully
6 with intent to deceive makes a false statement or gives information
7 which such individual knows to be false on such statement of financial
8 disclosure filed pursuant to this section shall be subject to a civil
9 penalty in an amount not to exceed [ten] twenty-five thousand dollars or
10 three times the amount that was improperly reported, contributed or
11 expended. Assessment of a civil penalty hereunder shall be made by the
12 state government ethics commission [or by the legislative ethics commit-
13 tee, as the case may be, with respect to persons subject to their
14 respective jurisdictions]. The state government ethics commission
15 [acting pursuant to subdivision thirteen of section ninety-four of the
16 executive law or the legislative ethics committee acting pursuant to
17 subdivision twelve of section eighty of the legislative law, as the case
18 may be,] may, in lieu of a civil penalty, refer a violation to the
19 appropriate prosecutor or to the state attorney general and upon such
20 conviction, but only after such referral, such violation shall be
21 punishable as a class A misdemeanor and each subsequent offense within
22 five years shall be punishable as a class E felony. A civil penalty for
23 false filing may not be imposed hereunder in the event a category of
24 "value" or "amount" reported hereunder is incorrect unless such reported
25 information is falsely understated. Notwithstanding any other provision
26 of law to the contrary, no other penalty, civil or criminal may be
27 imposed for a failure to file, or for a false filing, of such statement,
28 except that the appointing authority may impose disciplinary action as
29 otherwise provided by law. The state ethics commission and the legisla-
30 tive ethics committee shall each be deemed to be an agency within the
31 meaning of article three of the state administrative procedure act and
32 shall adopt rules governing the conduct of adjudicatory proceedings and
33 appeals relating to the assessment of the civil penalties herein author-
34 ized. Such rules, which shall not be subject to the approval require-
35 ments of the state administrative procedure act, shall provide for due
36 process procedural mechanisms substantially similar to those set forth
37 in such article three but such mechanisms need not be identical in terms
38 or scope. Assessment of a civil penalty shall be final unless modified,
39 suspended or vacated within thirty days of imposition and upon becoming
40 final shall be subject to review at the instance of the affected report-
41 ing individual in a proceeding commenced against the state government
42 ethics commission [or legislative ethics committee,] pursuant to article
43 seventy-eight of the civil practice law and rules.

44 § 8. The public officers law is amended by adding a new section 73-e
45 to read as follows:

46 § 73-e. Designating commission for the state government ethics commis-
47 sion. 1. Definitions. For the purpose of this article, the following
48 terms shall have the following meanings:

49 a. "Designating commission" means the designating commission for the
50 state government ethics commission.

51 b. "Designating members" means the members of the designating commis-
52 sion for the state government ethics commission.

53 c. "Commissioner" means a member of the state government ethics
54 commission.

55 d. "Candidate" means any individual under consideration for commis-
56 sioner by the designating commission.

1 e. "Appointing officer" means the state elected official responsible
2 for appointing the designating members.

3 2. Organization of the designating commission. a. A designating
4 commission for the state government ethics commission is hereby estab-
5 lished. The designating commission shall consist of ten members of whom
6 four shall be appointed by the governor, and one each by the attorney
7 general, the state comptroller, the speaker of the assembly, the tempo-
8 rary president of the senate, the minority leader of the senate, and the
9 minority leader of the assembly. Of the four members appointed by the
10 governor, no more than two shall be enrolled in the same political
11 party. The governor shall appoint at least one former judge or justice
12 of the unified court system to such designating commission. No member of
13 the designating commission shall be a member of the legislature, an
14 employee of state government, hold any office in any political party or
15 be a registered lobbyist in this state or in any other state. No member
16 of the designating commission shall be a partner, of counsel or other-
17 wise employed by a lobbying firm or any entity receiving a state
18 contract that shares in any part of the profit derived from lobbying. To
19 the extent possible, the members of the designating commission shall be
20 individuals with knowledge or experience in the field of government
21 ethics.

22 b. The members first appointed by the governor shall have respectively
23 one, two, three and four-year terms as he shall designate. The member
24 first appointed by the attorney general shall have a two-year term. The
25 member first appointed by the state comptroller shall have a two-year
26 term. The member first appointed by the temporary president of the
27 senate shall have a one-year term. The member first appointed by the
28 minority leader of the senate shall have a two-year term. The member
29 first appointed by the speaker of the assembly shall have a four-year
30 term. The member first appointed by the minority leader of the assembly
31 shall have a three-year term. Each subsequent appointment shall be for
32 a term of four years.

33 c. A vacancy shall be deemed to occur immediately upon the appointment
34 or election of any member to an office that would disqualify him for
35 appointment to, or membership on, the designating commission. A vacancy
36 occurring for any reason other than by expiration of term shall be
37 filled by the appointing officer for the remainder of the unexpired
38 term. No member of the designating commission shall hold office for
39 more than ninety days after the expiration of his or her term. If the
40 appointing officer fails to appoint a person to a vacant office, by a
41 majority vote without vacancy, the designating commission shall select a
42 person to fill the vacant office.

43 d. The members shall designate one of their number to serve as chair-
44 man for a period of two years or until his or her term of office
45 expires, whichever period is shorter.

46 e. Each member of the designating commission shall not receive compen-
47 sation but be entitled to receive his or her actual and necessary
48 expenses incurred in the discharge of his or her duties.

49 f. Eight members of the designating commission shall constitute a
50 quorum.

51 3. Functions of the designating commission. a. The designating commis-
52 sion shall consider and evaluate the qualifications of candidates for
53 appointment to the office of commissioner of state government ethics
54 and, as a vacancy occurs in any such office, shall appoint persons who
55 by their character, temperament, professional aptitude and experience
56 are well qualified to hold such office. The designating commission

1 shall select one such person to serve as chair of the state government
2 ethics commission.

3 b. An appointment to commissioner of the state government ethics
4 commission by the designating commission shall require the concurrence
5 of seven members of the designating commission. The appointment shall be
6 transmitted to the governor, the attorney general, the state comp-
7 troller, the temporary president of the senate, the speaker of the
8 assembly, the minority leader of the senate and the minority leader of
9 the assembly in a single written report, which shall be released to the
10 public by the designating commission at the time it is submitted. The
11 report shall be in writing, signed only by the chairman, and shall
12 include the designating commission's findings relating to the character,
13 temperament, professional aptitude, experience, qualifications and
14 fitness for office of each candidate who is appointed commissioner.

15 c. No person shall be appointed commissioner by the designating
16 commission who has not consented to be a candidate, who has not been
17 personally interviewed by a quorum of the membership of the designating
18 commission, and who has not filed a financial statement with the desig-
19 nating commission, on a form to be prescribed by the designating commis-
20 sion. The financial statement shall consist of a sworn statement of the
21 person's assets, liabilities and sources of income, and any other rele-
22 vant financial information which the designating commission may require.
23 The designating commission shall transmit the financial statement filed
24 by each person who is appointed to the governor, the attorney general,
25 the state comptroller, the temporary president of the senate, the speak-
26 er of the assembly, the minority leader of the senate and the minority
27 leader of the assembly. The designating commission shall make available
28 to the public the financial statement filed by the person who is
29 appointed to fill a vacancy. The financial statements filed by all other
30 persons not appointed by the designating commission shall be confiden-
31 tial.

32 4. Additional functions of the designating commission. The designating
33 commission shall have the following functions, powers and duties:

34 a. Establish detailed communication procedures to assure that persons
35 who may be qualified for appointment to commissioner, other than those
36 who have requested consideration or who have been recommended for
37 consideration by others, are encouraged to agree to be considered by the
38 designating commission. The total number of requests for consideration
39 shall be documented for the public record.

40 b. Conduct investigations, administer oaths or affirmations, interview
41 witnesses and compel their attendance, examine them under oath or affir-
42 mation and require the production of any books, records, documents or
43 other evidence that it may deem relevant or material to its evaluation
44 of candidates for commissioner.

45 c. Require from any court, department, division, board, bureau,
46 commission, or other agency of the state or political subdivision there-
47 of or any public authority such assistance, information and data, as
48 will enable it properly to evaluate the qualifications of candidates,
49 subject to any absolute judicial or executive privilege, where one
50 exists.

51 Notwithstanding any other provision of law, the designating commis-
52 sion, with the consent of the applicant, shall be entitled to require
53 from any formal deliberative body any formal written complaint against a
54 candidate, in which the applicant's misconduct was established, any
55 pending complaint against a candidate, and the record to date of any
56 pending proceeding pursuant to a formal written complaint against such

1 candidate. The deliberative body that has jurisdiction over such
2 complaint shall have fifteen days within which to respond to a request
3 made pursuant to this subdivision.

4 d. Require the appearance of any candidate before it and interview any
5 person concerning the qualifications of any candidate.

6 e. Establish procedures to communicate with the governor, the attorney
7 general, the state comptroller, the temporary president of the senate,
8 the speaker of the assembly, the minority leader of the senate and the
9 minority leader of the assembly concerning the qualifications of any
10 person who it has appointed as commissioner.

11 f. Appoint, and at pleasure remove, a counsel and such other staff as
12 it may require from time to time, and prescribe their powers and duties.
13 The designating commission shall fix the compensation of its staff and
14 provide for reimbursement of their expenses within the amounts appropri-
15 ated by law.

16 g. Do all other things necessary and convenient to carry out its func-
17 tions pursuant to this article.

18 5. Rules of the designating commission. a. The designating commission
19 shall adopt, and may amend, written rules of procedure not inconsistent
20 with law.

21 b. Rules of the designating commission shall be filed with the secre-
22 tary of state and shall be published in the official compilation of
23 codes, rules and regulations of the state. Upon request of any person,
24 the secretary of state shall furnish a copy of the designating commis-
25 sion's rules without charge.

26 c. Rules of the designating commission may prescribe forms and ques-
27 tionnaires to be completed and, if required by the designating commis-
28 sion, verified by candidates.

29 d. Rules of the designating commission shall provide that upon the
30 completion by the designating commission of its consideration and evalu-
31 ation of the qualifications of a candidate, there shall be no reconsid-
32 eration of such candidate for the vacancy for which he was considered,
33 except with the concurrence of eight members of the designating commis-
34 sion.

35 6. Confidentiality of proceedings and records. a. All communications
36 to the designating commission, and its proceedings, and all applica-
37 tions, correspondence, interviews, transcripts, reports and all other
38 papers, files and records of the designating commission shall be confi-
39 dential and privileged and, except for the purposes of article two
40 hundred ten of the penal law, shall not be made available to any person
41 except as otherwise provided in this article.

42 b. Neither the commissioners of the state government ethics commis-
43 sion, members of the designating commission nor its staff shall publicly
44 divulge the names of, or any information concerning, any candidate
45 except as otherwise provided in this article. Any violation of this
46 subdivision shall be a class A misdemeanor.

47 7. Procedures when vacancies occur. a. Whenever a vacancy will occur
48 in the office of commissioner of state government ethics by expiration
49 of a term, the commissioners of state government ethics shall notify the
50 designating commission of the anticipated vacancy no later than seven
51 months preceding the vacancy. The designating commission shall make its
52 appointment to the state government ethics commission on or before the
53 date of expiration, to take effect on the day following such expiration.

54 b. Whenever a vacancy occurs other than by expiration of term, the
55 commissioners of state government ethics shall immediately notify the
56 designating commission of such vacancy. The designating commission shall

1 make its appointment no later than one hundred twenty days after receipt
2 of such notice.

3 § 9. Paragraph (a) of subdivision 1 of section 73 of the public offi-
4 cers law, as amended by chapter 813 of the laws of 1987, is amended to
5 read as follows:

6 (a) The term "compensation" shall mean any money, thing of value or
7 financial benefit conferred in return for services rendered or to be
8 rendered. With regard to matters undertaken by a firm, corporation or
9 association, compensation shall mean net revenues, as defined in accord-
10 ance with generally accepted accounting principles as defined by the
11 state government ethics commission [or legislative ethics committee in
12 relation to persons subject to their respective jurisdictions].

13 § 10. Paragraphs (b) and (c) of subdivision 5 of section 73 of the
14 public officers law, as added by chapter 14 of the laws of 2007, are
15 amended to read as follows:

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

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

28 § 11. Subdivision 5-a of section 73 of the public officers law is
29 renumbered subdivision 5-b and a new subdivision 5-a is added to read as
30 follows:

31 5-a. Prohibition of gifts. No individual or entity required to be
32 listed on a statement of registration pursuant to section
33 seventy-three-c of this article shall offer or give a gift to any state-
34 wide elected official, state officer or employee, individual whose name
35 has been submitted to the senate for confirmation to become a state
36 officer or employee, member of the legislature or legislative employee,
37 unless under the circumstances it is not reasonable to infer that the
38 gift was intended to influence him or her. No individual or entity
39 required to be listed on a statement of registration pursuant to section
40 seventy-three-c of this article shall offer or give a gift to the spouse
41 or unemancipated child of any statewide elected official, state officer
42 or employee, individual whose name has been submitted to the senate for
43 confirmation to become a state officer or employee, member of the legis-
44 lature or legislative employee under circumstances where it is reason-
45 able to infer that the gift was intended to influence him or her. No
46 spouse or unemancipated child of an individual required to be listed on
47 a statement of registration pursuant to section seventy-three-c of this
48 article shall offer or give a gift to a statewide elected official,
49 state officer or employee, individual whose name has been submitted to
50 the senate for confirmation to become a state officer or employee,
51 member of the legislature or legislative employee under circumstances
52 where it is reasonable to infer that the gift was intended to influence
53 him or her. This subdivision shall not apply to gifts to officers,
54 members or directors of boards, commissions, councils, public authori-
55 ties or public benefit corporations who receive no compensation or are
56 compensated on a per diem basis, unless the person listed on the state-



1 ment of registration appears or has matters pending before the board,
2 commission or council on which the recipient sits.

3 § 12. Paragraph (a) of subdivision 6 of section 73 of the public offi-
4 cers law, as amended by chapter 813 of the laws of 1987, is amended to
5 read as follows:

6 (a) Every legislative employee not subject to the provisions of
7 section seventy-three-a of this chapter shall, on and after December
8 fifteenth and before the following January fifteenth, in each year, file
9 [with the legislative ethics committee established by section eighty of
10 the legislative law] a financial disclosure statement of

11 (1) each financial interest, direct or indirect of himself, his
12 spouse, domestic partner, and his unemancipated children under the age
13 of eighteen years in any activity which is subject to the jurisdiction
14 of a regulatory agency or name of the entity in which the interest is
15 had and whether such interest is over or under five thousand dollars in
16 value.

17 (2) every office and directorship held by him in any corporation, firm
18 or enterprise which is subject to the jurisdiction of a regulatory agen-
19 cy, including the name of such corporation, firm or enterprise.

20 (3) any other interest or relationship which he determines in his
21 discretion might reasonably be expected to be particularly affected by
22 legislative action or in the public interest should be disclosed.

23 § 13. Paragraph (c) of subdivision 6 of section 73 of the public offi-
24 cers law, as amended by chapter 813 of the laws of 1987, is amended to
25 read as follows:

26 (c) Any such legislative employee who knowingly and wilfully with
27 intent to deceive makes a false statement or gives information which he
28 knows to be false in any written statement required to be filed pursuant
29 to this subdivision, shall be assessed a civil penalty in an amount not
30 to exceed [ten] twenty-five thousand dollars. Assessment of a civil
31 penalty shall be made by the [legislative ethics committee in accordance
32 with the provisions of subdivision twelve of section eighty of the
33 legislative law] state government ethics commission. For a violation of
34 this subdivision, the [committee] commission may, in lieu of a civil
35 penalty, refer a violation to the attorney general or appropriate prose-
36 cutor and upon conviction, but only after such referral, such violation
37 shall be punishable as a class A misdemeanor.

38 § 14. Paragraph (h) of subdivision 8 of section 73 of the public offi-
39 cers law, as added by chapter 514 of the laws of 2002, is amended to
40 read as follows:

41 (h) Notwithstanding the provisions of subparagraphs (i) and (ii) of
42 paragraph (a) of this subdivision, a former state officer or employee
43 may contract individually, or as a member or employee of a firm, corpo-
44 ration or association, to render services to any state agency when the
45 agency head certifies in writing to the state government ethics commis-
46 sion that the services of such former officer or employee are required
47 in connection with the agency's response to a disaster emergency
48 declared by the governor pursuant to section twenty-eight of the execu-
49 tive law.

50 § 15. The opening paragraph of subdivision 8-a of section 73 of the
51 public officers law, as amended by chapter 357 of the laws of 2001, is
52 amended to read as follows:

53 The provisions of subparagraphs (i) and (ii) of paragraph (a) of
54 subdivision eight of this section shall not apply to any such former
55 state officer or employee engaged in any of the specific permitted
56 activities defined in this subdivision that are related to any civil

1 action or proceeding in any state or federal court, provided that the
2 attorney general has certified in writing to the state government ethics
3 commission, with a copy to such former state officer or employee, that
4 the services are rendered on behalf of the state, a state agency, state
5 officer or employee, or other person or entity represented by the attor-
6 ney general, and that such former state officer or employee has exper-
7 tise, knowledge or experience which is unique or outstanding in a field
8 or in a particular matter or which would otherwise be generally unavail-
9 able at a comparable cost to the state, a state agency, state officer or
10 employee, or other person or entity represented by the attorney general
11 in such civil action or proceeding. In those instances where a state
12 agency is not represented by the attorney general in a civil action or
13 proceeding in state or federal court, a former state officer or employee
14 may engage in permitted activities provided that the general counsel of
15 the state agency, after consultation with the state government ethics
16 commission, provides to the state government ethics commission a written
17 certification which meets the requirements of this subdivision. For
18 purposes of this subdivision the term "permitted activities" shall mean
19 generally any activity performed at the request of the attorney general
20 or the attorney general's designee, or in cases where the state agency
21 is not represented by the attorney general, the general counsel of such
22 state agency, including without limitation:

23 § 16. Subdivision 8-b of section 73 of the public officers law, as
24 added by chapter 523 of the laws of 2004, is amended to read as follows:

25 8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of
26 paragraph (a) of subdivision eight of this section, a former state offi-
27 cer or employee may contract individually, or as a member or employee of
28 a firm, corporation or association, to render services to any state
29 agency if, prior to engaging in such service, the agency head certifies
30 in writing to the state government ethics commission that such former
31 officer or employee has expertise, knowledge or experience with respect
32 to a particular matter which meets the needs of the agency and is other-
33 wise unavailable at a comparable cost. Where approval of the contract is
34 required under section one hundred twelve of the state finance law, the
35 comptroller shall review and consider the reasons for such certifi-
36 cation. The state government ethics commission must review and approve
37 all certifications made pursuant to this subdivision.

38 § 17. Subdivision 10 of section 73 of the public officers law, as
39 amended by chapter 813 of the laws of 1987, is amended to read as
40 follows:

41 10. Nothing contained in this section, the judiciary law, the educa-
42 tion law or any other law or disciplinary rule shall be construed or
43 applied to prohibit any firm, association or corporation, in which any
44 present or former statewide elected official, state officer or employee,
45 or political party chairman, member of the legislature or legislative
46 employee is a member, associate, retired member, of counsel or share-
47 holder, from appearing, practicing, communicating or otherwise rendering
48 services in relation to any matter before, or transacting business with
49 a state agency, or a city agency with respect to a political party
50 chairman in a county wholly included in a city with a population of more
51 than one million, otherwise proscribed by this section, the judiciary
52 law, the education law or any other law or disciplinary rule with
53 respect to such official, member of the legislature or officer or
54 employee, or political party chairman, where such statewide elected
55 official, state officer or employee, member of the legislature or legis-
56 lative employee, or political party chairman does not share in the net

1 revenues, as defined in accordance with generally accepted accounting
2 principles by the state government ethics commission [or by the legisla-
3 tive ethics committee in relation to persons subject to their respective
4 jurisdictions], resulting therefrom, or, acting in good faith, reason-
5 ably believed that he or she would not share in the net revenues as so
6 defined; nor shall anything contained in this section, the judiciary
7 law, the education law or any other law or disciplinary rule be
8 construed to prohibit any firm, association or corporation in which any
9 present or former statewide elected official, member of the legislature,
10 legislative employee, full-time salaried state officer or employee or
11 state officer or employee who is subject to the provisions of section
12 seventy-three-a of this [chapter] article is a member, associate,
13 retired member, of counsel or shareholder, from appearing, practicing,
14 communicating or otherwise rendering services in relation to any matter
15 before, or transacting business with, the court of claims, where such
16 statewide elected official, member of the legislature, legislative
17 employee, full-time salaried state officer or employee or state officer
18 or employee who is subject to the provisions of section seventy-three-a
19 of this [chapter] article does not share in the net revenues, as defined
20 in accordance with generally accepted accounting principles by the state
21 government ethics commission [or by the legislative ethics committee in
22 relation to persons subject to their respective jurisdictions], result-
23 ing therefrom, or, acting in good faith, reasonably believed that he or
24 she would not share in the net revenues as so defined.

25 § 18. The opening paragraph and the closing paragraph of subdivision 1
26 of section 107 of the public officers law, are designated paragraphs a
27 and b and a new paragraph c is added to read as follows:

28 c. The state government ethics commission shall also have jurisdiction
29 to receive complaints by any aggrieved person against a state public
30 body as defined in section one hundred two of this article.

31 § 19. Subparagraphs (iii) and (iv) of paragraph (i) of subdivision 1
32 of section 73 of the public officers law, as amended by chapter 242 of
33 the laws of 1989, are amended and a new subparagraph (v) is added to
34 read as follows:

35 (iii) officers and employees of state departments, boards, bureaus,
36 divisions, commissions, councils or other state agencies other than
37 officers of such boards, commissions or councils who receive no compen-
38 sation or are compensated on a per diem basis; [and]

39 (iv) members or directors of public authorities, other than multi-
40 state authorities, public benefit corporations and commissions at least
41 one of whose members is appointed by the governor, who receive compen-
42 sation other than on a per diem basis, and employees of such authori-
43 ties, corporations and commissions[.]; and

44 (v) members of the legislature and employees of the legislature.

45 § 20. Subdivision 2 of section 73 of the public officers law, as
46 amended by chapter 813 of the laws of 1987, is amended to read as
47 follows:

48 2. (a) No statewide elected official, state officer or employee,
49 member of the legislature, legislative employee or candidate for state
50 public office shall receive, or enter into any agreement express or
51 implied for, compensation for services to be rendered in relation to any
52 case, proceeding, application, state governmental procurement article or
53 procurement or other matter before any state agency.

54 (b) In addition to the prohibitions contained in subdivision seven
55 hereof, no statewide elected official, state officer or employee, member
56 of the legislature or legislative employee shall receive, or enter into

1 any agreement express or implied for, compensation for services to be
2 rendered in relation to any case, proceeding, application, article of
3 procurement or other matter before any state agency, whereby his compen-
4 sation is to be dependent or contingent upon any action by such agency
5 with respect to any license, contract, certificate, ruling, decision,
6 opinion, rate schedule, franchise, or other benefit; provided, however,
7 that nothing in this subdivision shall be deemed to prohibit the fixing
8 at any time of fees based upon the reasonable value of the services
9 rendered.

10 § 21. Paragraph (a) of subdivision 5 of section 73 of the public offi-
11 cers law, as amended by chapter 14 of the laws of 2007, is amended to
12 read as follows:

13 (a) solicit, accept or receive any gift having [more than a nominal
14 value] a value of greater than ten dollars, whether in the form of
15 money, service, loan, travel, lodging, meals, refreshments, enter-
16 tainment, discount, forbearance or promise, or in any other form, under
17 circumstances in which it could reasonably be inferred that the gift was
18 intended to influence him, or could reasonably be expected to influence
19 him, in the performance of his official duties or was intended as a
20 reward for any official action on his part. No person shall, directly or
21 indirectly, offer or make any such gift to a statewide elected official,
22 or any state officer or employee, member of the legislature or legisla-
23 tive employee under such circumstances.

24 § 22. Subparagraphs (v) and (vi) of paragraph (a) of subdivision 7 of
25 section 73 of the public officers law, as amended by chapter 530 of the
26 laws of 2004, are amended and a new subparagraph (vii) is added to read
27 as follows:

28 (v) licensing; [or]

29 (vi) any proceeding relating to a franchise provided for in the public
30 service law[.]; or

31 (vii) a referral by a registered lobbyist to such state officer for
32 the representation of an individual, business, or entity for any compen-
33 sation.

34 § 23. Section 73 of the public officers law is amended by adding two
35 new subdivisions 8-c and 9-a to read as follows:

36 8-c. No statewide elected official, or state officer or employee, or
37 member of the legislature or legislative employee, or political party
38 chairman that is licensed to practice law shall receive, directly or
39 indirectly, or enter into any agreement express or implied for, any
40 compensation with a client, in whatever form, that is originally a
41 referral by a lobbyist registered in the state, unless such referral is
42 publicly disclosed on a financial disclosure form.

43 9-a. No statewide elected official, state officer, member of the
44 legislature or legislative employee, shall be eligible to serve as a
45 treasurer of any campaign committee supporting a candidate for any state
46 office.

47 § 24. Section 73 of the public officers law is amended by adding two
48 new subdivisions 14-a and 14-b to read as follows:

49 14-a. Notwithstanding the provisions of subdivision fourteen of this
50 section, no member of the legislature or legislative employee, as
51 defined by paragraph (d) of subdivision one of section seventy-three-a
52 of this article, shall participate in any decision to hire, promote,
53 process employment paperwork for or have knowledge of the prospective
54 employment or change of employment status of any relative for any
55 compensated position at, for or within the same legislative chamber
56 which employs such member or legislative employee. The provisions of

1 this subdivision shall not apply to persons to which paragraph (b) of
2 subdivision fourteen of this section applies.

3 14-b. In addition to the information included in the annual financial
4 statement of financial disclosure provided for in section
5 seventy-three-a of this article, every member of the legislature and
6 legislative employee shall disclose the names of all relatives who are
7 employed by the legislature and the degree of their relationship.

8 § 25. Subdivision 18 of section 73 of the public officers law, as
9 amended by chapter 14 of the laws of 2007, is amended to read as
10 follows:

11 18. In addition to any penalty contained in any other provision of
12 law, any person who knowingly and intentionally violates the provisions
13 of subdivisions two through five, seven, eight, twelve or fourteen
14 through seventeen of this section shall be subject to a civil penalty in
15 an amount not to exceed forty thousand dollars and the value of any
16 gift, compensation or benefit received in connection with such
17 violation. Assessment of a civil penalty hereunder shall be made by the
18 state oversight body with jurisdiction over such person. A state over-
19 sight body acting pursuant to its jurisdiction, may, in lieu of a civil
20 penalty, with respect to a violation of subdivisions two through five,
21 seven or eight of this section, refer a violation of any such subdivi-
22 sion to the appropriate prosecutor or to the state attorney general and
23 upon such conviction such violation shall be punishable as a class A
24 misdemeanor.

25 § 26. Subdivision 1 of section 73-a of the public officers law is
26 amended by adding a new paragraph (e-1) to read as follows:

27 (e-1) The term "domestic partner" shall mean an individual living in
28 the same household and sharing financial interdependence with the
29 reporting individual.

30 § 27. Paragraph (f) of subdivision 1 of section 73-a of the public
31 officers law, as added by chapter 813 of the laws of 1987, is amended to
32 read as follows:

33 (f) The term "relative" shall mean such individual's spouse, domestic
34 partner, child, stepchild, stepparent, or any person who is a direct
35 descendant of the grandparents of the reporting individual or of the
36 reporting individual's spouse.

37 § 28. Subdivision 3 of section 73-a of the public officers law, as
38 added by chapter 813 of the laws of 1987, paragraphs 4, 6, 9, 11, 13,
39 14, 15, 16, 17, 18, and 19, subparagraph (a) of paragraph 5, and subpar-
40 agraph (b) of paragraph 12 as amended and the fourth and fifth undesig-
41 nated paragraphs of paragraph 3 as added by chapter 242 of the laws of
42 1989, is amended to read as follows:

43 3. The annual statement of financial disclosure shall contain the
44 information and shall be in the form set forth hereinbelow:

45 ANNUAL STATEMENT OF FINANCIAL DISCLOSURE - (For calendar year _____)

- 46 1. Name _____
- 47 2. (a) Title of Position _____
- 48 (b) Department, Agency or other Governmental Entity _____
- 49 (c) Address of Present Office _____
- 50 (d) Office Telephone Number _____
- 51 3. (a) Marital Status _____. If married or in a domestic
- 52 partnership, please give spouse's or domestic partner's full
- 53 name including maiden name where applicable.

54 _____ .

1 (b) List the names of all unemancipated children.

2 _____
3 _____
4 _____
5 _____
6 _____

7 Answer each of the following questions completely, with respect to
8 calendar year _____, unless another period or date is otherwise
9 specified. If additional space is needed, attach additional pages.

10 Whenever a "value" or "amount" is required to be reported herein, such
11 value or amount shall be reported as being within one of the following
12 Categories: Category A - under \$5,000; Category B - \$5,000 to under
13 \$20,000; Category C - \$20,000 to under \$60,000; Category D - \$60,000 to
14 under \$100,000; Category E - \$100,000 to under \$250,000; [and] Category
15 F - \$250,000 to under \$1,000,000; and Category G - \$1,000,000 or over. A
16 reporting individual shall indicate the Category by letter only.

17 Whenever "income" is required to be reported herein, the term "income"
18 shall mean the aggregate net income before taxes from the source identi-
19 fied.

20 The term "calendar year" shall mean the year ending the December 31st
21 preceding the date of filing of the annual statement.

22 4. (a) List any office, trusteeship, directorship, partnership, or
23 position of any nature, whether compensated or not, held by the
24 reporting individual with any firm, corporation, association, part-
25 nership, or other organization other than the State of New York.
26 Include compensated honorary positions; do NOT list membership or
27 uncompensated honorary positions. If the listed entity was licensed
28 by any state or local agency, was regulated by any state regulatory
29 agency or local agency, or, as a regular and significant part of the
30 business or activity of, said entity, did business with, or had
31 matters other than ministerial matters before, any state or local
32 agency, list the name of any such agency.

33	34	35
Position	Organization	State or Local Agency
36	_____	_____
37	_____	_____
38	_____	_____
39	_____	_____

40 (b) List any office, trusteeship, directorship, partnership, or position
41 of any nature, whether compensated or not, held by the spouse,
42 domestic partner, or unemancipated child of the reporting individ-
43 ual, with any firm, corporation, association, partnership, or other
44 organization other than the State of New York. Include compensated
45 honorary positions; do NOT list membership or uncompensated honorary
46 positions. If the listed entity was licensed by any state or local
47 agency, was regulated by any state regulatory agency or local agen-
48 cy, or, as a regular and significant part of the business or activ-
49 ity of said entity, did business with, or had matters other than

1 ministerial matters before, any state or local agency, list the name
2 of any such agency.

3		State or
4	Position	Local Agency
	Organization	
5		
6		
7		
8		
9		

10 5. (a) List the name, address and description of any [occupation,]
11 employment (other than the employment listed under Item 2 above),
12 trade, business [or], profession or occupation engaged in by the
13 reporting individual. If such activity was licensed by any state or
14 local agency[,] or was regulated by any state regulatory agency or
15 local agency, [or, as a regular and significant part of the business
16 or activity of said entity, did business with, or had matters other
17 than ministerial matters before, any state or local agency,] list
18 the name of any such agency.

19			State or
20	Name & Address		Local
21	Position of Organization	Description	Agency
22			
23			
24			
25			
26			

27 (b) If the reporting individual did business with or had matters other
28 than ministerial matters before any state or local agency in the
29 course of any employment, trade, business, profession or occupation
30 engaged in by the reporting individual, list the name and address of
31 the entity, a brief description of the activity and the name of any
32 such agency.

33			State or
34	<u>Name & Address</u>		<u>Local</u>
35	<u>of Organization</u>	<u>Description</u>	<u>Agency</u>
36			
37			
38			
39			
40			

41 (c) If the spouse, domestic partner or unemancipated child of the
42 reporting individual was engaged in any occupation, employment,
43 trade, business or profession which activity was licensed by any
44 state or local agency, was regulated by any state regulatory agency
45 or local agency, or, as a regular and significant part of the busi-
46 ness or activity of said entity, did business with, or had matters
47 other than ministerial matters before, any state or local agency,

1 list the name, address and description of such occupation, employ-
2 ment, trade, business or profession and the name of any such agency.

3			State or
4	Name & Address		Local
5	Position of Organization	Description	Agency
6			
7			
8			
9			
10			

11 6. List any interest, in EXCESS of \$1,000, held by the reporting indi-
12 vidual, such individual's spouse, domestic partner or unemancipated
13 child, or partnership of which any such person is a member, or
14 corporation, 10% or more of the stock of which is owned or
15 controlled by any such person, whether vested or contingent, in any
16 contract made or executed by a state or local agency and include the
17 name of the entity which holds such interest and the relationship of
18 the reporting individual or such individual's spouse or such child
19 to such entity and the interest in such contract. Do NOT include
20 bonds and notes. Do NOT list any interest in any such contract on
21 which final payment has been made and all obligations under the
22 contract except for guarantees and warranties have been performed,
23 provided, however, that such an interest must be listed if there has
24 been an ongoing dispute during the calendar year for which this
25 statement is filed with respect to any such guarantees or warran-
26 ties. Do NOT list any interest in a contract made or executed by a
27 local agency after public notice and pursuant to a process for
28 competitive bidding or a process for competitive requests for
29 proposals.

30	Entity	Relationship	Contracting	Category
31	Self, Which Held	to Entity	State or	of
32	Spouse or Interest in	and Interest	Local	Value of
33	Child Contract	in Contract	Agency	Contract
34				
35				
36				
37				
38				

39 7. List any position the reporting individual held as an officer of any
40 political party or political organization, as a member of any poli-
41 tical party committee, or as a political party district leader. The
42 term "party" shall have the same meaning as "party" in the election
43 law. The term "political organization" means any party or independ-
44 ent body as defined in the election law or any organization that is
45 affiliated with or a subsidiary of a party or independent body.

46	
47	
48	

1

2

3 8. (a) If the reporting individual practices law, is licensed by the
 4 department of state as a real estate broker or agent or practices a
 5 profession licensed by the department of education, give a list of
 6 all clients and a general description of the principal subject areas
 7 of matters undertaken by such individual. If the nature of the
 8 reporting individual's practice or activities were such that no
 9 principal subject areas or matters were undertaken, give a general
 10 description of the practice or activities undertaken. Additionally,
 11 if such an individual practices with a firm or corporation and is a
 12 partner or shareholder of the firm or corporation, give a list of
 13 all clients and a general description of the principal subject areas
 14 of matters undertaken by such firm or corporation. [Do not list the
 15 name of the individual clients, customers or patients.] If the
 16 matters undertaken by such firm or corporation were such that no
 17 principal subject areas or matters were undertaken, give a general
 18 description of the practice or activities undertaken.

<u>Nature</u>	<u>Client</u>	<u>State Agency or Court</u>	<u>Category of Value</u>
---------------	---------------	------------------------------	--------------------------

20

21

22

23

24

25 (b) If the reporting individual received compensation in EXCESS of
 26 \$1,000 for appearances before a state agency or with the unified
 27 court system with respect to matters other than ministerial matters,
 28 indicate the nature of the appearances, client name and the name of
 29 any such agency.

<u>Nature</u>	<u>Client</u>	<u>State Agency or Court</u>	<u>Category of Value</u>
---------------	---------------	------------------------------	--------------------------

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36 (c) List the name, principal address and general description or the
 37 nature of the business activity of any entity in which the reporting
 38 individual or such individual's spouse or domestic partner had an
 39 investment in excess of \$1,000 excluding investments in securities and
 40 interests in real property.

41

42

43

44

45

46 (d) If the reporting individual received income in EXCESS of \$1,000 from
 47 consulting services, not including any services performed by a
 48 licensed professional listed in subparagraph (a) of this paragraph,
 49 provide the name and address of the individual, business or entity,

1 the compensation received from such entity, and provide a general
2 description of the services rendered or consideration given.

3	<u>Entity</u>	<u>Address</u>	<u>Services/Consideration</u>	<u>Category of Value</u>
4				
5				
6				
7				
8				

9 (e) List each source of referral for business or for clients by those
10 who are registered to lobby or their clients and provide the name,
11 address of the business or entity, the compensation received from
12 such referred entity, and provide a general description of the
13 services rendered or consideration given.

14	<u>Source Name</u>	<u>Address</u>	<u>Services/</u>	<u>Category of Value</u>
15			<u>Consideration</u>	
16				
17				
18				
19				
20				

21 9. List each source of gifts, EXCLUDING campaign contributions, in
22 EXCESS of \$1,000, received during the reporting period for which
23 this statement is filed by the reporting individual or such individ-
24 ual's spouse, domestic partner or unemancipated child from the same
25 donor, EXCLUDING gifts from a relative. INCLUDE the name and address
26 of the donor. The term "gifts" does not include reimbursements,
27 which term is defined in item 10. Indicate the value and nature of
28 each such gift.

29				Category
30	Self,			of
31	Spouse or	Name of	Nature	Value of
32	Child	Donor	Address	of Gift
33				
34				
35				
36				
37				

38 10. Identify and briefly describe the source of any reimbursements for
39 expenditures, EXCLUDING campaign expenditures and expenditures in
40 connection with official duties reimbursed by the state, in EXCESS
41 of \$1,000 from each such source. For purposes of this item, the term
42 "reimbursements" shall mean any travel-related expenses provided by
43 nongovernmental sources and for activities related to the reporting
44 individual's official duties such as, speaking engagements, confer-
45 ences, or factfinding events. The term "reimbursements" does NOT
46 include gifts reported under item 9.

47 Source Description

1 _____
 2 _____
 3 _____
 4 _____
 5 _____

6 11. List the identity and value, if reasonably ascertainable, of each
 7 interest in a trust, estate or other beneficial interest, including
 8 retirement plans (other than retirement plans of the state of New
 9 York or the city of New York[,]) and deferred compensation plans
 10 (e.g., 401, 403(b), 457, etc.) established in accordance with the
 11 internal revenue code, in which the REPORTING INDIVIDUAL held a
 12 beneficial interest in EXCESS of \$1,000 at any time during the
 13 preceding year. Do NOT report interests in a trust, estate or other
 14 beneficial interest established by or for, or the estate of, a rela-
 15 tive.

16		Category
17	Identity	of Value*
18	_____	
19	_____	
20	_____	
21	_____	
22	_____	

23 * The value of such interest shall be reported only if reasonably
 24 ascertainable.

25 12. (a) Describe the terms of, and the parties to, any contract, prom-
 26 ise, or other agreement between the reporting individual and any
 27 person, firm, or corporation with respect to the employment of such
 28 individual after leaving office or position (other than a leave of
 29 absence).

30 _____
 31 _____
 32 _____
 33 _____
 34 _____

35 (b) Describe the parties to and the terms of any agreement providing
 36 for continuation of payments or benefits to the REPORTING INDIVIDUAL
 37 in EXCESS of \$1,000 from a prior employer OTHER THAN the State.
 38 (This includes interests in or contributions to a pension fund,
 39 profit-sharing plan, or life or health insurance; buy-out agree-
 40 ments; severance payments; etc.)

41 _____
 42 _____
 43 _____
 44 _____
 45 _____

46 13. List below the nature and amount of any income in EXCESS of \$1,000
 47 from EACH SOURCE for the reporting individual and such individual's
 48 spouse or domestic partner for the taxable year last occurring prior

1 to the date of filing. Nature of income includes, but is not limit-
 2 ed to, all income (other than that received from the employment
 3 listed under Item 2 above) from compensated employment whether
 4 public or private, directorships and other fiduciary positions,
 5 contractual arrangements, teaching income, partnerships, honorari-
 6 ums, lecture fees, consultant fees, bank and bond interest, divi-
 7 dends, income derived from a trust, real estate rents, and recog-
 8 nized gains from the sale or exchange of real or other property.
 9 Income from a business or profession and real estate rents shall be
 10 reported with the source identified by the building address in the
 11 case of real estate rents and otherwise by the name of the entity
 12 and not by the name of the individual customers, clients or tenants,
 13 with the aggregate net income before taxes for each building address
 14 or entity. The receipt of maintenance received in connection with a
 15 matrimonial action, alimony and child support payments shall not be
 16 listed.

17	Self/ Spouse	Source	Nature	Category of Amount
19				
20				
21				
22				
23				

24 14. List the sources of any deferred income (not retirement income) in
 25 EXCESS of \$1,000 from each source to be paid to the reporting indi-
 26 vidual following the close of the calendar year for which this
 27 disclosure statement is filed, other than deferred compensation
 28 reported in item 11 hereinabove. Deferred income derived from the
 29 practice of a profession shall be listed in the aggregate and shall
 30 identify as the source, the name of the firm, corporation, partner-
 31 ship or association through which the income was derived, but shall
 32 not identify individual clients.

33	Source	Category of Amount
35		
36		
37		
38		
39		

40 15. List each assignment of income in EXCESS of \$1,000, and each trans-
 41 fer other than to a relative during the reporting period for which
 42 this statement is filed for less than fair consideration of an
 43 interest in a trust, estate or other beneficial interest, securities
 44 or real property, by the reporting individual, in excess of \$1,000,
 45 which would otherwise be required to be reported herein and is not
 46 or has not been so reported.

47	Item Assigned or Transferred	Assigned or Transferred to	Category of Value
48			

1 _____
 2 _____
 3 _____
 4 _____
 5 _____

6 16. List below the type and market value of securities held by the
 7 reporting individual or such individual's spouse from each issuing
 8 entity in EXCESS of \$1,000 at the close of the taxable year last
 9 occurring prior to the date of filing, including the name of the
 10 issuing entity exclusive of securities held by the reporting indi-
 11 vidual issued by a professional corporation. Whenever an interest in
 12 securities exists through a beneficial interest in a trust, the
 13 securities held in such trust shall be listed ONLY IF the reporting
 14 individual has knowledge thereof except where the reporting individ-
 15 ual or the reporting individual's spouse has transferred assets to
 16 such trust for his or her benefit in which event such securities
 17 shall be listed unless they are not ascertainable by the reporting
 18 individual because the trustee is under an obligation or has been
 19 instructed in writing not to disclose the contents of the trust to
 20 the reporting individual. Securities of which the reporting individ-
 21 ual or the reporting individual's spouse is the owner of record but
 22 in which such individual or the reporting individual's spouse has no
 23 beneficial interest shall not be listed. Indicate percentage of
 24 ownership ONLY if the reporting person or the reporting person's
 25 spouse holds more than five percent (5%) of the stock of a corpo-
 26 ration in which the stock is publicly traded or more than ten
 27 percent (10%) of the stock of a corporation in which the stock is
 28 NOT publicly traded. Also list securities owned for investment
 29 purposes by a corporation more than fifty percent (50%) of the stock
 30 of which is owned or controlled by the reporting individual or such
 31 individual's spouse. For the purpose of this item the term "securi-
 32 ties" shall mean mutual funds, bonds, mortgages, notes, obligations,
 33 warrants and stocks of any class, investment interests in limited or
 34 general partnerships and certificates of deposits (CDs) and such
 35 other evidences of indebtedness and certificates of interest as are
 36 usually referred to as securities. The market value for such secu-
 37 rities shall be reported only if reasonably ascertainable and shall
 38 not be reported if the security is an interest in a general partner-
 39 ship that was listed in item 8 (a) or if the security is corporate
 40 stock, NOT publicly traded, in a trade or business of a reporting
 41 individual or a reporting individual's spouse.

42			Percentage	
43			of corporate	
44			stock owned	
45			or controlled	Category of
46			(if more than	Market Value
47			5% of pub-	as of the close
48			licly traded	of the
49			stock, or	taxable year
50			more than	last occurring
51			10% if stock	prior to
52	Self/	Issuing	not publicly	the filing of
53	Spouse	Entity	traded, is held)	this statement
		Type of		
		Security		

1 _____
 2 _____
 3 _____
 4 _____
 5 _____

6 17. List below the location, size, general nature, acquisition date,
 7 market value and percentage of ownership of any real property in
 8 which any vested or contingent interest in EXCESS of \$1,000 is held
 9 by the reporting individual or the reporting individual's spouse.
 10 Also list real property owned for investment purposes by a corpo-
 11 ration more than fifty percent (50%) of the stock of which is owned
 12 or controlled by the reporting individual or such individual's
 13 spouse. Do NOT list any real property which is the primary or
 14 secondary personal residence of the reporting individual or the
 15 reporting individual's spouse, except where there is a co-owner who
 16 is other than a relative.

17	Category						
18	Self/ Spouse/ Corporation	Location	Size	General Nature	Acquisition Date	Percentage of Ownership	Market Value
21	_____	_____	_____	_____	_____	_____	_____
22	_____	_____	_____	_____	_____	_____	_____
23	_____	_____	_____	_____	_____	_____	_____
24	_____	_____	_____	_____	_____	_____	_____
25	_____	_____	_____	_____	_____	_____	_____

26 18. List below all notes and accounts receivable, other than from goods
 27 or services sold, held by the reporting individual at the close of
 28 the taxable year last occurring prior to the date of filing and
 29 other debts owed to such individual at the close of the taxable year
 30 last occurring prior to the date of filing, in EXCESS of \$1,000,
 31 including the name of the debtor, type of obligation, date due and
 32 the nature of the collateral securing payment of each, if any,
 33 excluding securities reported in item 16 hereinabove. Debts, notes
 34 and accounts receivable owed to the individual by a relative shall
 35 not be reported.

36	Name of Debtor	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount
39	_____	_____	_____
40	_____	_____	_____
41	_____	_____	_____
42	_____	_____	_____
43	_____	_____	_____

44 19. List below all liabilities of the reporting individual and such
 45 individual's spouse[,] or domestic partner in EXCESS of \$5,000 as of
 46 the date of filing of this statement, other than liabilities to a
 47 relative. Do NOT list liabilities incurred by, or guarantees made
 48 by, the reporting individual or such individual's spouse or domestic
 49 partner or by any proprietorship, partnership or corporation in

1 which the reporting individual or such individual's spouse or domes-
 2 tic partner has an interest, when incurred or made in the ordinary
 3 course of the trade, business or professional practice of the
 4 reporting individual or such individual's spouse or domestic
 5 partner. Include the name of the creditor and any collateral
 6 pledged by such individual to secure payment of any such liability.
 7 A reporting individual shall not list any obligation to pay mainte-
 8 nance in connection with a matrimonial action, alimony or child
 9 support payments. Any loan issued in the ordinary course of business
 10 by a financial institution to finance educational costs, the cost of
 11 home purchase or improvements for a primary or secondary residence,
 12 or purchase of a personally owned motor vehicle, household furniture
 13 or appliances shall be excluded. If any such reportable liability
 14 has been guaranteed by any third person, list the liability and name
 15 the guarantor.

16			Category
17	Name of Creditor	Type of Liability	of
18	or Guarantor	and Collateral, if any	Amount
19	_____		
20	_____		
21	_____		
22	_____		
23	_____		

24 The requirements of law relating to the reporting of financial
 25 interests are in the public interest and no adverse inference of
 26 unethical or illegal conduct or behavior will be drawn merely from
 27 compliance with these requirements.

28 _____
 29 (Signature of Reporting Individual) Date (month/day/year)

30 § 29. Paragraph d of subdivision 3 of section 74 of the public offi-
 31 cers law, as amended by chapter 1012 of the laws of 1965, is amended to
 32 read as follows:

33 d. No officer or employee of a state agency, member of the legislature
 34 or legislative employee should use or attempt to use his or her official
 35 position to secure unwarranted privileges or exemptions for himself,
 36 herself, his or her relative, as defined in paragraph (m) of subdivision
 37 one of section seventy-three of this article, or others.

38 § 30. Subdivision 4 of section 74 of the public officers law, as
 39 amended by chapter 14 of the laws of 2007, is amended to read as
 40 follows:

41 4. Violations. In addition to any penalty contained in any other
 42 provision of law any such officer, member or employee who shall know-
 43 ingly and intentionally violate any of the provisions of this section may
 44 be fined, suspended or removed from office or employment in the manner
 45 provided by law. Any such individual who knowingly and intentionally
 46 violates the provisions of paragraph b, c, d or i of subdivision three
 47 of this section shall be subject to a civil penalty in an amount not to
 48 exceed [ten] twenty-five thousand dollars and triple the value of any
 49 gift, compensation or benefit received as a result of such violation.
 50 Any such individual who knowingly and intentionally violates the
 51 provisions of paragraph a, e or g of subdivision three of this section

1 shall be subject to a civil penalty in an amount not to exceed triple
2 the value of any gift, compensation or benefit received as a result of
3 such violation.

4 § 31. Subdivision 2 of section 63 of the executive law is amended to
5 read as follows:

6 2. [Whenever] Notwithstanding any other provision of law, whenever
7 required by the governor, attend in person, or by one of his deputies,
8 any term of the supreme court or appear before the grand jury thereof
9 for the purpose of managing and conducting in such court or before such
10 jury criminal actions or proceedings as shall be specified in such
11 requirement; in which case the attorney-general or his deputy so attend-
12 ing shall exercise all the powers and perform all the duties in respect
13 of such actions or proceedings, which the district attorney would other-
14 wise be authorized or required to exercise or perform; and in any of
15 such actions or proceedings the district attorney shall only exercise
16 such powers and perform such duties as are required of him by the attor-
17 ney-general or the deputy attorney-general so attending. In all such
18 cases, except those cases arising out of referrals from the state
19 government ethics commission, all expenses incurred by the attorney-gen-
20 eral, including the salary or other compensation of all deputies
21 employed, shall be a county charge.

22 § 32. All powers, duties and functions conferred upon the state
23 commission on public integrity, the legislative ethics commission, the
24 state board of elections as such powers, duties and functions pertain to
25 article 14 of the election law, and their commissioners and executive
26 directors, shall be transferred to and assumed by the state government
27 ethics commission and the commissioners and executive director to be
28 appointed thereof.

29 § 33. Transfer of employees. Upon the transfer of the functions, as
30 provided for in this act, any affected employees shall be transferred to
31 the state government ethics commission in accordance with section 70 of
32 the civil service law.

33 § 34. Transfer of records. The state commission on public integrity,
34 the legislative ethics commission and the state board of elections as it
35 pertains to article 14 of the election law shall deliver to the state
36 government ethics commission all books, papers, records, and property as
37 requested by the state government ethics commission.

38 § 35. Continuity of authority. For the purpose of succession to all
39 functions, powers, duties and obligations transferred and assigned to,
40 devolved upon and assumed by it pursuant to this act, the state govern-
41 ment ethics commission shall be deemed and held to constitute the
42 continuation of the state commission on public integrity, the legisla-
43 tive ethics commission and the state board of elections as it pertains
44 to article 14 of the election law.

45 § 36. Completion of unfinished business. Any business or other matter
46 undertaken or commenced by the state commission on public integrity, the
47 legislative ethics commission and the state board of elections as it
48 pertains to article 14 of the election law pertaining to or connected
49 with the functions, powers, obligations and duties hereby transferred
50 and assigned to the state government ethics commission, and pending on
51 the effective date of this act may be conducted and completed by the
52 state government ethics commission in the same manner and under the same
53 terms and conditions and with the same effect as if conducted and
54 completed by the former state commission on public integrity, the legis-
55 lative ethics commission and the state board of elections as it pertains
56 to article 14 of the election law.

1 § 37. Terms occurring in laws, contracts and other documents. Whenever
2 the state commission on public integrity, the legislative ethics commis-
3 sion and the state board of elections as it pertains to article 14 of
4 the election law, and the committee on open government as it pertains to
5 article 7 of the public officers law are referred to or designated in
6 any law, contract or documents pertaining to the functions, powers,
7 obligations and duties hereby transferred and assigned to the state
8 government ethics commission, such reference or designation shall be
9 deemed to refer to the state government ethics commission as created by
10 this act.

11 § 38. Existing rights and remedies preserved. No existing right or
12 remedy of any character shall be lost, impaired or affected by reason of
13 this act.

14 § 39. Pending actions and proceedings. No action or proceeding pending
15 at the time when this act shall take effect, brought by or against the
16 state commission on public integrity, the legislative ethics commission
17 and the state board of elections as it pertains to article 14 of the
18 election law shall be affected by this act, but the same may be prose-
19 cuted or defended in the name of the state government ethics commission
20 and upon application to the court, the state government ethics commis-
21 sion shall be substituted as a party.

22 § 40. Notwithstanding any contrary provision of the state finance law,
23 transfer of appropriations heretofore made to the state commission on
24 public integrity, the legislative ethics commission and the state board
25 of elections as it pertains to article 14 of the election law all appro-
26 priations or reappropriations for the functions herein transferred here-
27 tofore made to the state commission on public integrity, the legislative
28 ethics commission, the state board of elections as it pertains to arti-
29 cle 14 of the election law or segregated pursuant to law, to the extent
30 of remaining unexpended or unencumbered balances thereof, whether allo-
31 cated or unallocated and whether obligated or unobligated, are hereby
32 transferred to the state government ethics commission to the extent
33 necessary to carry out the state government ethics commission's func-
34 tions, powers and duties subject to the approval of the director of the
35 budget for the same purposes for which originally appropriated or reap-
36 propriated and shall be payable on vouchers certified or approved by the
37 state government ethics commission on audit and warrant of the comp-
38 troller.

39 § 41. Separability clause. If any clause, sentence, paragraph, section
40 or part of this act shall be adjudged by any court of competent juris-
41 diction to be invalid, such judgment shall not affect, impair or invali-
42 date the remainder thereof, but shall be confined in its operation to
43 the clause, sentence, paragraph, section or part thereof directly
44 involved in the controversy in which such judgment shall have been
45 rendered.

46 § 42. This act shall take effect on the two hundred seventieth day
47 after it shall have become a law, except that appointments to the state
48 government ethics commission, as added by section four of this act, and
49 the designating commission, as added by section eight of this act, may
50 be made before such date.

51 PART B

52 Section 1. Section 2 of the retirement and social security law is
53 amended by adding a new subdivision 8-a to read as follows:

1 8-a. "Employee retirement system board" or "board." The entity estab-
2 lished pursuant to section ten-b of this article.

3 § 2. The retirement and social security law is amended by adding a new
4 section 10-b to read as follows:

5 § 10-b. The employee retirement system board. 1. There is hereby
6 established the employee retirement system board, which shall consist of
7 five members to be appointed by a designating commission pursuant to
8 section seventy-three-f of the public officers law.

9 2. Each member of the board shall have experience in the field of
10 securities investment, pension administration, pension law or govern-
11 mental finance, shall serve five year terms and may be reappointed to
12 the board; provided, however, that of the members initially appointed to
13 the board, one shall serve for one year, one shall serve for two years,
14 one shall serve for three years, one shall serve for four years and one
15 shall serve for five years, as designated by the commission. Members of
16 the board shall receive no compensation for their services as board
17 members, but shall be entitled to reimbursement for their actual and
18 necessary expenses incurred in the performance of their functions.
19 Vacancies to the board shall be filled within sixty days of their occur-
20 rence in the same manner as original appointments.

21 3. The members of the board shall be subject to sections seventy-three
22 and seventy-four of the public officers law.

23 4. Board members shall participate in training, developed and adminis-
24 tered by the department of audit and control, in consultation with the
25 superintendent of insurance and the attorney general, regarding legal,
26 fiduciary, financial and ethical responsibilities within one year of
27 appointment to the board.

28 5. A majority of the members of the board shall constitute a quorum,
29 and all actions of the board shall require approval of a majority of the
30 total members of the board.

31 6. The board may employ an executive director, a chief actuary, a
32 chief investment officer, as well as investment officers, portfolio
33 managers and such necessary technical and administrative personnel as it
34 may require. The board shall establish compensation that is reasonable
35 and customary for such positions.

36 7. The board may, in consultation with the superintendent of insur-
37 ance, promulgate rules and regulations on the governance of the retire-
38 ment system, and such other rules and regulations as it may deem appro-
39 priate.

40 § 3. Section 13 of the retirement and social security law, subdivision
41 b as amended by chapter 369 of the laws of 1964, subdivision d as
42 amended by chapter 460 of the laws of 1971, subdivision f as amended by
43 chapter 376 of the laws of 1965, paragraph 2 of subdivision f as amended
44 by chapter 908 of the laws of 1971, subdivision h as amended by chapter
45 496 of the laws of 1967, subdivision i as amended by chapter 1046 of the
46 laws of 1973, subdivision j as added by chapter 510 of the laws of 1965
47 and subdivision k as added by chapter 841 of the laws of 1968, is
48 amended to read as follows:

49 § 13. Management of funds. a. The funds of the retirement system shall
50 be managed in accordance with this section.

51 b. The [comptroller] members of the employee retirement system board
52 shall be trustee of the several funds of the retirement system and the
53 comptroller shall be custodian of such funds. Such funds shall be
54 invested by the comptroller as authorized by the employee retirement
55 system board, in securities in which he or she is authorized by law to
56 invest the funds of the state, except that he or she may invest in obli-

1 gations consisting of notes, bonds, debentures, or equipment trust
2 certificates issued under an indenture, which are the direct obligations
3 of, or in the case of equipment trust certificates are secured by direct
4 obligations of, a railroad or industrial corporation, or a corporation
5 engaged directly and primarily in the production, transportation,
6 distribution, or sale of electricity or gas, or the operation of tele-
7 phone or telegraph systems or waterworks, or in some combination of
8 them; provided the obligor corporation is one which is incorporated
9 under the laws of the United States, or any state thereof, or of the
10 District of Columbia, and said obligations shall be rated at the time of
11 purchase within the three highest classifications established by at
12 least two standard rating services. The maximum amount that the comp-
13 troller as authorized by the board may invest in such obligations shall
14 not exceed thirty per centum of the assets of the New York state employ-
15 ees' retirement system's funds; and provided further that not more than
16 two and one half per centum of the assets of the New York state employ-
17 ees' retirement system's funds shall be invested in the obligations of
18 any one corporation of the highest classification and subsidiary or
19 subsidiaries thereof, that not more than two per centum of the assets of
20 the New York state employees' retirement system's funds shall be
21 invested in the obligations of any one corporation of the second highest
22 classification and subsidiary or subsidiaries thereof, that not more
23 than one and one half per centum of the assets of the New York state
24 employees' retirement system's funds shall be invested in the obli-
25 gations of any one corporation of the third highest classification and
26 subsidiary or subsidiaries thereof. He or she shall, however, be
27 subject to all terms, conditions, limitations and restrictions imposed
28 by this article and by law upon the making of such investments. The
29 comptroller as authorized by the board shall have full power:

30 1. To hold, purchase, sell, assign, transfer or dispose of any of the
31 securities or investments, in which any of the funds of the retirement
32 system shall be invested, including the proceeds of such investments and
33 any monies belonging to such funds, and

34 2. In his or her name as [trustee] custodian, to foreclose mortgages
35 upon default or to take title to real property in such proceedings in
36 lieu thereof and to lease and sell real property so acquired.

37 c. The comptroller annually shall credit to each of the funds of the
38 retirement system regular interest on the mean amount therein for the
39 preceding year.

40 d. The custody of all funds of the retirement system shall be in the
41 charge of the head of the division of the treasury of the department of
42 taxation and finance, subject to the supervision and control of the
43 commissioner of taxation and finance.

44 e. Payment of all pensions, annuities and other benefits shall be made
45 as provided in this article. For the purpose of meeting disbursements
46 for pensions, annuities and other payments ordered by the comptroller,
47 the head of such division may keep on deposit an available fund which
48 shall not exceed ten per centum of the total amount of the several funds
49 of the retirement system. Every such deposit shall be kept only in a
50 bank or trust company organized under the laws of this state, or in a
51 national bank located in this state, which shall furnish adequate secu-
52 rity therefor.

53 f. The comptroller, however, shall have a fund in his or her immediate
54 possession. Such fund shall be used for the immediate payment of:

55 1. All pensions, annuities and other benefits, and

1 2. Such expenses as may necessarily be incurred in acquiring, servic-
2 ing and foreclosing mortgages and in acquiring, managing and protecting
3 investments, and

4 3. Such special expenditures for which the retirement system will be
5 paid by the state or a participating employer.

6 Such fund shall be reimbursed from time to time by the head of such
7 division on the warrant of the comptroller.

8 g. Neither the comptroller nor the members of the board or any person
9 employed on the work of the retirement system shall:

10 1. Except as herein provided, have any interest, direct or indirect,
11 in the gains or profits of any investment of the retirement system, nor,
12 in connection therewith, directly or indirectly, receive any pay or
13 emolument for his or her services.

14 2. Except as provided in section fifty of this article:

15 (a) Directly or indirectly, for himself or herself or as an agent or
16 partner of others, borrow any of its funds or deposits or in any manner
17 use the same except to make such current and necessary payments as are
18 authorized by the comptroller, or

19 (b) Become an endorser, surety or an obligor in any manner of monies
20 loaned by or borrowed of such funds.

21 h. The retirement system may use a part of its funds, not exceeding
22 ten per centum of its assets, (1) for purchasing or leasing of land in
23 the city of Albany and the construction thereon of a suitable office
24 building or buildings for the transaction of the business of the retire-
25 ment system and (2) for purchasing or leasing of land in the cities of
26 Albany, Syracuse, Buffalo, Binghamton, New York, Rochester and Utica and
27 the construction thereon of a suitable office building or buildings for
28 purposes of lease or sale to the state and (3) for purchasing or leasing
29 of land in the city of Albany on the north and south sides of Washington
30 avenue commonly known as the "Campus Site" acquired by the state for a
31 state buildings site pursuant to the provisions of chapter five hundred
32 seventy-two of the laws of nineteen hundred forty-seven and the
33 construction thereon of power plants including service connections,
34 electric substations including service connections, garages, warehouses
35 and restaurant facilities deemed necessary for the efficient and econom-
36 ical operation of the office building or buildings constructed on such
37 land and (4) for purchasing or leasing of land in the city of Albany
38 acquired by the state for suitable parking facilities for the use prima-
39 rily of employees of the state and persons having business with state
40 departments and state agencies and the construction thereon of such
41 structures, appurtenances and facilities deemed necessary for the effi-
42 cient and economical operation of the parking facilities constructed on
43 such land and (5) for purchasing or leasing of land in locations
44 approved by the state university trustees and the construction, acquisi-
45 tion, reconstruction, rehabilitation or improvement of suitable build-
46 ings or facilities thereon for purposes of lease or sale to the state
47 university construction fund, such buildings or facilities to be used by
48 the state university or by state-operated institutions or statutory or
49 contract colleges under the jurisdiction of the state university or by
50 the students, faculty and staff of the state university or of any such
51 state-operated institution or statutory or contract college, and their
52 families and (6) for purchasing of lands from the New York state thruway
53 authority and the construction thereon of an office building or other
54 buildings for purposes of lease or sale to the thruway authority for its
55 own use under such terms and conditions, including consideration and

1 length of term, as shall be agreed upon between the retirement system
2 and the thruway authority.

3 The retirement system from time to time may lease to any public agency
4 any portion of a building constructed for the transaction of its busi-
5 ness which may not be required for such purpose, upon such terms and
6 conditions as shall be deemed to be for the best interest of the retire-
7 ment system.

8 Real property of the retirement system acquired or constructed pursu-
9 ant to this subdivision shall be exempt from taxation.

10 i. At the close of each fiscal year, the average rate of investment
11 earnings of the retirement system shall be computed by the actuary and
12 certified to the comptroller. This rate shall be determined from the
13 investment earnings during the calendar year which ended three months
14 prior to the close of the fiscal year. For any year that such average
15 rate of earnings is in excess of three per centum but not in excess of
16 four per centum, the comptroller shall declare a rate of special inter-
17 est, for members earning regular interest of three per centum, equal to
18 the difference between such average rate of earnings and three per
19 centum expressed to the lower one-tenth of one per centum, but not in
20 excess of one per centum. For any year, commencing with the fiscal year
21 the first day of which is April first, nineteen hundred seventy, that
22 such average rate of earnings is in excess of four per centum, the
23 special rate of interest for members earning regular interest of three
24 per centum shall be equal to the difference between such average rate of
25 earnings and three per centum expressed to the lower one-tenth of one
26 per centum, but not in excess of two per centum, and for members earning
27 regular interest of four per centum, it shall be the difference between
28 such average rate of earnings and four per centum, expressed to the
29 lower one-tenth of one per centum, but not in excess of one per centum.
30 Special interest at such rates, shall be credited by the comptroller at
31 the same time that regular interest is credited, to the individual annu-
32 ity savings accounts of persons who are members as of the close of the
33 fiscal year. Special interest shall not be considered in determining
34 rates of contribution of members. In the case of persons who last became
35 members on or after July first, nineteen hundred seventy-three, the
36 provisions of this subdivision shall apply only to the fiscal years
37 beginning April first, nineteen hundred seventy-two and ending March
38 thirty-first, nineteen hundred seventy-three.

39 j. The retirement system may invest, within the limitations authorized
40 for investments in conventional mortgages, a part of its funds in first
41 mortgages on real property located anywhere within the boundaries of the
42 United States and leased to the government of the United States,
43 provided however, that no such investment shall be made unless the terms
44 of the mortgage shall provide for amortization payments in an amount
45 sufficient to completely amortize the loan within the period of the
46 lease.

47 k. The funds of the retirement system may be invested in the purchase
48 of promissory notes or bonds from the farmers home administration issued
49 in connection with the purchase or improvement of real property and
50 which are insured by the farmers home administration.

51 § 4. The retirement and social security law is amended by adding a new
52 article 3-B to read as follows:

53 ARTICLE 3-B
54 TRANSPARENCY, ACCOUNTABILITY AND PROHIBITIONS
55 IN THE STATE RETIREMENT SYSTEM
56 Section 156. Prohibition on placement agents.

1 § 156. Prohibition on placement agents. 1. Definitions. For the
2 purposes of this section, the following definitions shall apply:

3 (a) "Conflict of interest" shall mean a circumstance under which an
4 individual or entity has an interest that he, she or it is aware may
5 impair his, her or its impartial or objective judgment.

6 (b) "Consultant" shall mean any person (other than an employee of the
7 board or the comptroller) or entity retained by the fund to provide
8 technical or professional services to the fund relating to investments
9 by the fund, including outside investment counsel and litigation coun-
10 sel, custodians, administrators, broker-dealers, and persons or entities
11 that identify investment objectives and risks, assist in the selection
12 of money managers, securities, or other investments, or monitor invest-
13 ment performance.

14 (c) "Family member" shall mean any person related by blood, marriage,
15 adoption, or operation of law who resides in the same household, and any
16 person related to such person within the third degree of consanguinity
17 or affinity.

18 (d) "Fund" shall mean the New York state common retirement fund.

19 (e) "Employee retirement system board" or "board" shall mean the enti-
20 ty established pursuant to section ten-b of this chapter.

21 (f) "Investment manager" shall mean any person (other than an employee
22 of the department of audit and control) or entity engaged by the fund in
23 the management of part or all of an investment portfolio of the fund.
24 "Management" shall include, but is not limited to, analysis of portfolio
25 holdings, and the purchase, sale, and lending thereof.

26 (g) "Investment policy statement" shall mean a written document that,
27 consistent with law, sets forth a framework for the investment program
28 of the fund.

29 (h) "Placement agent" shall mean any person or entity that is directly
30 or indirectly engaged and compensated by an investment manager to
31 promote investments to or solicit investments by the fund, whether
32 compensated on a flat fee, a contingent fee, or any other basis, and
33 shall include a registered lobbyist. Regular employees of an investment
34 manager are excluded from this definition unless they are employed prin-
35 cipally for the purpose of securing or influencing the decision to
36 secure a particular transaction or investment by the fund. For purposes
37 of this paragraph, the term "employee" shall include any person who
38 would qualify as an employee under the federal Internal Revenue Code of
39 1986, as amended.

40 (i) "Retirement system" shall mean the New York state and local
41 employees' retirement system and the New York state and local police and
42 fire retirement system.

43 (j) "Third party administrator" shall mean any person or entity that
44 contractually provides administrative services to the retirement system,
45 including receiving and recording employer and employee contributions,
46 maintaining eligibility rosters, verifying eligibility for benefits,
47 paying benefits or maintaining any other retirement system records.
48 "Administrative services" shall not include services provided to the
49 fund relating to fund investments.

50 2. In order to preserve the independence and integrity of the fund, to
51 preclude potential conflicts of interest, and to assist the board in
52 fulfilling its duties as a fiduciary to the fund:

53 (a) the board shall not engage, hire, invest with or commit to an
54 outside investment manager, either directly or indirectly, who is using
55 the services of a placement agent to assist the investment manager in
56 obtaining investments by the fund; and

1 (b) an investment manager may not use the services of a placement
2 agent to assist the investment manager in obtaining investments by the
3 fund or otherwise doing business therewith.

4 3. An investment manager shall disclose and certify on at least a
5 semi-annual basis, and more frequently as determined by the board:

6 (a) the name, title and description of responsibilities of each
7 employee of the investment manager whose professional duties include
8 contact with the retirement system, including the retirement system's
9 employees, advisors, consultants and third-party administrators;

10 (b) whether an employee of the investment manager, whose professional
11 duties include contact with the retirement system, is a current or
12 former retirement system employee, advisor, consultant, or third-party
13 administrator;

14 (c) whether any employee of the investment manager, whose professional
15 duties include contact with the retirement system, has registered as a
16 lobbyist with any state or the federal government in the past two years;
17 and

18 (d) the names and addresses of all third parties that the investment
19 manager compensated in connection with investments in the retirement
20 system, including any fees, commissions or retainers, and the amounts of
21 such compensation.

22 4. An investment manager shall promptly disclose to the board, in
23 writing, any apparent, potential or actual conflict of interest between
24 the investment manager, including the investment manager's employees and
25 any family members of the investment manager and its employees, and the
26 retirement system, including the retirement system's employees, consult-
27 ants, third-party administrators and any family members of the employ-
28 ees, consultants, and third-party administrators. The investment manag-
29 er shall not provide any services concerning any matters affected by
30 such conflict of interest unless the retirement system expressly waives
31 such prohibition or until the conflict of interest is otherwise cured.

32 5. An investment manager shall publish all disclosures and certifi-
33 cations required by this section on the investment manager's website.

34 6. The attorney general may enforce the provisions of this section,
35 and may seek an injunction, on notice of five days, enjoining a person
36 or entity from continuing to engage in any conduct in violation of this
37 section. Nothing in this section shall be construed to limit any right
38 or remedy otherwise available under law to any person, or entity,
39 including the attorney general.

40 7. The board shall:

41 (a) File with the superintendent of insurance an annual statement as
42 prescribed by section three hundred seven of the insurance law, includ-
43 ing the retirement system's financial statement, together with an opin-
44 ion of an independent certified public accountant on the financial
45 statement;

46 (b) Disclose on the office of state comptroller's website, on at least
47 an annual basis, all fees paid by the fund to investment managers,
48 consultants, and third-party administrators;

49 (c) Disclose on the office of state comptroller's website the fund's
50 investment policies and procedures; and

51 (d) Require fiduciary and conflict of interest reviews of the fund
52 every three years by a qualified unaffiliated person.

53 8. For purposes of this section, any investment made by the fund
54 pursuant to subdivision seven of section one hundred seventy-seven of
55 this chapter shall be deemed to be the investment of the fund in such
56 investment entity, rather than in the asset of such investment entity.

1 9. Any person or entity that has a reasonable basis to believe that
2 any other person or entity has violated this section shall report to the
3 board and the attorney general evidence of the violation.

4 10. Any violation of this section or regulations promulgated there-
5 under shall be a misdemeanor, punishable by a fine not to exceed twen-
6 ty-five thousand dollars or by imprisonment not to exceed six months or
7 by both such fine and imprisonment. Any second or subsequent violation
8 shall be a felony punishable by a fine not to exceed one hundred thou-
9 sand dollars or by imprisonment for a class E felony or by both such
10 fine and imprisonment.

11 § 5. Subdivision 4 of section 302 of the retirement and social securi-
12 ty law is amended by adding a new subdivision 8-a to read as follows:

13 8-a. "Employee retirement system board" or "board." The entity estab-
14 lished pursuant to section ten-b of this chapter.

15 § 6. Subdivision g of section 311 of the retirement and social securi-
16 ty law, as added by chapter 1000 of the laws of 1966, is amended to read
17 as follows:

18 g. The comptroller shall, in consultation with the employee retirement
19 system board, adopt and amend pursuant to this article only such rules
20 and regulations as he or she determines to be for the best interest of
21 the retirement system and its members.

22 § 7. Section 313 of the retirement and social security law, as added
23 by chapter 1000 of the laws of 1966, subdivision d as amended by chapter
24 460 of the laws of 1971, paragraph 2 of subdivision f as amended by
25 chapter 908 of the laws of 1971, subdivision i as amended by chapter
26 1046 of the laws of 1973, is amended to read as follows:

27 § 313. Management of funds. a. The funds of the policemen's and fire-
28 men's retirement system shall be managed in accordance with this
29 section.

30 b. The [comptroller] members of the employee retirement system board
31 shall be trustee of the several funds of the policemen's and firemen's
32 retirement system and the comptroller shall be custodian of such funds.
33 Such funds shall be invested by the comptroller as authorized by the
34 board, in securities in which he or she is authorized by law to invest
35 the funds of the state, except that he or she may invest in obligations
36 consisting of notes, bonds, debentures or equipment trust certificates
37 issued under an indenture, which are the direct obligations of, or in
38 the case of equipment trust certificates are secured by direct obli-
39 gations of, a railroad or industrial corporation, or a corporation
40 engaged directly and primarily in the production, transportation,
41 distribution, or sale of electricity, or gas, or the operation of tele-
42 phone or telegraph systems or waterworks, or in some combination of
43 them; provided the obligor corporation is one which is incorporated
44 under the laws of the United States, or any state thereof, or of the
45 District of Columbia, and said obligations shall be rated at the time of
46 purchase within the three highest classifications established by at
47 least two standard rating services. The maximum amount that the comp-
48 troller as authorized by the board may invest in such obligations shall
49 not exceed thirty per centum of the assets of the New York state police-
50 men's and firemen's retirement system's funds; and provided further that
51 not more than two and one-half per centum of the assets of the New York
52 state policemen's and firemen's retirement system's funds shall be
53 invested in the obligations of any one corporation of the highest clas-
54 sification and subsidiary or subsidiaries thereof, that not more than
55 two per centum of the assets of the New York state policemen's and fire-
56 men's retirement system's funds shall be invested in the obligations of

1 any one corporation of the second highest classification and subsidiary
2 or subsidiaries thereof, that not more than one and one-half per centum
3 of the assets of the New York state policemen's and firemen's retirement
4 system's funds shall be invested in the obligations of any one corpo-
5 ration of the third highest classification and subsidiary or subsid-
6 iaries thereof. He or she shall, however, be subject to all terms,
7 conditions, limitations and restrictions imposed by this article and by
8 law upon the making of such investments. The comptroller as authorized
9 by the board shall have full power:

10 1. To hold, purchase, sell, assign, transfer or dispose of any of the
11 securities or investments, in which any of the funds of the policemen's
12 and firemen's retirement system shall be invested, including the
13 proceeds of such investments and any monies belonging to such funds, and

14 2. In his or her name as [trustee] custodian, to foreclose mortgages
15 upon default or to take title to real property in such proceedings in
16 lieu thereof and to lease and sell real property so acquired.

17 c. The comptroller as authorized by the board annually shall credit to
18 each of the funds of the policemen's and firemen's retirement system
19 regular interest on the mean amount therein for the preceding year.

20 d. The custody of all funds of the policemen's and firemen's retire-
21 ment system shall be in the charge of the head of the division of the
22 treasury of the department of taxation and finance, subject to the
23 supervision and control of the commissioner of taxation and finance.

24 e. Payment of all pensions, annuities and other benefits shall be made
25 as provided in this article. For the purpose of meeting disbursements
26 for pensions, annuities and other payments ordered by the comptroller,
27 the head of such division may keep on deposit an available fund which
28 shall not exceed ten per centum of the total amount of the several funds
29 of the policemen's and firemen's retirement system. Every such deposit
30 shall be kept only in a bank or trust company organized under the laws
31 of this state, or in a national bank located in this state, which shall
32 furnish adequate security therefor.

33 f. The comptroller, however, shall have a fund in his or her immediate
34 possession. Such fund shall be used for the immediate payment of:

35 1. All pensions, annuities and other benefits, and

36 2. Such expenses as may necessarily be incurred in acquiring, servic-
37 ing and foreclosing mortgages and in acquiring, managing and protecting
38 investments, and

39 3. Such special expenditures for which the policemen's and firemen's
40 retirement system will be paid by the state or a participating employer.
41 Such fund shall be reimbursed from time to time by the head of such
42 division on the warrant of the comptroller.

43 g. Neither the comptroller nor the member of the board or any person
44 employed on the work of the policemen's and firemen's retirement system
45 shall:

46 1. Except as herein provided, have any interest, direct or indirect,
47 in the gains or profits of any investment of the policemen's and fire-
48 men's retirement system, nor, in connection therewith, directly or indi-
49 rectly, receive any pay or emolument for his or her services.

50 2. Except as provided in section three hundred fifty of this article:

51 (a) Directly or indirectly, for himself or as an agent or partner of
52 others, borrow any of its funds or deposits or in any manner use the
53 same except to make such current and necessary payments as are author-
54 ized by the comptroller, or

55 (b) Become an endorser, surety or an obligor in any manner of monies
56 loaned by or borrowed of such funds.

1 h. The policemen's and firemen's retirement system may use a part of
2 its funds, not exceeding ten per centum of its assets, (1) for purchas-
3 ing or leasing of land in the city of Albany and the construction there-
4 on of a suitable office building or buildings for the transaction of the
5 business of the retirement system, (2) for purchasing or leasing of land
6 in the cities of Albany, Syracuse, Buffalo, Binghamton, New York,
7 Rochester and Utica and the construction thereon of a suitable office
8 building or buildings for purposes of lease or sale to the state, (3)
9 for purchasing or leasing of land in the city of Albany on the north and
10 south sides of Washington avenue commonly known as the "Campus Site"
11 acquired by the state for a state building site pursuant to the
12 provisions of chapter five hundred seventy-two of the laws of nineteen
13 hundred forty-seven and the construction thereon of power plants includ-
14 ing service connections, electric substations including service
15 connections, garages, warehouses and restaurant facilities deemed neces-
16 sary for the efficient and economical operation of the office building
17 or buildings constructed on such land and (4) for purchasing or leasing
18 of land in the city of Albany acquired by the state for suitable parking
19 facilities for the use primarily of employees of the state and persons
20 having business with state departments and state agencies and the
21 construction thereon of such structures, appurtenances and facilities
22 deemed necessary for the efficient and economical operation of the park-
23 ing facilities constructed on such land and (5) for purchasing or leas-
24 ing of land in locations approved by the state university trustees and
25 the construction, acquisition, reconstruction, rehabilitation or
26 improvement of suitable buildings or facilities thereon for purposes of
27 lease or sale to the state university construction fund, such buildings
28 or facilities to be used by the state university or by state-operated
29 institutions or statutory or contract colleges under the jurisdiction of
30 the state university or by the students, faculty and staff of the state
31 university or of any such state-operated institution or statutory or
32 contract college, and their families.

33 The policemen's and firemen's retirement system from time to time may
34 lease to any public agency any portion of a building constructed for the
35 transaction of its business which may not be required for such purpose,
36 upon such terms and conditions as shall be deemed to be for the best
37 interest of the policemen's and firemen's retirement system.

38 Real property of the policemen's and firemen's retirement system
39 acquired or constructed pursuant to this subdivision shall be exempt
40 from taxation.

41 i. At the close of each fiscal year, the average rate of investment
42 earnings of the retirement system shall be computed by the actuary and
43 certified to the comptroller. This rate shall be determined from the
44 investment earnings during the calendar year which ended three months
45 prior to the close of the fiscal year. For any year that such average
46 rate of earnings is in excess of three per centum but not in excess of
47 four per centum, the comptroller shall declare a rate of special inter-
48 est, for members earning regular interest of three per centum, equal to
49 the difference between such average rate of earnings and three per
50 centum, expressed to the lower one-tenth of one per centum, but not in
51 excess of one per centum. For any year, commencing with the fiscal year
52 the first day of which is April first, nineteen hundred seventy, that
53 such average rate of earnings is in excess of four per centum, the
54 special rate of interest for members earning regular interest of three
55 per centum shall be equal to the difference between such average rate of
56 earnings and three per centum, expressed to the lower one-tenth of one

1 per centum, but not in excess of two per centum, and for members earning
2 regular interest of four per centum, it shall be the difference between
3 such average rate of earnings and four per centum, expressed to the
4 lower one-tenth of one per centum, but not in excess of one per centum.
5 Special interest at such rates, shall be credited, by the comptroller at
6 the same time that regular interest is credited, to the individual annu-
7 ity savings accounts of persons who are members as of the close of the
8 fiscal year. Special interest shall not be considered in determining
9 rates of contribution of members. In the case of persons who last became
10 members on or after July first, nineteen hundred seventy-three, the
11 provisions of this subdivision shall apply only to the fiscal years
12 beginning April first, nineteen hundred seventy-two and ending March
13 thirty-first, nineteen hundred seventy-three.

14 j. The retirement system may invest, within the limitations authorized
15 for investments in conventional mortgages, a part of its funds in first
16 mortgages on real property located anywhere within the boundaries of the
17 United States and leased to the government of the United States,
18 provided however, that no such investment shall be made unless the terms
19 of the mortgage shall provide for amortization payments in an amount
20 sufficient to completely amortize the loan within the period of the
21 lease.

22 § 8. Section 421 of the retirement and social security law, as added
23 by chapter 306 of the laws of 1967, is amended to read as follows:

24 § 421. Definitions. As used or referred to in this article, unless a
25 different meaning clearly appears from the context. 1. The term "employ-
26 ees' retirement system" shall mean the New York state [employees]
27 employees' retirement system.

28 2. The term "policemen's and firemen's retirement system" shall mean
29 the New York state [policemen's and firemen's] and local police and fire
30 retirement system.

31 3. The term "each retirement [sytsem] system" shall mean each of the
32 foregoing defined systems.

33 4. [The term "comptroller" shall mean the state comptroller.

34 5.] The term "actuary" shall mean the actuary of the employees'
35 retirement system acting jointly with the actuary of the policemen's and
36 firemen's retirement system.

37 5. "Employee retirement system board" or "board" shall mean the entity
38 established pursuant to section ten-b of this chapter.

39 § 9. Section 422 of the retirement and social security law, as added
40 by chapter 306 of the laws of 1967, is amended to read as follows:

41 § 422. Establishment of a common retirement fund. 1. There is hereby
42 established a fund, in the custody of the comptroller, to be known as
43 the common retirement fund. Notwithstanding any other provision of this
44 chapter, all of the assets and income of the employees' retirement
45 system and of the policemen's and firemen's retirement system shall be
46 held by the comptroller as [trustee] custodian of such fund, except as
47 such assets and income may be allocated or distributed to the funds of
48 each retirement system by the comptroller.

49 2. The fund shall consist initially of the total assets of the employ-
50 ees' retirement system as of March thirty-first, nineteen hundred
51 sixty-seven, as such assets are defined in subdivision a of section two
52 hundred ninety-three of this chapter. After the annual valuation of the
53 assets and liabilities of the employees' retirement system and the
54 determination relating to assets and liabilities required by subdivision
55 b of section two hundred ninety-three of this chapter, the comptroller
56 shall credit to each retirement system a participating interest in the

1 assets of such fund in the proportion and percentage that the assets of
2 each retirement system bear to the total assets of the common retirement
3 fund. [On March thirty-first, nineteen hundred sixty-eight, and at the
4 close of each succeeding fiscal year, the] The comptroller shall credit
5 each retirement system with a participating interest in such fund in the
6 proportion and percentage that the interest attributable to each retire-
7 ment system bears to the total assets of such fund, after considering
8 contributions, earnings, disbursements and expenses attributable to each
9 system.

10 § 10. Section 423 of the retirement and social security law, as
11 amended by chapter 770 of the laws of 1970, is amended to read as
12 follows:

13 § 423. Investments. a. [On and after April first, nineteen hundred
14 sixty-seven, the] The comptroller, as authorized by the board shall
15 invest the available monies of the common retirement fund in any invest-
16 ments and securities authorized by law for each retirement system and
17 shall hold such investments in his or her name as [trustee] custodian of
18 such fund, notwithstanding any other provision of this chapter. Partic-
19 ipating interests in such investments shall be credited to each retire-
20 ment system in the manner and at the time specified in [paragraph]
21 subdivision two of section four hundred twenty-two of this article.

22 b. To assist in the management of the monies of the common retirement
23 fund, the comptroller shall appoint an investment advisory committee
24 consisting of not less than seven members who shall serve for [his] the
25 comptroller's term of office. A vacancy occurring from any cause other
26 than expiration of term shall be filled by the comptroller for the
27 remainder of the term. Each member of the committee shall be experienced
28 in the field of investments and shall have served, or shall be serving,
29 as a senior officer or member of the board of an insurance company,
30 banking corporation or other financial or investment organization
31 authorized to do business in the state of New York. The committee shall
32 advise the comptroller, as well as its executive director, chief actu-
33 ary, and chief investment officer on investment policies relating to the
34 monies of the common retirement fund and shall review, from time to
35 time, the investment portfolio of the fund and make such recommendations
36 as may be deemed necessary.

37 The comptroller shall appoint a separate mortgage advisory committee,
38 with the advice and consent of the investment advisory committee, to
39 review proposed mortgage and real estate investments by the common
40 retirement fund. In making investments, as authorized by law, the comp-
41 troller shall be guided by policies established by each committee from
42 time to time; and, in the event the mortgage advisory committee disap-
43 proves a proposed mortgage or real estate investment, such shall not be
44 made.

45 No officer or employee of any state department or agency shall be
46 eligible for membership on either committee. Each committee shall
47 convene periodically on call of the comptroller, or on call of the
48 [chairman] chair of the committee. The members of each committee shall
49 be entitled to reimbursement for their actual and necessary expenses but
50 shall receive no compensation for their services.

51 § 11. Sections 423-a and 423-b of the retirement and social security
52 law, section 423-a as added by chapter 112 of the laws of 1986 and
53 section 423-b as added by chapter 624 of the laws of 1999, are amended
54 to read as follows:

55 § 423-a. Northern Ireland related investments. 1. Notwithstanding any
56 other provision of law, on and after January first, nineteen hundred

1 eighty-seven, any moneys or assets of the common retirement fund which
2 shall remain or be invested in the stocks, securities or other obli-
3 gations of any institution or company doing business in or with Northern
4 Ireland or with agencies or instrumentalities thereof, shall be invested
5 subject to the provisions of subdivision three of this section.

6 2. On or before the first day of January of each year, the comptroller
7 as authorized by the board shall determine the existence of affirmative
8 action taken by institutions or companies doing business in Northern
9 Ireland to eliminate ethnic or religious discrimination based on actions
10 taken for:

11 (a) Increasing the representation of individuals from underrepresented
12 religious groups in the workforce including managerial, supervisory,
13 administrative, clerical and technical jobs.

14 (b) Providing adequate security for the protection of minority employ-
15 ees both at the workplace and while travelling to and from work.

16 (c) The banning of provocative religious or political emblems from the
17 workplace.

18 (d) Publicly advertising all job openings and making special recruit-
19 ment efforts to attract applicants from underrepresented religious
20 groups.

21 (e) Providing that layoff, recall, and termination procedures should
22 not in practice favor particular religious groupings.

23 (f) The abolition of job reservations, apprenticeship restrictions,
24 and differential employment criteria, which discriminate on the basis of
25 religion or ethnic origin.

26 (g) The development of training programs that will prepare substantial
27 numbers of current minority employees for skilled jobs, including the
28 expansion of existing programs and the creation of new programs to
29 train, upgrade, and improve the skills of minority employees.

30 (h) The establishment of procedures to assess, identify, and actively
31 recruit minority employees with potential for further advancement.

32 (i) The appointment of senior management staff members to oversee
33 affirmative action efforts and the setting up of timetables to carry out
34 affirmative action principles.

35 3. Consistent with sound investment policy, the comptroller as author-
36 ized by the board shall invest the assets of the common retirement fund
37 in such a manner that the investments in institutions doing business in
38 or with Northern Ireland shall reflect the advances made by such insti-
39 tutions in eliminating discrimination as established pursuant to subdi-
40 vision two of this section.

41 § 423-b. New York state venture capital program. The comptroller as
42 authorized by the board is hereby authorized to establish within the
43 common retirement fund a New York state venture capital program for the
44 purpose of investing in qualified businesses as defined in paragraph
45 [six] seven of subdivision (a) of section eleven of the tax law. The
46 comptroller [is authorized to] as authorized by the board may invest up
47 to two hundred fifty million dollars of assets of the common retirement
48 fund to carry out the purposes of this section. The comptroller as
49 authorized by the board may make investments pursuant to this section in
50 partnerships, corporations, trusts or limited liability companies organ-
51 ized on a for-profit basis that enter into agreements to invest the
52 moneys of the New York state venture capital program in qualified busi-
53 nesses. The comptroller as authorized by the board shall make such
54 investments consistent with the provisions of paragraph (b) of subdivi-
55 sion nine of section one hundred seventy-seven of this chapter. The
56 comptroller may establish procedures necessary to insure that invest-



1 ments of moneys of the New York state venture capital program are, for
 2 each investment in a qualified business, equitably matched by invest-
 3 ments made by other sources. The comptroller shall, to the maximum
 4 extent practicable, insure that the geographic distribution of invest-
 5 ments in the program is in proportion to the state population.

6 § 12. Intentionally omitted.

7 § 13. Section 425 of the retirement and social security law, as added
 8 by chapter 306 of the laws of 1967, is amended to read as follows:

9 § 425. Separability of retirement systems. No provision of this arti-
 10 cle shall be construed as an impairment of the separability of or of the
 11 corporate powers and privileges of the employees' retirement system or
 12 the policemen's and firemen's retirement system. The comptroller as
 13 authorized by the board shall establish or continue separate funds and
 14 accounts for each retirement system, consistent with the common retire-
 15 ment fund herein provided for, as may be required to carry out the sepa-
 16 rate purposes and privileges of each retirement system.

17 § 14. The retirement and social security law is amended by adding a
 18 new article 23 to read as follows:

19 ARTICLE 23

20 INVESTMENT FIRMS

21 Section 1300. Legislative intent.

22 1301. Definitions.

23 1302. Ban on investment firm business.

24 1303. Prohibition on soliciting and coordinating contributions.

25 1304. Circumvention of rule.

26 1305. Required disclosure to commission on public integrity.

27 1306. Voluntary disclosure to commission on public integrity.

28 1307. Prohibition of certain employment.

29 1308. Prohibition of certain financial relationships.

30 1309. Internal procedures.

31 1310. Prohibition of certain contacts.

32 1311. Gifts.

33 1312. Mandatory reporting.

34 1313. Attorney general action.

35 1314. Criminal sanctions.

36 § 1300. Legislative intent. The purpose and intent of this article is
 37 to ensure that the high standards and integrity of investment firms are
 38 maintained to prevent fraudulent and manipulative acts and practices, to
 39 promote just and equitable principles, to perfect a free and open market
 40 and to protect the common retirement fund and the public interest by:

41 1. prohibiting investment firms from engaging in business with the
 42 common retirement fund if certain political contributions have been made
 43 to officials that oversee the fund; and

44 2. requiring investment firms to disclose certain political contrib-
 45 utions, as well as other information, to allow public scrutiny of poli-
 46 tical contributions by those in the business.

47 § 1301. Definitions. As used in this article:

48 1. "Common retirement fund" shall mean all of the assets and income of
 49 the employees' retirement system and of the police and fire retirement
 50 system.

51 2. "Issuer" shall mean the comptroller or his or her designee in
 52 relation to the issuance of funds for investment from the common retire-
 53 ment fund.

54 3. "Investment firm" shall mean any person or entity that accepts an
 55 investment from or provides investment management services to the
 56 retirement system in connection with the management or investment of a

1 retirement system's trust fund or assets. Investment firm includes any
2 subsidiary or affiliate over which the investment firm exercises exclu-
3 sive control.

4 4. "Official" shall mean any person, including the person's election
5 committee, who was, at the time of a contribution, an incumbent, candi-
6 date or successful candidate for an elective office of a government
7 entity, if the office is directly responsible for, or can directly
8 influence the outcome of, the retirement system's investment with or
9 engagement of the investment firm.

10 § 1302. Ban on investment firm business. No investment firm shall
11 engage in business with the common retirement fund within two years
12 after any contribution to an official of the common retirement fund made
13 by:

14 1. the investment firm;

15 2. any finance professional associated with such investment firm; or

16 3. any political action committee controlled by the investment firm;
17 provided, however, that this section shall not prohibit the investment
18 firm from engaging in business with the common retirement fund if the
19 only contributions made by the foregoing persons and entities to offi-
20 cial of such issuer within the previous two years were made by persons
21 to officials of such issuer for whom the persons were entitled to vote
22 and which contributions, in total, were not in excess of three hundred
23 dollars by any investment firm to each official, per election.

24 § 1303. Prohibition on soliciting and coordinating contributions. No
25 investment firm shall solicit any person, including but not limited to,
26 any affiliated entity of the investment firm or political action commit-
27 tee, to:

28 1. make or coordinate any contribution, to an official of the common
29 retirement fund with which the investment firm is engaging or is seeking
30 to engage in business with; or

31 2. make or coordinate any payment to a political party of a state or
32 locality where the investment firm is engaging or is seeking to engage
33 in business with the common retirement fund.

34 § 1304. Circumvention of rule. No investment firm, or any professional
35 that conducts business with the common retirement fund shall, directly
36 or indirectly, through or by any other person, relative or means, do any
37 act that shall result in a violation of section thirteen hundred two or
38 thirteen hundred three of this article.

39 § 1305. Required disclosure to commission on public integrity. 1.
40 Except as otherwise provided in subdivision two of this section, each
41 investment firm shall, by January thirty-first, April thirtieth, July
42 thirty-first and October thirty-first of each year, report to the
43 commission on public integrity, in a format required by the commission,
44 the following information:

45 (a) for contributions to officials of the common retirement fund
46 (other than a contribution made by an investment firm to an official of
47 an issuer for whom such investment firm is entitled to vote if all
48 contributions by such investment firm to such official, in total, do not
49 exceed three hundred dollars per election) and payments to political
50 parties of a state or political subdivision (other than a payment made
51 by an investment firm to a political party of a state or a political
52 subdivision in which such investment firm is entitled to vote if all
53 payments by such investment firm to such political party, in total, do
54 not exceed three hundred dollars per year) made by the persons and enti-
55 ties described in subparagraph (ii) of this paragraph:



1 (i) the name and title (including any city, county, state or political
2 subdivision) of each official and political party receiving contrib-
3 utions or payments during such calendar quarter;

4 (ii) the contribution or payment amount made and the contributor cate-
5 gory of each of the following persons and entities making such contrib-
6 utions or payments during such calendar quarter:

7 (A) any investment firm or finance professional associated with such
8 investment firm; and

9 (B) each political action committee controlled by the investment firm
10 or any finance professional associated with such investment firm;

11 (b) a list of state officials with which the investment firm has
12 engaged in business during such calendar quarter, along with the type of
13 business;

14 (c) whether any contribution listed in this subdivision is the subject
15 of an automatic exemption, and the date of such automatic exemption; and

16 (d) such other information required by the commission on public integ-
17 riety.

18 2. No investment firm shall be required to make a disclosure pursuant
19 to this section to the commission on public integrity for any calendar
20 quarter in which:

21 (a) such investment firm has no information to disclose for such
22 calendar quarter; or

23 (b) such investment firm has not engaged in business with the common
24 retirement fund, but only if such investment firm did not engage in
25 business with the common retirement fund during the seven consecutive
26 calendar quarters immediately preceding such calendar quarter.

27 3. The commission on public integrity shall make public a copy of the
28 disclosures received from any investment firm.

29 4. If an investment firm engages in business during any calendar quar-
30 ter after not having reported the information described in paragraph (a)
31 of subdivision one of this section for one or more contributions or
32 payments made during the two-year period preceding such calendar quarter
33 solely as a result of paragraph (b) of subdivision two of this section,
34 then such investment firm shall include in the information for such
35 calendar quarter all such information (including year and calendar quar-
36 ter of such contributions or payments) not so reported during such two-
37 year period.

38 5. An investment firm that submits information to the commission on
39 public integrity shall:

40 (a) send two copies of such disclosure to the commission on public
41 integrity by certified or registered mail, or some other equally prompt
42 means that provides a record of sending; or

43 (b) submit an electronic version of such disclosure to the commission
44 on public integrity in such format and manner specified in regulations
45 promulgated by the commission on public integrity.

46 § 1306. Voluntary disclosure to commission on public integrity. The
47 commission on public integrity shall accept additional disclosures
48 related to contributions made to officials of issuers and payments to
49 political parties and political subdivisions voluntarily submitted by an
50 investment firm provided that such disclosures are submitted in accord-
51 ance with section thirteen hundred five of this article.

52 § 1307. Prohibition of certain employment. No investment firm shall
53 employ or compensate in any manner a board member, official, retirement
54 fund official, employee or fiduciary of the common retirement fund for
55 two years after the termination of such person's relationship with the

1 common retirement fund unless such person shall not have contact with,
2 or provide services to, the common retirement fund.

3 § 1308. Prohibition of certain financial relationships. No investment
4 firm or related party shall have a direct or indirect financial, commer-
5 cial or business relationship with an official or issuer of pension
6 funds, unless the board consents after full disclosure by the investment
7 firm or related party.

8 § 1309. Internal procedures. An investment firm shall adopt internal
9 procedures to monitor and ensure its compliance with this article, and
10 shall provide to the board and the attorney general a copy of these
11 procedures, including any updates thereto.

12 § 1310. Prohibition of certain contacts. Upon the common retirement
13 fund's release of any request for proposal, invitation for bid, or
14 comparable procurement vehicle for any investment services, there shall
15 be no communication between any board member, official, retirement fund
16 official, employee or fiduciary of the common retirement fund concerning
17 the procurement process until the process is complete, provided, howev-
18 er, that a request for technical clarification regarding the procurement
19 process itself shall be permissible, and an investment firm shall direct
20 such request to the person designated by the common retirement fund.
21 Nothing herein shall prohibit an investment firm from complying with a
22 request for information from the common retirement fund during the
23 procurement process.

24 § 1311. Gifts. An investment firm shall not give or offer to give any
25 gift to any board member, official, retirement fund official, employee
26 or fiduciary of the common retirement fund other than an article of
27 merchandise not exceeding fifteen dollars in value, which shall have
28 conspicuously stamped or printed thereon the advertisement of the
29 investment firm. For the purpose of this section, a gift shall include,
30 but is not limited to, money, loans, lodging, meals, refreshments,
31 vacations, prizes, discounts, and entertainment.

32 § 1312. Mandatory reporting. Any person or entity that has a reason-
33 able basis to believe that any other person or entity has violated this
34 article shall report to the board and the attorney general evidence of
35 the violation.

36 § 1313. Attorney general action. The attorney general may enforce the
37 provisions of this article and may seek an injunction, on notice of five
38 days, enjoining a person or entity from continuing to engage in any
39 conduct in violation of this article. Nothing in this article shall be
40 construed to limit any right or remedy otherwise available under law to
41 any person or entity, including the attorney general.

42 § 1314. Criminal sanctions. Any violation of this article or regu-
43 lations promulgated thereunder shall be a misdemeanor, punishable by a
44 fine not to exceed twenty-five thousand dollars or by imprisonment not
45 to exceed six months or by both such fine and imprisonment. Any second
46 or subsequent violation shall be a felony punishable by a fine not to
47 exceed one hundred thousand dollars or by imprisonment for a class E
48 felony or by both such fine and imprisonment.

49 § 15. Section 98 of the state finance law, subdivision 2-a as added by
50 chapter 61 of the laws of 1989, subdivision 3-a as amended by chapter
51 219 of the laws of 1999, subdivision 5 as amended by chapter 6 of the
52 laws of 1960, subdivision 6 as amended by chapter 527 of the laws of
53 1950, subdivision 7 as amended by chapter 243 of the laws of 1952,
54 subdivisions 8, 9 and 10 as amended by chapter 870 of the laws of 1948,
55 subdivision 11 as amended by chapter 458 of the laws of 1950, the open-
56 ing paragraph and paragraphs b, c and i of subdivision 11 as amended by

1 chapter 250 of the laws of 1951, paragraph w of subdivision 11 as added
2 by chapter 259 of the laws of 1952, paragraph x of subdivision 11 as
3 added by chapter 364 of the laws of 1955, paragraph y of subdivision 11
4 as amended by chapter 865 of the laws of 1955 and as relettered by chap-
5 ter 864 of the laws of 1956, paragraph z of subdivision 11 as amended by
6 chapter 809 of the laws of 1968, paragraph aa of subdivision 11 as
7 amended by chapter 339 of the laws of 1961, paragraph aa of subdivision
8 11 as added by chapter 261 of the laws of 1957, paragraph bb of subdivi-
9 sion 11 as added by chapter 826 of the laws of 1958, paragraph cc of
10 subdivision 11 as added by chapter 324 of the laws of 1965, paragraph dd
11 of subdivision 11 as added by chapter 717 of the laws of 1967, paragraph
12 dd of subdivision 11 as added by chapter 722 of the laws of 1967, para-
13 graph ee of subdivision 11 as added by chapter 1124 of the laws of 1969,
14 paragraph ff of subdivision 11 as added by chapter 460 of the laws of
15 1970, paragraph ff of subdivision 11 as added by chapter 714 of the laws
16 of 1970, subdivision 12 as added by chapter 499 of the laws of 1952,
17 subdivision 13 as added by chapter 311 of the laws of 1960, subdivision
18 13-a as added by chapter 113 of the laws of 1968, subdivision 13-b as
19 added by chapter 234 of the laws of 1988, subdivision 13-c as added by
20 chapter 144 of the laws of 1991, subdivision 14 as added by chapter 797
21 of the laws of 1963, subdivision 14 as added by chapter 932 of the laws
22 of 1963, subdivision 15 as added by chapter 392 of the laws of 1973,
23 subdivision 16 as added by chapter 7 of the laws of 1975, subdivision 17
24 as added by chapter 169 of the laws of 1975, subdivision 18 as amended
25 by chapter 219 of the laws of 1999, subdivision 19 as amended by chapter
26 201 of the laws of 1996, subdivision 20 as added by chapter 545 of the
27 laws of 2005 and the closing paragraph as amended by chapter 317 of the
28 laws of 1994, is amended to read as follows:

29 § 98. Investment of state funds. The comptroller, as authorized by the
30 employee retirement system board of trustees established pursuant to
31 section ten-b of the retirement and social security law, shall invest
32 and keep invested all moneys belonging to any and all funds which the
33 comptroller or such board now is or hereafter shall be authorized to
34 invest, in any of the following securities:

35 1. Bonds and notes of the United States.

36 2. Bonds and notes of this state.

37 2-a. General obligation bonds and notes of any state other than this
38 state, provided that such bonds and notes receive the highest rating of
39 at least one independent rating agency designated by the comptroller.

40 3. Obligations for the payment of which the faith and credit of the
41 United States or of this state are pledged.

42 3-a. Notes, bonds, debentures, mortgages and other evidences of
43 indebtedness of the United States Postal Service; the federal national
44 mortgage association; federal home loan mortgage corporation; student
45 loan marketing association; federal farm credit system or any other
46 United States government sponsored agency, provided that at the time of
47 the investment such agency or its obligations are rated and the agency
48 receives, or its obligations receive, the highest rating of all inde-
49 pendent rating agencies that rate such agency or its obligations,
50 provided, however, that no more than two hundred fifty million dollars
51 may be invested in the obligations of any one agency.

52 4. Judgments or awards of the court of claims of this state.

53 5. Stocks, bonds, or notes of any county, town, city, village, fire
54 district or school district of this state issued pursuant to law.

55 6. Mortgage bonds or any obligations for the payment of money, no
56 matter how designated, secured by another instrument representing a lien

1 on specific real property or a leasehold thereof, heretofore or hereaft-
2 er and at the time of the assignment thereof to the comptroller insured
3 by the federal housing administrator or any of his successors in office
4 and guaranteed by the United States under the provisions of the national
5 housing act, as amended or supplemented. Any such mortgage bonds or
6 obligations as aforesaid in which the comptroller has invested or shall
7 have invested pursuant to this subdivision shall be serviced by the
8 comptroller or in his discretion, by mortgagees, as such are defined by
9 the national housing act, as amended or supplemented, duly appointed by
10 him and subject to the inspection and supervision of some governmental
11 agency. The comptroller may receive and hold such debentures and certif-
12 icates or other obligations as are issued in payment of such insurance
13 or guarantee.

14 7. Bonds and notes of the Savings and Loan Bank of the state of New
15 York.

16 8. Bonds or notes of any housing authority of this state duly issued
17 pursuant to law.

18 9. Bonds or notes of any regulating district of this state duly issued
19 pursuant to law.

20 10. Bonds or notes of any drainage improvement district of this state
21 duly issued pursuant to law.

22 11. Bonds or notes of the authorities or commissions set forth below
23 when issued pursuant to law:

24 a. Port of New York Authority.

25 b. Niagara Frontier Authority.

26 c. Triborough bridge and tunnel authority.

27 d. Thousand Islands Bridge Authority.

28 e. New York State Bridge Authority.

29 f. New York City Tunnel Authority.

30 g. Lake Champlain Bridge Commission.

31 h. Lower Hudson Regional Market Authority.

32 i. Albany Regional Market Authority.

33 k. American Museum of Natural History Planetarium Authority.

34 l. Industrial Exhibit Authority.

35 m. Buffalo Sewer Authority.

36 n. Whiteface Mountain Authority.

37 o. Pelham-Portchester Parkway Authority.

38 p. Jones Beach State Parkway Authority.

39 q. Bethpage Park Authority.

40 r. Dormitory Authority.

41 s. Central New York Regional Market Authority.

42 t. Erie County Water Authority.

43 u. Suffolk County Water Authority.

44 v. New York State Thruway Authority.

45 w. Genesee Valley Regional Market Authority.

46 x. Onondaga county water authority.

47 y. Power Authority of the state of New York.

48 z. Ogdensburg Bridge and Port Authority.

49 aa. East Hudson Parkway Authority.

50 aa. Niagara Frontier Port Authority.

51 bb. Northwestern New York Water Authority.

52 cc. Metropolitan Commuter Transportation Authority.

53 dd. Niagara Frontier Transportation Authority.

54 dd. New York State Pure Waters Authority.

55 ee. Rochester-Genesee Regional Transportation Authority.

56 ff. Capital District Transportation Authority.

1 ff. Central New York Regional Transportation Authority.
2 12. Obligations of the International Bank for Reconstruction and
3 Development duly issued pursuant to law.
4 13. Obligations of the inter-American development bank duly issued
5 pursuant to law.
6 13-a. Obligations of the Asian Development Bank duly issued pursuant
7 to law.
8 13-b. Obligations of the African Development Bank duly issued pursuant
9 to law.
10 13-c. Obligations of the International Finance Corporation duly issued
11 pursuant to law.
12 14. Collateral trust notes issued by a trust company, all of the capi-
13 tal stock of which is owned by not less than twenty savings banks of the
14 state of New York.
15 14. Bonds and notes issued for any of the corporate purposes of the
16 New York state housing finance agency.
17 15. Bonds and notes issued for any of the corporate purposes of the
18 New York state medical care facilities finance agency.
19 16. Bonds and notes issued for any of the corporate purposes of the
20 New York state project finance agency.
21 17. Bonds and notes issued for any of the corporate purposes of the
22 municipal assistance corporation for New York City.
23 18. Obligations of any corporation organized under the laws of any
24 state in the United States maturing within two hundred seventy days
25 provided that such obligations receive the highest rating of two inde-
26 pendent rating services designated by the comptroller and that the
27 issuer of such obligations has maintained such ratings on similar obli-
28 gations during the preceding six months provided, however, that the
29 issuer of such obligations need not have received such rating during the
30 prior six month period if such issuer has received the highest rating of
31 two independent rating services designated by the state comptroller and
32 is the successor or wholly owned subsidiary of an issuer that has main-
33 tained such ratings on similar obligations during the preceding six
34 month period or if the issuer is the product of a merger of two or more
35 issuers, one of which has maintained such ratings on similar obligations
36 during the preceding six month period, provided, however, that no more
37 than two hundred fifty million dollars may be invested in such obli-
38 gations of any one corporation.
39 19. Bankers' acceptances maturing within ninety days which are eligi-
40 ble for purchase in the open market by federal reserve banks and which
41 have been accepted by a bank or trust company, which is organized under
42 the laws of the United States or of any state thereof and which is a
43 member of the federal reserve system and whose short-term obligations
44 meet the criteria outlined in subdivision eighteen of this section.
45 Provided, however, that no more than two hundred fifty million dollars
46 may be invested in such bankers' acceptance of any one bank or trust
47 company.
48 20. No-load money market mutual funds registered under the Securities
49 Act of 1933, as amended, and operated in accordance with Rule 2a-7 of
50 the Investment Company Act of 1940, as amended, provided that such funds
51 are limited to investments in obligations issued or guaranteed by the
52 United States of America or in obligations of agencies or instrumentali-
53 ties of the United States of America where the payment of principal and
54 interest are guaranteed by the United States of America (including
55 contracts for the sale and repurchase of any such obligations), and are
56 rated in the highest rating category by at least one nationally recog-

1 nized statistical rating organization, provided, however, that no more
2 than two hundred fifty million dollars may be invested in such funds.

3 The comptroller, as authorized by the employee retirement system
4 board, whenever he, she or it deems it for the best interest of any of
5 such funds, may dispose of any of the securities therein or investments
6 therefor, in making other investments authorized by law, and he, she or
7 it may exchange any such securities for those held in any other of such
8 funds, and the comptroller or such board may take such action as may be
9 necessary to obtain the benefits of the insurance provided for in the
10 national housing act, and may draw his, her or its warrant upon the
11 treasurer for the amount required for such investments and exchanges.

12 Notwithstanding the provisions of any other general or special law,
13 the comptroller shall not invest the moneys of any fund in any security
14 or securities except as above described, provided, however, that: (a)
15 the comptroller may, in order to maximize the rate of return on invest-
16 ments, invest the moneys belonging to the New York interest on lawyer
17 account fund in notes, securities and deposits of banking institutions
18 which accept IOLA accounts, and (b) the provisions of this section shall
19 not limit the types of investments that may be made with moneys belong-
20 ing to the volunteer ambulance service award fund established by section
21 two hundred nineteen-h of the general municipal law.

22 § 16. The public officers law is amended by adding a new section 73-f
23 to read as follows:

24 § 73-f. Designating commission for the employee retirement system
25 board. 1. Definitions. For the purpose of this chapter, the following
26 terms shall have the following meanings:

27 a. "Designating commission" means the designating commission for the
28 employee retirement system board.

29 b. "Designating members" means the members of the designating commis-
30 sion for the employee retirement system board.

31 c. "Commissioner" means a member of the state government ethics
32 commission.

33 d. "Candidate" means any individual under consideration by the desig-
34 nating commission for the position of trustee of the employee retirement
35 system board.

36 e. "Appointing officer" means the state elected official responsible
37 for appointing the designating members.

38 2. Organization of the designating commission. a. A designating
39 commission for the employee retirement system board is hereby estab-
40 lished. The designating commission shall consist of ten members of whom
41 four shall be appointed by the governor, and one each by the attorney
42 general, the state comptroller, the speaker of the assembly, the tempo-
43 rary president of the senate, the minority leader of the senate, and the
44 minority leader of the assembly. Of the four members appointed by the
45 governor, no more than two shall be enrolled in the same political
46 party. No member of the designating commission shall be a member of the
47 legislature, an employee of state government, hold any office in any
48 political party or be a registered lobbyist in this state or in any
49 other state. No member of the designating commission shall be a partner,
50 of counsel or otherwise employed by a lobbying firm or any entity
51 receiving a state contract that shares in any part of the profit derived
52 from lobbying. To the extent possible, the members of the designating
53 commission shall be individuals with knowledge or experience in the
54 field of securities investments, pension administration, pension law or
55 governmental finance.

1 b. The members first appointed by the governor shall have respectively
2 one, two, three and four-year terms as he shall designate. The member
3 first appointed by the attorney general shall have a two-year term. The
4 member first appointed by the state comptroller shall have a two-year
5 term. The member first appointed by the temporary president of the
6 senate shall have a one-year term. The member first appointed by the
7 minority leader of the senate shall have a two-year term. The member
8 first appointed by the speaker of the assembly shall have a four-year
9 term. The member first appointed by the minority leader of the assembly
10 shall have a three-year term. Each subsequent appointment shall be for
11 a term of four years.

12 c. A vacancy shall be deemed to occur immediately upon the appointment
13 or election of any member to an office that would disqualify him or her
14 for appointment to, or membership on, the designating commission. A
15 vacancy occurring for any reason other than by expiration of term shall
16 be filled by the appointing officer for the remainder of the unexpired
17 term. No member of the designating commission shall hold office for
18 more than ninety days after the expiration of his or her term. If the
19 appointing officer fails to appoint a person to a vacant office, by a
20 majority vote without vacancy, the designating commission shall select a
21 person to fill the vacant office.

22 d. The members shall designate one of their number to serve as chair-
23 man for a period of two years or until his or her term of office
24 expires, whichever period is shorter.

25 e. No member of the designating commission shall receive compensation,
26 but may receive his or her actual and necessary expenses incurred in the
27 discharge of his or her duties.

28 f. Eight members of the designating commission shall constitute a
29 quorum.

30 3. Functions of the designating commission. a. The designating commis-
31 sion shall consider and evaluate the qualifications of candidates for
32 appointment as a member of the employee retirement system board and, as
33 a vacancy occurs in any such office, shall appoint persons who by their
34 character, temperament, professional aptitude and experience are well
35 qualified to hold such office. The designating commission shall select
36 one such person to serve as chair of the board.

37 b. An appointment as member of the employee retirement system board by
38 the designating commission shall require the concurrence of seven
39 members of the designating commission. The appointment shall be trans-
40 mitted to the governor, the attorney general, the state comptroller, the
41 temporary president of the senate, the speaker of the assembly, the
42 minority leader of the senate and the minority leader of the assembly in
43 a single written report, which shall be released to the public by the
44 designating commission at the time it is submitted. The report shall be
45 in writing, signed only by the chairman, and shall include the designat-
46 ing commission's findings relating to the character, temperament,
47 professional aptitude, experience, qualifications and fitness for office
48 of each candidate who is appointed commissioner.

49 c. No person shall be appointed member of the board by the designating
50 commission who has not consented to be a candidate, who has not been
51 personally interviewed by a quorum of the membership of the designating
52 commission, and who has not filed a financial statement with the desig-
53 nating commission, on a form to be prescribed by the designating commis-
54 sion. The financial statement shall consist of a sworn statement of the
55 person's assets, liabilities and sources of income, and any other rele-
56 vant financial information which the designating commission may require.

1 The designating commission shall transmit the financial statement filed
2 by each person who is appointed to the governor, the attorney general,
3 the state comptroller, the temporary president of the senate, the speak-
4 er of the assembly, the minority leader of the senate and the minority
5 leader of the assembly. The designating commission shall make available
6 to the public the financial statement filed by the person who is
7 appointed to fill a vacancy. The financial statements filed by all other
8 persons not appointed by the designating commission shall be confiden-
9 tial.

10 4. Additional functions of the designating commission. The designating
11 commission shall have the following functions, powers and duties:

12 a. Establish detailed communication procedures to assure that persons
13 who may be qualified for appointment to the board, other than those who
14 have requested consideration or who have been recommended for consider-
15 ation by others, are encouraged to agree to be considered by the desig-
16 nating commission. The total number of requests for consideration shall
17 be documented for the public record.

18 b. Conduct investigations, administer oaths or affirmations, interview
19 witnesses and compel their attendance, examine them under oath or affir-
20 mation and require the production of any books, records, documents or
21 other evidence that it may deem relevant or material to its evaluation
22 of candidates for trustee.

23 c. Require from any court, department, division, board, bureau,
24 commission, or other agency of the state or political subdivision there-
25 of or any public authority such assistance, information and data, as
26 will enable it properly to evaluate the qualifications of candidates,
27 subject to any absolute judicial or executive privilege, where one
28 exists.

29 Notwithstanding any other provision of law, the designating commis-
30 sion, with the consent of the applicant, shall be entitled to require
31 from any formal deliberative body any formal written complaint against a
32 candidate, in which the applicant's misconduct was established, any
33 pending complaint against a candidate, and the record to date of any
34 pending proceeding pursuant to a formal written complaint against such
35 candidate. The deliberative body that has jurisdiction over such
36 complaint shall have fifteen days within which to respond to a request
37 made pursuant to this subdivision.

38 d. Require the appearance of any candidate before it and interview any
39 person concerning the qualifications of any candidate.

40 e. Establish procedures to communicate with the governor, the attorney
41 general, the state comptroller, the temporary president of the senate,
42 the speaker of the assembly, the minority leader of the senate and the
43 minority leader of the assembly concerning the qualifications of any
44 person who it has appointed as trustee.

45 f. Appoint, and at pleasure remove, a counsel and such other staff as
46 it may require from time to time, and prescribe their powers and duties.
47 The designating commission shall fix the compensation of its staff and
48 provide for reimbursement of their expenses within the amounts appropri-
49 ated by law.

50 g. Do all other things necessary and convenient to carry out its func-
51 tions pursuant to this article.

52 5. Rules of the designating commission. a. The designating commission
53 shall adopt, and may amend, written rules of procedure not inconsistent
54 with law.

55 b. Rules of the designating commission shall be filed with the secre-
56 tary of state and shall be published in the official compilation of

1 codes, rules and regulations of the state. Upon request of any person,
2 the secretary of state shall furnish a copy of the designating commis-
3 sion's rules without charge.

4 c. Rules of the designating commission may prescribe forms and ques-
5 tionnaires to be completed and, if required by the designating commis-
6 sion, verified by candidates.

7 d. Rules of the designating commission shall provide that upon the
8 completion by the designating commission of its consideration and evalu-
9 ation of the qualifications of a candidate, there shall be no reconsid-
10 eration of such candidate for the vacancy for which he was considered,
11 except with the concurrence of eight members of the designating commis-
12 sion.

13 6. Confidentiality of proceedings and records. a. All communications
14 to the designating commission, and its proceedings, and all applica-
15 tions, correspondence, interviews, transcripts, reports and all other
16 papers, files and records of the designating commission shall be confi-
17 dential and privileged and, except for the purposes of article two
18 hundred ten of the penal law, shall not be made available to any person
19 except as otherwise provided in this article.

20 b. Neither the members of the board, members of the designating
21 commission nor its staff shall publicly divulge the names of, or any
22 information concerning, any candidate except as otherwise provided in
23 this article. Any violation of this subdivision shall be a class A
24 misdemeanor.

25 7. Procedures when vacancies occur. a. Whenever a vacancy will occur
26 for the position of member of the employee retirement system board by
27 expiration of a term, the member of the board shall notify the designat-
28 ing commission of the anticipated vacancy no later than seven months
29 preceding the vacancy. The designating commission shall make its
30 appointment to the board on or before the date of expiration, to take
31 effect on the day following such expiration.

32 b. Whenever a vacancy occurs other than by expiration of term, the
33 commissioners of state government ethics shall immediately notify the
34 designating commission of such vacancy. The designating commission shall
35 make its appointment no later than one hundred twenty days after receipt
36 of such notice.

37 § 17. Severability. If any title, section, subdivision, paragraph or
38 other part of this act shall be adjudged invalid by any court of compe-
39 tent jurisdiction, such judgment shall not invalidate the remainder
40 thereof, but shall be confined in its operation to the part directly
41 involved in the controversy wherein such judgment shall have been
42 rendered.

43 § 18. This act shall take effect on the ninetieth day after it shall
44 have become a law.

45

PART C

46 Section 1. Subdivisions 1, 8, 9 and 11 of section 3-102 of the
47 election law, subdivisions 1 and 9 as redesignated and subdivision 11 as
48 amended by chapter 9 of the laws of 1978 and subdivision 8 as amended by
49 chapter 695 of the laws of 1985, are amended to read as follows:

50 1. issue instructions and promulgate rules and regulations relating to
51 the administration of the election process[,] and election campaign
52 practices [and campaign financing practices] consistent with the
53 provisions of law;



1 8. prepare [uniform forms for the statements required by article four-
2 teen of this chapter and] uniform forms for use by local election offi-
3 cials in the conduct of registration and voting; design, prepare and
4 make available to county boards of election and to such other insti-
5 tutions and groups as such board in its discretion shall determine
6 uniform application forms for registration and enrollment, transfer of
7 registration and/or enrollment and special enrollment upon application
8 filed by mail pursuant to the provisions of section 5-210 of this chap-
9 ter;

10 9. study and examine the administration of elections within the state
11 including [campaign financing, campaign financing reporting, and]
12 campaign practices;

13 11. recommend such legislation or administrative measures as it finds
14 appropriate to promote fair, honest and efficiently administered
15 elections[, including, but not limited to, legislation to adjust the
16 contribution limitations set forth in article fourteen of this chapter];

17 § 2. Subdivision 9-A of section 3-102 of the election law is REPEALED.
18 § 3. Subdivision 7 of section 3-102 of the election law is REPEALED.
19 § 4. Section 3-104 of the election law, subdivisions 1, 3, 4 and 5 as
20 redesignated and subdivision 2 as amended by chapter 9 of the laws of
21 1978, is amended to read as follows:

22 § 3-104. State board of elections; enforcement powers. 1. The state
23 board of elections shall have jurisdiction of, and be responsible for,
24 the execution and enforcement of the provisions of [article fourteen of]
25 this chapter, except article fourteen, which the state government ethics
26 commission shall have jurisdiction of, and other statutes governing
27 campaigns, elections and related procedures.

28 2. Whenever the state board of elections or other board of elections
29 shall determine, on its own initiative or upon complaint, or otherwise,
30 that there is substantial reason to believe a violation of this chapter
31 or any code or regulation promulgated thereunder has occurred, it shall
32 expeditiously make an investigation which shall also include investi-
33 gation of reports and statements made or failed to be made by the
34 complainant and any political committee supporting his candidacy if the
35 complainant is a candidate or, if the complaint was made by an officer
36 or member of a political committee, of reports and statements made or
37 failed to be made by such political committee and any candidates
38 supported by it. The state board of elections, in lieu of making such an
39 investigation, may direct the appropriate board of elections to make an
40 investigation. The state board of elections may request, and shall
41 receive, the assistance of the state police in any investigation it
42 shall conduct.

43 3. If, after an investigation, the state or other board of elections
44 finds reasonable cause to believe that a violation warranting criminal
45 prosecution has taken place, it shall forthwith refer the matter to the
46 district attorney of the appropriate county and shall make available to
47 such district attorney all relevant papers, documents, testimony and
48 findings relevant to its investigation.

49 4. [The state or other board of elections may, where appropriate,
50 commence a judicial proceeding with respect to the filing or failure to
51 file any statement of receipts, expenditures, or contributions, under
52 the provisions of this chapter, and the state board of elections may
53 direct the appropriate other board of elections to commence such
54 proceeding.

55 5.] The state board of elections may promulgate rules and regulations
56 consistent with law to effectuate the provisions of this section.

1 § 5. Subdivision 1 of section 14-100 of the election law, as amended
2 by chapter 71 of the laws of 1988, is amended to read as follows:

3 1. "political committee" means any [corporation] business entity
4 aiding or promoting and any committee, political club or combination of
5 one or more persons operating or co-operating to aid or to promote the
6 success or defeat of a political party or principle, or of any ballot
7 proposal; or to aid or take part in the election or defeat of a candi-
8 date for public office or to aid or take part in the election or defeat
9 of a candidate for nomination at a primary election or convention,
10 including all proceedings prior to such primary election, or of a candi-
11 date for any party position voted for at a primary election, or to aid
12 or defeat the nomination by petition of an independent candidate for
13 public office; or any political action committee established, financed,
14 maintained or controlled by any business entity, labor organization or
15 any other person or entity which makes no expenditure to aid or take
16 part in the election or defeat of a candidate, other than in the form of
17 contributions; but nothing in this article shall apply to any committee
18 or organization for the discussion or advancement of political questions
19 or principles without connection with any vote or to a national commit-
20 tee organized for the election of presidential or vice-presidential
21 candidates; provided, however, that a person or [corporation] business
22 entity making a contribution or contributions to a candidate or a poli-
23 tical committee which has filed pursuant to section 14-118 shall not, by
24 that fact alone, be deemed to be a political committee as herein
25 defined.

26 § 6. Paragraph 2 of subdivision 9 of section 14-100 of the election
27 law, as amended by chapter 70 of the laws of 1983, is amended and a new
28 subdivision 9-a is added to read as follows:

29 (2) any funds received by a political committee from another political
30 committee [to the extent such funds do not constitute a transfer] by any
31 means, including but not limited to transfers,

32 9-a. "intermediary" means an individual, corporation, partnership,
33 political committee, employee organization or other entity which:

34 (a) other than in the regular course of business as a postal, delivery
35 or messenger service, delivers any contribution from another person or
36 entity to a candidate or authorized committee; or

37 (b) successfully solicits contributions to a candidate or other
38 authorized committee where such solicitation is known to such candidate
39 or his or her authorized committee. For purposes of this paragraph, only
40 persons clearly identified as the solicitor of a contribution to the
41 candidate or his or her authorized committee shall be presumed to be
42 known to such candidate or his or her authorized committee. "Interme-
43 diary" shall not include spouses, domestic partners, parents, children
44 or siblings of the person making such contribution, or any paid or
45 volunteer full-time campaign workers or commercial fundraising firms
46 retained by the candidate and the agents thereof.

47 § 7. Subdivisions 1 and 3 of section 14-102 of the election law, as
48 amended by chapter 8 of the laws of 1978, subdivision 1 as redesignated
49 by chapter 9 of the laws of 1978 and subdivision 3 as renumbered by
50 chapter 70 of the laws of 1983, are amended to read as follows:

51 1. The treasurer of every political committee which, or any officer,
52 member or agent of any such committee who, in connection with any
53 election, receives or expends any money or other [valuable thing] item
54 of value or incurs any liability to pay money or its equivalent shall
55 file statements sworn, or subscribed and bearing a form notice that
56 false statements made therein are punishable as a class A misdemeanor

1 pursuant to section 210.45 of the penal law, at the times prescribed by
2 this article setting forth all the receipts, contributions to and the
3 expenditures by and liabilities of the committee, and of its officers,
4 members and agents in its behalf. Such statements shall include the
5 dollar amount of any receipt, contribution or transfer, or the fair
6 market value of any receipt, contribution or transfer, which is other
7 than of money, the name [and], address and occupation of the transferor,
8 contributor or person from whom received, other than in the regular
9 course of a lender's business, and for a natural person contributing two
10 hundred dollars or more, the name and address of such person's employer,
11 and the business address of each political committee or other entity
12 making such contribution, or any loan, guarantee, or other security for
13 such a loan and if the transferor, contributor or person is a political
14 committee; the name of and the political unit represented by the commit-
15 tee, the date of its receipt, the dollar amount of every expenditure,
16 the name and address of the person to whom it was made or the name of
17 and the political unit represented by the committee to which it was made
18 and the date thereof, and shall state clearly the purpose of such
19 expenditure. If any one expenditure is made for more than one purpose,
20 or as payment for goods or services supplied by more than one supplier,
21 such statement shall set forth separately each such purpose or supplier
22 and the amount expended for each such purpose or to each such supplier.
23 Any statement reporting a loan shall have attached to it a copy of the
24 evidence of indebtedness. Expenditures in sums under fifty dollars need
25 not be specifically accounted for by separate items in said statements,
26 and receipts and contributions aggregating not more than ninety-nine
27 dollars, from any one contributor need not be specifically accounted for
28 by separate items in said statements, provided however, that such
29 expenditures, receipts and contributions shall be subject to the other
30 provisions of section 14-118 of this article.

31 3. The state [board of elections] government ethics commission shall
32 promulgate regulations with respect to the accounting methods to be
33 applied in complying with, and in preparing the statements required by,
34 the provisions of this article and shall provide forms suitable for such
35 statements. Such regulations shall be drawn to assure such compliance
36 and obtain the maximum possible disclosure.

37 § 8. Subdivisions 4 and 5 of section 14-102 of the election law,
38 subdivision 4 as amended and subdivision 5 as added by chapter 406 of
39 the laws of 2005, are amended to read as follows:

40 4. Any committee which is required to file statements with [any board
41 of elections] the state government ethics commission pursuant to this
42 article and which raises or spends or expects to raise or spend more
43 than one thousand dollars in any calendar year shall file all such
44 statements pursuant to the electronic reporting system prescribed by
45 [the state board of elections as set forth in subdivision nine-A of
46 section 3-102 of this chapter] section seventy-three-c of the public
47 officers law. Notwithstanding the provisions of this subdivision, upon
48 the filing of a sworn statement by the treasurer of a political commit-
49 tee which states that such political committee does not have access to
50 the technology necessary to comply with the electronic filing require-
51 ments [of subdivision nine-A of section 3-102 of this chapter]
52 prescribed by section seventy-three-c of the public officers law and
53 that filing by such means would constitute a substantial hardship for
54 such political committee, the state [board of elections] government
55 ethics commission may issue an exemption from the electronic filing
56 requirements of this article.



1 [5. Any committee which is required to file statements pursuant to
2 this article with county boards of elections shall file in paper format
3 to the county board of elections or in electronic format if the legisla-
4 tive body of any county provides, by local law, an electronic filing
5 system and shall file such statements by electronic reporting process to
6 the state board of elections.]

7 § 9. Section 14-104 of the election law, as amended by chapter 430 of
8 the laws of 1997, subdivision 2 as amended and subdivision 3 as added by
9 chapter 406 of the laws of 2005, is amended to read as follows:

10 § 14-104. Statements of campaign receipts, contributions, transfers
11 and expenditures by and to candidates. 1. Any candidate for election to
12 public office, or for nomination for public office at a contested prima-
13 ry election or convention, or for election to a party position at a
14 primary election, shall file statements sworn, or subscribed and bearing
15 a form notice that false statements made therein are punishable as a
16 class A misdemeanor pursuant to section 210.45 of the penal law, at the
17 times prescribed by this article setting forth the particulars specified
18 by section 14-102 of this article, as to all moneys or other valuable
19 things, paid, given, expended or promised by him to aid his own nomi-
20 nation or election, or to promote the success or defeat of a political
21 party, or to aid or influence the nomination or election or the defeat
22 of any other candidate to be voted for at the election or primary
23 election or at a convention, including contributions to political
24 committees, officers, members or agents thereof, and transfers, receipts
25 and contributions to him to be used for any of the purposes above speci-
26 fied, or in lieu thereof, any such candidate may file such a sworn
27 statement at the first filing period, on a form prescribed by [the state
28 board of elections] section seventy-three-c of the public officers law
29 that such candidate has made no such expenditures and does not intend to
30 make any such expenditures, except through a political committee author-
31 ized by such candidate pursuant to this article. A committee authorized
32 by such a candidate may fulfill all of the filing requirements of this
33 [act] article on behalf of such candidate.

34 2. Statements filed by any political committee authorized by a candi-
35 date pursuant to this article which is required to file such statements
36 with [any board of elections] the state government ethics commission and
37 which raises or spends or expects to raise or spend more than one thou-
38 sand dollars in any calendar year shall file all such statements pursu-
39 ant to the electronic reporting system prescribed by [the state board of
40 elections as set forth in subdivision nine-A of section 3-102 of this
41 chapter] section seventy-three-c of the public officers law. Notwith-
42 standing the provisions of this subdivision, upon the filing of a sworn
43 statement by the treasurer of a political committee authorized by a
44 candidate pursuant to this article which states that such committee does
45 not have access to the technology necessary to comply with the electron-
46 ic filing requirements [of subdivision nine-A of section 3-102 of this
47 chapter] prescribed by section seventy-three-c of the public officers
48 law and that filing by such means would constitute a substantial hard-
49 ship for such committee, the state [board of elections] government
50 ethics commission may issue an exemption from the electronic filing
51 requirements of this article.

52 [3. Any committee which is required to file statements pursuant to
53 this article with county boards of elections shall file in paper format
54 to the county board of elections or in electronic format if the legisla-
55 tive body of any county provides, by local law, an electronic filing

1 system and shall file such statements by electronic reporting process to
2 the state board of elections.]

3 § 10. Section 14-108 of the election law, subdivision 1 as amended by
4 chapter 955 of the laws of 1983, subdivision 2 as amended by chapter 109
5 of the laws of 1997, subdivisions 3, 4 and 6 as redesignated by chapter
6 9 of the laws of 1978, subdivision 5 as amended and subdivision 7 as
7 added by chapter 146 of the laws of 1994 and subdivision 6 as amended by
8 chapter 323 of the laws of 1977, is amended to read as follows:

9 § 14-108. Time for filing statements. 1. The statements required by
10 this article shall be filed at such times as the state [board of
11 elections] government ethics commission, by rule or regulation, shall
12 specify; provided, however, that in no event shall the [board] state
13 government ethics commission provide for fewer than three filings in the
14 aggregate in connection with any primary, general or special election,
15 or in connection with a question to be voted on and two of said filings
16 shall be before any such election, including one such filing not less
17 than thirty days nor more than forty-five days prior to such election
18 and one such filing not less than eleven days nor more than fifteen days
19 prior to such election. In addition, the [board] state government ethics
20 commission shall provide that every political committee which has filed
21 a statement of treasurer and depository shall make [at least] one filing
22 [every six months between the time such statement of treasurer and
23 depository is filed and the time such committee goes out of business] on
24 January thirty-first, one filing on April thirtieth and one filing on
25 July thirty-first of each year. If any candidate or committee shall be
26 required by the provisions of this section, or by rule or regulation
27 hereunder, to effect two filings within a period of five days, the state
28 [board of elections] government ethics commission may, by rule or regu-
29 lation, waive the requirement of filing the earlier of such statements.
30 If a statement filed by a candidate or committee after the election to
31 which it pertains is not a final statement showing satisfaction of all
32 liabilities and disposition of all assets, such candidate or committee
33 shall file such additional statements as the [board] state government
34 ethics commission shall, by rule or regulation provide until such a
35 final statement is filed.

36 2. Each statement shall cover the period up to and including the
37 fourth day next preceding the day specified for the filing thereof;
38 provided, however, that any contribution or loan in excess of one thou-
39 sand dollars, if received after the close of the period to be covered in
40 the last statement filed before any primary, general or special election
41 but before such election, shall be reported, in the same manner as other
42 contributions, within twenty-four hours after receipt.

43 3. Each statement shall be preserved by the officer with whom or the
44 [board] state government ethics commission with which it is required to
45 be filed for a period of five years from the date of filing thereof.

46 4. Each statement shall constitute a part of the public records of
47 such officer or [board] state government ethics commission and shall be
48 open to public inspection.

49 5. The state [board of elections or other board of elections, as the
50 case may be,] government ethics commission shall not later than ten days
51 after the last day to file any such statement notify each person
52 required to file any such statement which has not been received by such
53 [board] commission by such tenth day in accordance with this article of
54 such person's failure to file such statement timely. Such notice shall
55 be in writing and mailed to the last known residence or business address
56 of such person by certified mail, return receipt requested. Failure to

1 file within five days of receipt of such notice shall constitute prima
2 facie evidence of a willful failure to file. If the person required to
3 file such statement is a treasurer who has stated that the committee has
4 been authorized by one or more candidates, a copy of such notice shall
5 be sent to each such candidate by first class mail. [A copy of any such
6 notice sent by a board of elections other than the state board of
7 elections shall be sent by such other board to the state board.]

8 6. A statement shall be deemed properly filed when deposited in an
9 established post-office within the prescribed time, duly stamped, certi-
10 fied and directed to the officer with whom or to the [board] state
11 government ethics commission with which the statement is required to be
12 filed, but in the event it is not received, a duplicate of such state-
13 ment shall be promptly filed upon notice by such officer or such [board]
14 commission of its non-receipt; provided, however, all statements
15 required to be filed during the period of fifteen days before any
16 election shall be filed electronically or by guaranteed overnight deliv-
17 ery through the United States postal service or some other overnight
18 delivery service.

19 7. On the twentieth day following the date by which such statements
20 were required to be filed, the state [board of elections] government
21 ethics commission shall prepare and make available for public inspection
22 and distribution a list of those persons and committees from whom it has
23 not yet received such statement.

24 § 11. Section 14-110 of the election law, as amended by chapter 46 of
25 the laws of 1984, is amended to read as follows:

26 § 14-110. Place for filing statements. The places for filing the
27 statements required by this article shall be determined by rule or regu-
28 lation of the state [board of elections] government ethics commission;
29 provided, however, that the statements of a candidate for election to
30 the office of governor, lieutenant governor, attorney general, comp-
31 troller, member of the legislature, delegate to a constitutional conven-
32 tion, justice of the supreme court or for nomination for any such office
33 at a primary election and of any committee aiding or taking part in the
34 designation, nomination, election or defeat of candidates for one or
35 more of such offices or promoting the success or defeat of a question to
36 be voted on by the voters of the entire state shall be filed with the
37 state [board of elections] government ethics commission and in such
38 other places as the state [board of elections] government ethics commis-
39 sion may, by rule or regulation provide.

40 § 12. Section 14-112 of the election law, as amended by chapter 930 of
41 the laws of 1981, is amended to read as follows:

42 § 14-112. [Political] Authorized committee; political committee
43 authorization statement. 1. Any political committee aiding or taking
44 part in the election or nomination of any candidate[, other than by
45 making contributions,] shall file, in the office in which the statements
46 of such committee are to be filed pursuant to this article, either a
47 sworn verified statement by the treasurer of such committee and the
48 candidate that [the] such candidate has authorized the political commit-
49 tee to aid or take part in his or her election or a sworn verified
50 statement by the treasurer of such committee that the candidate has not
51 authorized the committee to aid or take part in his or her election.

52 2. No candidate may authorize more than one political committee for
53 any one election. Any candidate who, on December first, two thousand
54 ten, has authorized more than one political committee for any one
55 election shall, not later than thirty days after said date, disavow all
56 but one of such committees, in writing, to the state government ethics

1 commission. This subdivision shall not apply to the authorization of an
2 exploratory committee by an elected public official. A multi-candidate
3 committee may not be an authorized committee.

4 3. Campaign funds remaining in any disavowed committee shall be
5 disposed of pursuant to section 14-132 of this article.

6 § 13. Subdivision 1 of section 14-114 of the election law, as amended
7 by chapter 79 of the laws of 1992, paragraphs a and b as amended by
8 chapter 659 of the laws of 1994, is amended to read as follows:

9 1. The following limitations apply to all contributions to candidates
10 for election to any public office or for nomination for any such office,
11 or for election to any party positions, and to all contributions to
12 political committees working directly or indirectly with any candidate
13 to aid or participate in such candidate's nomination or election, other
14 than any contributions to any party committee or constituted committee:

15 a. In any election for a public office to be voted on by the voters of
16 the entire state, or for nomination to any such office, no contributor
17 may make a contribution to any candidate or political committee, and no
18 candidate or political committee may accept any contribution from any
19 contributor, which is in [the aggregate amount greater than: (i) in the
20 case of any nomination to public office, the product of the total number
21 of enrolled voters in the candidate's party in the state, excluding
22 voters in inactive status, multiplied by \$.005, but such amount shall be
23 not less than four thousand dollars nor more than twelve thousand
24 dollars] excess of one thousand dollars as increased or decreased by the
25 cost of living adjustment described in paragraph c of this subdivision[,
26 and (ii) in the case of any election to a public office, twenty-five
27 thousand dollars as increased or decreased by the cost of living adjust-
28 ment described in paragraph c of this subdivision; provided however,
29 that the maximum amount which may be so contributed or accepted, in the
30 aggregate, from any candidate's child, parent, grandparent, brother and
31 sister, and the spouse of any such persons, shall not exceed in the case
32 of any nomination to public office an amount equivalent to the product
33 of the number of enrolled voters in the candidate's party in the state,
34 excluding voters in inactive status, multiplied by \$.025, and in the
35 case of any election for a public office, an amount equivalent to the
36 product of the number of registered voters in the state excluding voters
37 in inactive status, multiplied by \$.025].

38 b. In any other election for party position or for election to a
39 public office or for nomination for any such office, no contributor may
40 make a contribution to any candidate or political committee and no
41 candidate or political committee may accept any contribution from any
42 contributor, which is in [the aggregate amount greater than: (i) in the
43 case of any election for party position, or for nomination to public
44 office, the product of the total number of enrolled voters in the candi-
45 date's party in the district in which he is a candidate, excluding
46 voters in inactive status, multiplied by \$.05, and (ii) in the case of
47 any election for a public office, the product of the total number of
48 registered voters in the district, excluding voters in inactive status,
49 multiplied by \$.05,] excess of one thousand dollars as increased or
50 decreased by the cost of living adjustment described in paragraph c of
51 this subdivision; however in the case of a nomination or election within
52 the city of New York for the office of mayor, public advocate [or],
53 comptroller, borough president or member of the city council, such
54 amount shall be [not less than four thousand dollars nor more than
55 twelve thousand dollars as increased or decreased by the cost of living
56 adjustment described in paragraph c of this subdivision; in the case of

1 an election within the city of New York for the office of mayor, public
2 advocate or comptroller, twenty-five thousand dollars as increased or
3 decreased by the cost of living adjustment described in paragraph c of
4 this subdivision] equal to the contribution limits set forth in para-
5 graph (f) of subdivision one of section 3-703 of the administrative code
6 of the city of New York or any successor provision; provided however in
7 the case of a nomination or election for state senator, [four] one thou-
8 sand dollars as increased or decreased by the cost of living adjustment
9 described in paragraph c of this subdivision; [in the case of an
10 election for state senator, six thousand two hundred fifty dollars as
11 increased or decreased by the cost of living adjustment described in
12 paragraph c of this subdivision;] in the case of [an election or] a
13 nomination or election for a member of the assembly, [twenty-five
14 hundred] one thousand dollars as increased or decreased by the cost of
15 living adjustment described in paragraph c of this subdivision[; but in
16 no event shall any such maximum exceed fifty thousand dollars or be less
17 than one thousand dollars; provided however, that the maximum amount
18 which may be so contributed or accepted, in the aggregate, from any
19 candidate's child, parent, grandparent, brother and sister, and the
20 spouse of any such persons, shall not exceed in the case of any election
21 for party position or nomination for public office an amount equivalent
22 to the number of enrolled voters in the candidate's party in the
23 district in which he is a candidate, excluding voters in inactive
24 status, multiplied by \$.25 and in the case of any election to public
25 office, an amount equivalent to the number of registered voters in the
26 district, excluding voters in inactive status, multiplied by \$.25; or
27 twelve hundred fifty dollars, whichever is greater, or in the case of a
28 nomination or election of a state senator, twenty thousand dollars,
29 whichever is greater, or in the case of a nomination or election of a
30 member of the assembly twelve thousand five hundred dollars, whichever
31 is greater, but in no event shall any such maximum exceed one hundred
32 thousand dollars].

33 c. At the beginning of each fourth calendar year, commencing in [nine-
34 teen hundred ninety-five] two thousand twelve, the state [board] govern-
35 ment ethics commission shall determine the percentage of the difference
36 between the [most recent available monthly] consumer price index for all
37 urban consumers published by the United States bureau of labor statis-
38 tics and such consumer price index published for the same month four
39 years previously. The amount of each contribution limit fixed in this
40 subdivision shall be adjusted by the amount of such percentage differ-
41 ence to the closest one hundred dollars by the state [board] government
42 ethics commission which, not later than the first day of February in
43 each such year, shall issue a regulation publishing the amount of each
44 such contribution limit. Each contribution limit as so adjusted shall be
45 the contribution limit in effect for any election held before the next
46 such adjustment.

47 § 14. Subdivision 2 of section 14-114 of the election law, as redesi-
48 gnated by chapter 9 of the laws of 1978, is amended to read as follows:

49 2. For purposes of this section, contributions other than of money
50 shall be evaluated at their fair market value. The state [board of
51 elections] government ethics commission shall promulgate regulations,
52 consistent with law, governing the manner of computing fair market
53 value.

54 § 15. Subdivision 8 of section 14-114 of the election law, as amended
55 by chapter 8 of the laws of 1978 and as redesignated by chapter 9 of the
56 laws of 1978, is amended to read as follows:

1 8. a. Except as may otherwise be provided [for] by a candidate [and
2 his family] for his or her own campaign, no natural person may contrib-
3 ute, loan or guarantee in excess of [one hundred fifty] twenty-five
4 thousand dollars within the state of New York in any calendar year in
5 connection with the nomination or election of [persons to] candidates
6 for state [and] or local public offices [and] or party positions [within
7 the state of New York in any one calendar year].

8 b. For the purposes of this subdivision "loan" or "guarantee" shall
9 mean a loan or guarantee which is not repaid or discharged in the calen-
10 dar year in which it is made.

11 § 16. Subdivision 10 of section 14-114 of the election law, as added
12 by chapter 79 of the laws of 1992, is amended to read as follows:

13 10. a. No contributor may make a contribution to a party or consti-
14 tuted committee and no such committee may accept a contribution from any
15 contributor which, in the aggregate, is greater than [sixty-two] one
16 thousand [five hundred] dollars per annum.

17 b. At the beginning of each fourth calendar year, commencing in [nine-
18 teen hundred ninety-five] two thousand twelve, the state [board] govern-
19 ment ethics commission shall determine the percentage of the difference
20 between the most recent available monthly consumer price index for all
21 urban consumers published by the United States bureau of labor statis-
22 tics and such consumer price index published for the same month four
23 years previously. The amount of such contribution limit fixed in para-
24 graph a of this subdivision shall be adjusted by the amount of such
25 percentage difference to the closest one hundred dollars by the state
26 [board] government ethics commission which, not later than the first day
27 of February in each such year, shall issue a regulation publishing the
28 amount of such contribution limit. Such contribution limit as so
29 adjusted shall be the contribution limit in effect for any election held
30 before the next such adjustment.

31 § 17. Section 14-116 of the election law, subdivision 1 as redesi-
32 gnated by chapter 9 of the laws of 1978 and subdivision 2 as amended by
33 chapter 260 of the laws of 1981, is amended to read as follows:

34 § 14-116. Political contributions by certain organizations or individ-
35 uals. 1. No corporation [or], joint-stock association, limited liabil-
36 ity company, professional limited liability company, partnership or
37 limited liability partnership doing business in this state, except [a
38 corporation or association] an entity organized or maintained for poli-
39 tical purposes only, shall directly or indirectly pay or use or offer,
40 consent or agree to pay or use any money or property for or in aid of
41 any political party, committee or organization, or for, or in aid of,
42 any [corporation, joint-stock or other association] entity organized or
43 maintained for political purposes, or for, or in aid of, any candidate
44 for political office or for nomination for such office, or for any poli-
45 tical purpose whatever, or for the reimbursement or indemnification of
46 any person for moneys or property so used. Any officer, director, stock-
47 holder, member, partner, attorney or agent of any corporation [or],
48 joint-stock association, limited liability company, professional limited
49 liability company, partnership or limited liability partnership which
50 violates any of the provisions of this section, who participates in,
51 aids, abets or advises or consents to any such violations, and any
52 person who solicits or knowingly receives any money or property in
53 violation of this section, shall be guilty of a misdemeanor.

54 2. [Notwithstanding the provisions of subdivision one of this section,
55 any corporation or an organization financially supported in whole or in
56 part, by such corporation may make expenditures, including contrib-

1 utions, not otherwise prohibited by law, for political purposes, in an
2 amount not to exceed five thousand dollars in the aggregate in any
3 calendar year; provided that no public utility shall use revenues
4 received from the rendition of public service within the state for
5 contributions for political purposes unless such cost is charged to the
6 shareholders of such a public service corporation.] Contribution deliv-
7 ery activities by an intermediary as defined in this article are prohib-
8 ited, and any person who solicits or knowingly receives any money or
9 property in violation of this section, shall be guilty of a misdemeanor.

10 § 18. Subdivision 1 of section 14-118 of the election law, as amended
11 by chapter 70 of the laws of 1983, is amended to read as follows:

12 1. Every political committee shall have a treasurer and a depository,
13 and shall cause the treasurer to keep detailed, bound accounts of all
14 receipts, transfers, loans, liabilities, contributions and expenditures,
15 made by the committee or any of its officers, members or agents acting
16 under its authority or in its behalf. All such accounts shall be
17 retained by a treasurer for a period of five years from the date of the
18 filing of the final statement with respect to the election, primary
19 election or convention to which they pertain. No officer, member or
20 agent of any political committee shall receive any receipt, transfer or
21 contribution, or make any expenditure or incur any liability until the
22 committee shall have chosen a treasurer and depository and filed their
23 names in accordance with this subdivision. There shall be filed in the
24 office in which the committee is required to file its statements under
25 section 14-110 of this article, within five days after the choice of a
26 treasurer and depository, a statement giving the name and address of the
27 treasurer chosen, the name and address of any person authorized to sign
28 checks by such treasurer, the name and address of the depository chosen
29 and the candidate or candidates or ballot proposal or proposals the
30 success or defeat of which the committee is to aid or take part;
31 provided, however, that such statement shall not be required of a
32 constituted committee [and provided further that a political committee
33 which makes no expenditures, to aid or take part in the election or
34 defeat of a candidate, other than in the form of contributions, shall
35 not be required to list the candidates being supported or opposed by
36 such committee]. Such a statement from any committee other than a party
37 or authorized committee also shall clearly identify the economic or
38 other special interest, if identifiable, of a majority of its contribu-
39 tors, and if a majority of its contributors share a common employer,
40 shall identify such employer. If the economic or other special interest
41 or common employer are not identifiable, such statement of a multi-can-
42 didate committee shall clearly identify the economic or other special
43 interest, if identifiable, of a majority of its organizers, and if a
44 majority of its organizers share a common employer, shall identify such
45 employer, and if organized, controlled or maintained by an individual,
46 shall identify such individual. Such statement shall be signed by the
47 treasurer and all other persons authorized to sign checks. Any change in
48 the information required in any statement shall be reported, in an
49 amended statement filed in the same manner and in the same office as an
50 original statement filed under this section, within two days after it
51 occurs. Only a banking organization authorized to do business in this
52 state may be designated a depository hereunder.

53 § 18-a. Subdivision 2 of section 14-120 of the election law is
54 REPEALED.

55 § 19. Subdivision 2 of section 14-124 of the election law, as redesi-
56 gnated by chapter 323 of the laws of 1977, is amended to read as follows:

1 2. The filing requirements and the expenditure, contribution and
2 receipt limits of this article shall not apply to any candidate or
3 committee who or which engages exclusively in activities on account of
4 which, pursuant to the laws of the United States, there is required to
5 be filed a statement or report of the campaign receipts, expenditures
6 and liabilities of such candidate or committee with an office or offi-
7 cers of the government of the United States, provided a copy of each
8 such statement or report is filed in the office of the state [board of
9 elections] government ethics commission.

10 § 20. Subdivision 3 of section 14-124 of the election law is REPEALED.

11 § 21. Section 14-126 of the election law, as amended by chapter 8 of
12 the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of
13 1994 and subdivisions 2, 3 and 4 as redesignated by chapter 9 of the
14 laws of 1978, is amended to read as follows:

15 § 14-126. Violations; penalties. 1. Any person who fails to file a
16 statement required to be filed by this article shall be subject to a
17 civil penalty, not in excess of [five hundred] one thousand dollars, [to
18 be recoverable in a special proceeding or civil action to be brought by
19 the state board of elections or other board of elections] assessed by
20 the state government ethics commission in accordance with the provisions
21 of subdivision twelve of section seventy-three-c of the public officers
22 law.

23 2. Any person who, acting as or on behalf of a candidate or political
24 committee, under circumstances evincing an intent to violate such law,
25 unlawfully accepts a monetary contribution in excess of a contribution
26 limitation established in this article, shall be required to refund such
27 excess amount and shall be subject to a civil penalty equal to two times
28 the excess amount plus a fine of up to ten thousand dollars, to be
29 recoverable in a special proceeding or civil action to be brought by the
30 state government ethics commission pursuant to section 16-120 of this
31 chapter.

32 3. Any person who, acting as or on behalf of a candidate or political
33 committee, under circumstances evincing an intent to violate such law,
34 unlawfully (a) expends campaign funds for a personal use in violation of
35 this article, or (b) conducts activities prohibited by this article,
36 shall be subject to a civil penalty, not in excess of ten thousand
37 dollars, to be recoverable in a special proceeding or civil action to be
38 brought by the state government ethics commission pursuant to section
39 16-120 of this chapter.

40 4. Any person who knowingly and willfully fails to file a statement
41 required to be filed by this article within ten days after the date
42 provided for filing such statement or any person who knowingly and will-
43 fully violates any other provision of this article shall be guilty of a
44 misdemeanor.

45 [3.] 5. Any person who knowingly and willfully contributes, accepts or
46 aids or participates in the acceptance of a contribution in an amount
47 exceeding an applicable maximum specified in this article shall be guil-
48 ty of a misdemeanor.

49 [4.] 6. Any person who shall, acting on behalf of a candidate or poli-
50 tical committee, knowingly and willfully solicit, organize or coordinate
51 the formation of activities of one or more unauthorized committees, make
52 expenditures in connection with the nomination for election or election
53 of any candidate, or solicit any person to make any such expenditures,
54 for the purpose of evading the contribution limitations of this article,
55 shall be guilty of a class E felony.

56 § 22. Section 14-127 of the election law is REPEALED.

1 § 23. Section 14-130 of the election law, as added by chapter 152 of
2 the laws of 1985, is amended to read as follows:

3 § 14-130. Campaign funds for personal use. [Contributions] 1. Campaign
4 funds received by a candidate or a political committee may only be
5 expended for [any] lawful [purpose] purposes that are directly related
6 to promoting the nomination or election of a candidate. Such funds shall
7 not be converted by any person to a personal use [which is unrelated to
8 a political campaign or the holding of a public office or party posi-
9 tion].

10 2. As used in this section, the term "campaign funds" means any funds
11 received by a candidate or political committee including, but not limit-
12 ed to, contributions and transfers from any source and interest received
13 as the result of the loan or investment of such funds.

14 3. No campaign funds shall be used to pay interest or any other
15 finance charges upon monies loaned to the campaign by such candidate or
16 the spouse of such candidate.

17 4. No campaign fund shall be used to pay attorney's fees or any costs
18 of defending against civil or criminal investigation or prosecution for
19 alleged violations of state, federal or local law committed while hold-
20 ing public office or party position, or being a candidate for such
21 office or position, unless the alleged violation arises in connection
22 with the nomination or election of such candidate to public office or
23 party position.

24 5. (a) As used in this section, expenditures for "personal use" are
25 defined as expenditures that:

26 (i) are for the personal benefit of the candidate or any other indi-
27 vidual;

28 (ii) defray normal living expenses of the candidate, immediate family
29 of the candidate or any other individual;

30 (iii) are used to fulfill any commitment, obligation or expense of a
31 person that would exist irrespective of the candidate's election
32 campaign including, but not limited to, any expense incurred more than
33 thirty days after the candidate ceases to be a candidate; or

34 (iv) are put to any use for which the candidate would be required to
35 treat the amount of the expenditure as gross income under section 61 of
36 the Internal Revenue Code, or any subsequent corresponding section of
37 the Internal Revenue Code.

38 (b) Prohibited expenditures for personal use of campaign funds shall
39 include, but are not limited to, the following:

40 (i) any residential or household items, supplies or expenditures,
41 including mortgage, rent or utility payments for any part of any
42 personal residence of a candidate or officeholder or a member of the
43 candidate's or officeholder's family.

44 (ii) mortgage, rent or utility payments for any part of any non-resi-
45 dential property that is owned by a candidate or officeholder or a
46 member of a candidate's or officeholder's family and used for campaign
47 purposes, to the extent the payments exceed the fair market value of the
48 property usage;

49 (iii) funeral, cremation or burial expenses, including any expenses
50 related to a death within a candidate's or officeholder's family;

51 (iv) clothing, or other than items of nominal value that are used in
52 the campaign;

53 (v) tuition payments;

54 (vi) childcare costs;

55 (vii) dues, fees or gratuities at a country club, health club, recre-
56 ational facility or other nonpolitical organization, unless they are



1 part of a specific fundraising event that takes place on the organiza-
2 tion's premises;

3 (viii) salary payments to any person for services that are not solely
4 for campaign purposes;

5 (ix) salary payments to a member of a candidate's family, unless the
6 family member is providing bona fide services to the campaign. If a
7 family member provides bona fide services to a campaign, any salary
8 payments in excess of the fair market value of the services provided
9 shall be considered payments for personal use;

10 (x) admission to a sporting event, concert, theater or other form of
11 entertainment, unless part of a specific campaign or officeholder activ-
12 ity;

13 (xi) payment of any fines, fees or penalties assessed pursuant to this
14 chapter;

15 (xii) automobile purchases;

16 (xiii) automobile leases;

17 (xiv) travel expenses, unless used solely for campaign purposes. If a
18 candidate uses campaign funds to pay expenses associated with travel
19 that involves both personal activities and campaign activities, the
20 incremental expenses that result from the personal activities shall be
21 considered for personal use unless the person or persons benefiting from
22 the use reimburses the campaign account within thirty days for the full
23 amount of the incremental expenses; and

24 (xv) any other expenditures designated by the state government ethics
25 commission as constituting personal use.

26 6. Nothing in this section shall prohibit a candidate from purchasing
27 equipment or property from his personal funds and leasing or renting
28 such equipment or property to a committee working directly or indirectly
29 with him to aid or participate in his nomination or election, including
30 an exploratory committee; provided that the candidate and his campaign
31 treasurer sign a written lease or rental agreement. Such agreement shall
32 include the lease or rental price, which shall not exceed the fair lease
33 or rental value of the equipment. The candidate shall not receive lease
34 or rental payments which, in the aggregate, exceed the cost of purchas-
35 ing the equipment or property.

36 7. (a) Notwithstanding this section, an individual who does not hold a
37 public office or a party position and is not a declared candidate for
38 public office or party position may not expend campaign funds for
39 personal use including, but not limited to, meals, entertainment, and
40 salaries for immediate family members; provided, however, nothing in
41 this subdivision prohibits the use of campaign funds to support one or
42 more declared candidates as authorized by this article.

43 (b) For purposes of this section, a "declared candidate" means an
44 individual who has filed with the state government ethics commission
45 both an "authorization or non-authorization by a candidate" form pursu-
46 ant to section 14-102 of this article and a "committee designation of
47 treasurer and depository" form pursuant to section 14-118 of this arti-
48 cle, both of which indicate the specific office and district sought and
49 the year of the election.

50 § 24. The election law is amended by adding a new section 14-132 to
51 read as follows:

52 § 14-132. Disposition of campaign funds. 1. A political committee
53 aiding or taking part in the election or nomination of any candidate,
54 other than by making contributions, authorized by a candidate, must
55 dispose of all campaign funds and close within two years after the later
56 of (a) the end of the individual's most recent term of office, or (b)

1 the date of the election in which the individual last was a filed candi-
2 date.

3 2. Notwithstanding the provisions of subdivision one of this section,
4 a committee disavowed pursuant to section 14-112 of this article shall
5 dispose of all campaign funds no later than December thirty-first, two
6 thousand ten.

7 3. Any candidate committee required to dispose of funds pursuant to
8 this section shall, at the option of the candidate, dispose of such
9 funds by any of the following means, or any combination thereof:

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

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

15 (c) donating the funds to the state university of New York;

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

17 (e) transferring the funds to a political party committee registered
18 with the state board of elections; or

19 (f) contributing the funds to a candidate or political committee such
20 that this does not exceed the limits set forth in section 14-114 of this
21 article.

22 4. No political committee shall dispose of campaign funds by making
23 expenditures for personal use as defined in section 14-130 of this arti-
24 cle.

25 5. Upon the death of a candidate, former candidate or holder of elec-
26 tive office, who received campaign contributions, all contributions
27 shall be disposed of according to this section within twelve months of
28 the death of the candidate.

29 § 25. Section 16-100 of the election law is amended to read as
30 follows:

31 § 16-100. Jurisdiction; supreme court, county court. 1. The supreme
32 court is vested with jurisdiction to summarily determine any question of
33 law or fact arising as to any subject set forth in this article, which
34 shall be construed liberally.

35 2. The county court is vested with jurisdiction to summarily determine
36 any question of law or fact except proceedings as to a nomination or
37 election at a primary election or a nomination at a judicial convention,
38 proceedings as to the casting and canvass of ballots [and], proceedings
39 for examination or preservation of ballots and proceedings to enforce
40 the provisions of article fourteen of this chapter as provided in
41 section 16-120 of this article.

42 § 26. Section 16-114 of the election law, subdivisions 1, 2, 3 and 4
43 as redesignated by chapter 9 of the laws of 1978, is amended to read as
44 follows:

45 § 16-114. Proceedings to compel filing of statements or corrected
46 statements of campaign receipts, expenditures and contributions. 1. The
47 supreme court or a justice thereof, in a proceeding instituted by any
48 candidate voted for at the election or primary or by any five qualified
49 voters or by the state [or other board of elections] government ethics
50 commission may compel by order, any person required to file a statement
51 of receipts, expenditures or contributions for campaign purposes, who
52 has not filed any such statement within the time prescribed by this
53 chapter, to file such statement within five days after notice of the
54 order.

55 2. The supreme court or a justice thereof, in a proceeding instituted
56 by any candidate voted for at the election or primary or by any five

1 qualified voters, or by the state [or other board of elections] govern-
2 ment ethics commission in accordance with the provision of this chapter
3 may compel by order any person required under the provisions of this
4 chapter to file a statement of receipts, expenditures or contributions
5 for campaign purposes, who has filed a statement which does not conform
6 to the requirements of this chapter in respect to its truth, sufficiency
7 in detail or otherwise, to file a new or supplemental statement which
8 shall make the statement or statements true and complete within five
9 days after notice of the order. The state [board of elections] govern-
10 ment ethics commission shall be a necessary party in any such proceed-
11 ing.

12 3. The supreme court or a justice thereof, in a proceeding instituted
13 by any candidate voted for at the election or primary or by any five
14 qualified voters, or by the state [or other board of elections] govern-
15 ment ethics commission may compel by order any person who has failed to
16 comply, or the members of any committee which has failed to comply, with
17 any of the provisions of this chapter, to comply therewith.

18 4. In every proceeding instituted under this section, except a
19 proceeding to compel the filing of a statement by a candidate for nomi-
20 nation to a public office at a primary election or for election thereto,
21 or by the treasurer of a political committee, who has failed to file any
22 statement, the petitioner or petitioners, upon the institution of the
23 proceeding shall file with the county clerk an undertaking in a sum to
24 be determined and with sureties to be approved by a justice of the
25 supreme court conditioned to pay any costs imposed against him or them;
26 provided, however, that no such undertaking shall be required in a
27 proceeding instituted by the state [or other board of elections] govern-
28 ment ethics commission.

29 § 27. The election law is amended by adding a new section 16-120 to
30 read as follows:

31 § 16-120. Enforcement proceedings. 1. The supreme court or a justice
32 thereof, in a proceeding instituted by the state government ethics
33 commission, may impose a civil penalty, as provided for in subdivisions
34 two and three of section 14-126 of this chapter, upon any person who,
35 acting as or on behalf of a candidate or political committee under
36 circumstances evincing an intent to violate such law, has unlawfully (a)
37 accepted a monetary contribution in excess of a contribution limitation
38 established in article fourteen of this chapter, (b) expended campaign
39 funds for a personal use in violation of this article or (c) in the case
40 of a political committee, conducted activities prohibited by article
41 fourteen of this chapter.

42 2. Upon proof that a violation of article fourteen, as provided in
43 subdivision one of this section, has occurred, the court may impose a
44 civil penalty, pursuant to subdivisions two and three of section 14-126
45 of this chapter, after considering, among other factors, the severity of
46 the violation or violations, whether the subject of the violation made a
47 good faith effort to correct the violation before the state government
48 ethics commission discovered such violation, and whether the subject of
49 the violation has a history of similar violations. All such determi-
50 nations shall be made on a fair and equitable basis without regard to
51 the status of the candidate or political committee.

52 § 28. The legislative law is amended by adding a new article 1-B to
53 read as follows:

54 ARTICLE 1-B
55 PARTICIPATION IN FUNDRAISERS DURING
56 A LEGISLATIVE SESSION

1 Section 1-aa. Definitions.

2 1-bb. Participation in fundraisers during a legislative session.

3 § 1-aa. Definitions. As used in this article, the following terms
4 shall have the following meanings:

5 1. "Fundraiser" shall mean an event or function at which or in
6 connection with funds are solicited for or on behalf of (a) a governor,
7 lieutenant governor, comptroller, attorney general, member or members of
8 the state legislature, or a candidate for any of the foregoing offices;
9 (b) a political committee organized to support or oppose the election of
10 any such person or persons; (c) a state committee or a subcommittee of
11 such state committee, provided that the term "fundraiser" when applied
12 to an event or function held by a state committee or subcommittee there-
13 of shall not include an event or function at which funds are raised
14 exclusively to support or oppose a candidate or candidates for federal
15 elective office, or a political committee authorized by such a candidate
16 or candidates, where such funds are not used for any other purpose; or
17 (d) any lobbyist or client political committee, where such an event or
18 function is held for the explicit purpose of raising funds for or on
19 behalf of any of the foregoing entities.

20 2. "Lobbyist or client political committee" shall mean a political
21 committee organized to support the activities of a lobbyist or client
22 provided, however, that the term "lobbyist or client political commit-
23 tee" as used in this article, shall not include a fundraising event or
24 function hosted by such a committee to raise funds for the committee's
25 general use where such an event or function is not targeted to benefit
26 any of the specific persons or entities described in subdivision one of
27 this section.

28 3. The term "legislative session" shall mean the period beginning on
29 the Wednesday succeeding the first Monday of January and ending on the
30 later of (a) the thirtieth day of June or (b) two weeks after the day on
31 which the legislature has taken final action on all of the appropriation
32 bills submitted by the governor pursuant to article seven of the state
33 constitution, thereby enacting a state budget that provided sufficient
34 appropriation authority for the ongoing operation and support of state
35 government and local assistance for the ensuing fiscal year.

36 § 1-bb. Participation in fundraisers during a legislative session. 1.
37 Except as otherwise provided in this section, no person or entity shall
38 hold, participate in, contribute to, purchase a ticket for, or attend
39 any fundraiser within forty miles of the New York state capitol during
40 the legislative session.

41 2. This section shall not apply to fundraisers within the district of
42 members of the legislature or candidates therefor whose districts are
43 located in whole or in part within forty miles of the New York state
44 capitol, provided, however that such fundraisers shall be solely for the
45 benefit of the legislator or the candidate or the authorized political
46 committee of such legislator or candidate and no other elected official,
47 political committee or candidate for elected office; and further
48 provided that such fundraisers shall not be held on any day when a
49 quorum of either house of the legislature is in attendance of a session
50 of their respective house.

51 § 29. Sections 14-100 through 14-130 of article 14 of the election law
52 are designated title 1 and a new title heading is added to read as
53 follows:

54 CAMPAIGN RECEIPTS AND EXPENDITURES

55 § 30. Article 14 of the election law is amended by adding a new title
56 2 to read as follows:

TITLE II
PUBLIC FINANCING

Section 14-200. Definitions.

14-202. Eligibility.

14-204. Qualified campaign expenditures.

14-206. Optional public financing.

14-208. Contribution and receipt limitations.

14-210. Expenditure limitations.

14-212. Examinations and audits; repayments.

14-214. Civil penalties.

§ 14-200. Definitions. As used in this title, unless another meaning is clearly indicated:

1. The term "ethics commission" shall mean the state government ethics commission.

2. The term "eligible candidate" shall mean a candidate for nomination or election to any of the offices of governor, lieutenant governor, comptroller, attorney general, member of the state legislature, at-large delegate to a constitutional convention or district delegate to a constitutional convention.

3. The term "participating committee" shall mean a single political committee which a candidate certifies is the committee that will solely be used to participate in the public financing system established by this title after January first of the year in which the primary, general or special election is held for the public office sought. A multi-candidate committee may not be a participating committee.

4. The term "participating candidate" shall mean a candidate who is eligible to participate in the optional public financing system established by this title and has elected to participate in the public financing system.

5. The term "matchable contributions" shall mean that portion of the aggregate contributions made (a) in the case of a primary or general election, after January first of the year in which the primary or general election is held for the public office sought or (b) in the case of a special election, within six months of such election by natural persons resident in the state of New York to a candidate for nomination or election to any of the offices covered by the provisions of this title which do not exceed two hundred fifty dollars, which have been reported in full by the candidate's participating committee to the ethics commission, including the contributor's full name and residential address. "Matchable contributions" shall be the net amount of any monetary contribution realized by a candidate or designated committee after deducting the reasonable value of any goods or services provided the contributor in connection with the contribution, except that contributions from any person who has received a payment or anything of value from such committee or from a person who is an officer, director or employee of, or a person who has a ten percent or greater ownership interest in any entity which has received such a payment or thing of value shall not be matchable. A loan may not be treated as a matchable contribution.

6. The term "qualified campaign expenditure" shall mean an expenditure for which public funds may be used.

7. The term "threshold for eligibility" shall mean the amount of total matchable contributions that the participating committee of an otherwise eligible candidate must receive, as required by section 14-202 of this title, in order to qualify for optional public financing pursuant to this title.

1 8. The term "contribution" shall have the same meaning as in subdivi-
2 sion nine of section 14-100 of this article.

3 § 14-202. Eligibility. 1. To be eligible for optional public financing
4 under this title, a candidate for nomination or election must:

5 (a) Meet all the requirements of this chapter and other provisions of
6 law to have his or her name on the ballot;

7 (b) Be a candidate for statewide office, the state legislature or
8 delegate to a constitutional convention at a primary, general or special
9 election and meet the threshold for eligibility set forth in subdivision
10 two of this section;

11 (c) Elect to participate in the public financing system established by
12 this title by filing a written certification in such form as may be
13 prescribed by the ethics commission, which sets forth his or her accept-
14 ance of and agreement to comply with the terms and conditions for the
15 provisions of such funds, not later than seven days after the last day
16 to file designating petitions for the office such candidate is seeking
17 or, in the case of a special election, not later than the last day to
18 file nominating certificates for such office;

19 (d) Agree to obtain and furnish to the ethics commission any evidence
20 it may reasonably request relating to his or her campaign expenditures
21 or contributions and furnish such other proof of compliance with this
22 title as may be requested by the ethics commission;

23 (e) Have a single authorized political committee which he or she
24 certifies as the participating committee for the purposes of this title;
25 and

26 (f) Agree to identify accurately in all campaign materials the person
27 or entity that paid for such campaign material.

28 2. The threshold for eligibility for public funding for candidates in
29 a primary, general or special election for the following offices shall
30 be:

31 (a) Governor in a primary or general election. Not less than eight
32 hundred thousand dollars from at least eight thousand matchable contrib-
33 utions made up of sums of up to two hundred fifty dollars per individual
34 contributor who resides in New York state.

35 (b) Lieutenant governor in a primary election and comptroller or
36 attorney general in a primary or general election. Not less than four
37 hundred thousand dollars from at least four thousand matchable contrib-
38 utions made up of sums of up to two hundred fifty dollars per individual
39 contributor who resides in New York state.

40 (c) Members of the state senate in a primary, general or special
41 election. Not less than twenty thousand dollars from at least two
42 hundred matchable contributions made up of sums of up to two hundred
43 fifty dollars per individual contributor who resides in the senate
44 district in which the seat is to be filled.

45 (d) Members of the assembly in a primary, general or special election.
46 Not less than eight thousand dollars from at least one hundred matchable
47 contributions made up of sums of up to two hundred fifty dollars per
48 individual contributor who resides in the assembly district in which the
49 seat is to be filled.

50 (e) At-large delegate to a constitutional convention in a primary or
51 general election. Not less than twenty thousand dollars from at least
52 two hundred matchable contributions made up of sums of up to two hundred
53 fifty dollars per individual contributor who resides in New York state.

54 (f) District delegate to a constitutional convention in a primary or
55 general election. Not less than five thousand dollars from at least
56 fifty matchable contributions made up of sums of up to two hundred fifty

1 dollars per individual contributor who resides in the district in which
2 the seat is to be filled.

3 3. In order to be eligible to receive public funds in a primary
4 election a candidate must agree, by filing a written certification in
5 such form as may be prescribed by the ethics commission, that in the
6 event such candidate is a candidate for such office in the general
7 election in such year, that such candidate will be bound by the
8 provisions of this title, including, but not limited to, the receipt and
9 expenditure limits of this title.

10 4. Candidates who are contested in a primary election and who do not
11 seek public funds shall not be eligible for public funds for the general
12 election in that year. The provisions of this subdivision shall not
13 apply to candidates for the office of lieutenant governor.

14 5. Candidates who are unopposed in a primary, general or special
15 election shall not be eligible to receive public funds.

16 6. No candidate for election to an office in a primary, general or
17 special election who has elected to participate in the public financing
18 system shall be deemed opposed and receive public funds unless at least
19 one other candidate for such office in such election who also elected to
20 participate in the public financing system, or such candidate's commit-
21 tee, or at least one other candidate for such office in such election
22 who has not elected to participate, or such candidate's committee, have
23 either spent, contracted or obligated to spend, or have contributed such
24 candidate's personal funds to such candidate's committee or have
25 received in loans or contributions, an amount exceeding ten percent of
26 the expenditure limit for such office in such election which is fixed by
27 this title for candidates who have elected to accept such public funds.
28 If any candidate for an office and the committee of such candidate
29 reaches the threshold to qualify to receive public funds, or spends,
30 contracts or obligates to spend, or contributes such candidate's
31 personal funds to such candidate's committee or receives in loans or
32 contributions, an amount exceeding ten percent of the expenditure limit
33 for such office in such election at any time after the filing deadline
34 for the last report required to be filed before the first distribution
35 of public funds for such election, such candidate or committee must
36 notify the ethics commission of that fact within twenty-four hours in
37 the same manner as provided in subdivision two of section 14-108 of this
38 article.

39 § 14-204. Qualified campaign expenditures. 1. Public funds provided
40 under the provisions of this title may only be used for expenditures by
41 the participating committee authorized by the candidate to make expendi-
42 tures on such candidate's behalf, to further the candidate's nomination
43 or election after January first of the year in which the primary or
44 general election is held for the office sought, for services, materials,
45 facilities or other things of value used during that campaign cycle or,
46 in the case of a special election, for expenditures during the period
47 commencing three months before and ending one month after such special
48 election. The total of all expenditures made by the candidate and such
49 candidate's participating committee, including all payments received
50 from the fund, shall not exceed the expenditure limitations established
51 in section 14-210 of this title, except insofar as such payments are
52 made to repay loans used to pay campaign expenditures.

53 2. Such public funds may not be used for:

54 (a) An expenditure in violation of any law of the United States or of
55 this state;

1 (b) Payments or anything of value given or made to the candidate, a
2 relative of the candidate, or to a business entity in which any such
3 person has a ten percent or greater ownership interest or of which any
4 such person is an officer, director or employee;

5 (c) Payment in excess of the fair market value of services, materials,
6 facilities or other things of value received in exchange;

7 (d) Any expenditure made after the participating candidate, or the
8 only remaining opponent of such candidate, has been disqualified or had
9 such candidate's petitions declared invalid by a board of elections or a
10 court of competent jurisdiction until and unless such finding is
11 reversed by a higher authority.

12 (e) Any expenditure made to challenge the validity of any petition of
13 designation or nomination or any certificate of nomination, acceptance,
14 authorization, declination or substitution;

15 (f) Expenditure for noncampaign related food, drink or entertainment;
16 and

17 (g) Gifts, except brochures, buttons, signs and other campaign materi-
18 al of nominal value.

19 § 14-206. Optional public financing. 1. Participating candidates for
20 nomination or election in primary, general and special elections may
21 obtain payment to a participating committee from public funds for quali-
22 fied campaign expenditures. No such public funds shall be paid to a
23 participating committee until the candidate has qualified to appear on
24 the ballot and filed a sworn statement with the ethics commission elect-
25 ing to participate in the optional public financing system and agreeing
26 to abide by the requirements of this title. Payments shall not exceed
27 the amounts specified in this title, and shall be made only in accord-
28 ance with the provisions of this title. Such payments may only be made
29 to a participating candidate's participating committee. No public funds
30 shall be used except as reimbursement or payment for qualified campaign
31 expenditures actually and lawfully incurred or to repay loans used to
32 pay qualified campaign expenditures.

33 2. The participating committee of each participating candidate shall
34 be entitled to four dollars in public funds for each one dollar of
35 matchable contributions obtained and reported to the ethics commission
36 in accordance with the provisions of this title, provided, however, such
37 public funds shall only be used for qualified campaign expenditures.

38 3. (a) However, if any candidate in any election for an office for
39 which public funds are available pursuant to the provisions of this
40 title, elects not to accept public funds and such candidate or such
41 candidate's committee either spends, contracts or obligates to spend, or
42 contributes such candidate's personal funds to such candidate's commit-
43 tee or receives in loans or contributions, an amount exceeding the
44 expenditure limit for such office, as fixed by this title for candidates
45 who have elected to accept public funds, then (i) such candidate or
46 committee must notify the ethics commission of the fact within twenty-
47 four hours via the internet using the electronic filing system estab-
48 lished by the ethics commission, or if such candidate does not file
49 electronically via the internet, by facsimile or overnight mail; and
50 (ii) the participating committee of each participating candidate for
51 such office shall be entitled to a grant of public funds equal to twen-
52 ty-five percent of the total amount of public funds received by the
53 participating candidate for matchable contributions obtained and
54 reported to the ethics commission. Such grant shall be paid within two
55 business days and shall only be used for qualified campaign expendi-
56 tures.

1 **(b) However, if any candidate in any election for an office for which**
2 **public funds are available pursuant to the provisions of this title,**
3 **elects not to accept public funds and such candidate or such candidate's**
4 **committee either spends, contracts or obligates to spend, or contributes**
5 **such candidate's personal funds to such candidate's committee or**
6 **receives in loans or contributions, an amount exceeding the total of the**
7 **expenditure limit for such office, as fixed by this title for candidates**
8 **who have elected to accept public funds, plus the twenty-five percent**
9 **grant already received by the participating candidate, then (i) such**
10 **candidate or committee must notify the ethics commission of the fact**
11 **within twenty-four hours via the internet using the electronic filing**
12 **system established by the ethics commission, or if such candidate does**
13 **not file electronically via the internet, by facsimile or overnight**
14 **mail; and (ii) the participating committee of each participating candi-**
15 **date for such office shall be entitled to an additional grant of public**
16 **funds equal to twenty-five percent of the total amount of public funds**
17 **received by the participating candidate for matchable contributions**
18 **obtained and reported to the ethics commission. Such grant shall be paid**
19 **within two business days and shall only be used for qualified campaign**
20 **expenditures.**

21 **(c) However, if any candidate in any election for an office for which**
22 **public funds are available pursuant to the provisions of this title,**
23 **elects not to accept public funds and such candidate or such candidate's**
24 **committee either spends, contracts or obligates to spend, or contributes**
25 **such candidate's personal funds to such candidate's committee or**
26 **receives in loans or contributions, an amount exceeding the total of the**
27 **expenditure limit for such office, as fixed by this title for candidates**
28 **who have elected to accept public funds, plus the fifty percent total**
29 **aggregate grant already received by the participating candidate, then**
30 **(i) such candidate or committee must notify the ethics commission of the**
31 **fact within twenty-four hours via the internet using the electronic**
32 **filing system established by the ethics commission, or if such candidate**
33 **does not file electronically via the internet, by facsimile or overnight**
34 **mail; and (ii) the participating committee of each participating candi-**
35 **date for such office shall be entitled to an additional grant of public**
36 **funds equal to twenty-five percent of the total amount of public funds**
37 **received by the participating candidate for matchable contributions**
38 **obtained and reported to the ethics commission. Such grant shall be**
39 **paid within two business days and shall only be used for qualified**
40 **campaign expenditures.**

41 **(d) However, if any candidate in any election for an office for which**
42 **public funds are available pursuant to the provisions of this title,**
43 **elects not to accept public funds and such candidate or such candidate's**
44 **committee either spends, contracts or obligates to spend, or contributes**
45 **such candidate's personal funds to such candidate's committee or**
46 **receives in loans or contributions, an amount exceeding the total of the**
47 **expenditure limit for such office, as fixed by this title for candidates**
48 **who have elected to accept public funds, plus the seventy-five percent**
49 **total aggregate grant already received by the participating candidate,**
50 **then (i) such candidate or committee must notify the ethics commission**
51 **of the fact within twenty-four hours via the internet using the elec-**
52 **tronic filing system established by the ethics commission, or if such**
53 **candidate does not file electronically via the internet, by facsimile or**
54 **overnight mail; and (ii) the participating committee of each participat-**
55 **ing candidate for such office shall be entitled to an additional grant**
56 **of public funds equal to twenty-five percent of the total amount of**



1 public funds received by the participating candidate for matchable
2 contributions obtained and reported to the ethics commission. Such
3 grant shall be paid within two business days and may only be used for
4 qualified campaign expenditures.

5 4. No participating candidate for nomination for an office who is
6 unopposed in a primary election shall be entitled to payment from the
7 fund for qualified campaign expenditures.

8 5. The ethics commission shall promptly examine all reports of
9 contributions to determine whether, on their face, they meet the
10 requirements for matchable contributions, and shall keep a record of
11 such contributions.

12 6. The ethics commission shall promulgate regulations for the certif-
13 ication of the amount of funds payable to a participating candidate that
14 has qualified to receive such payment. These regulations shall include
15 the promulgation and distribution of forms on which contributions and
16 expenditures are to be reported, the periods during which such reports
17 must be filed and the verification required. The ethics commission shall
18 institute procedures which will make possible payment from the fund
19 within four business days after receipt of the required forms and
20 verifications.

21 § 14-208. Contribution and receipt limitations. 1. In any primary,
22 special or general election for any statewide office, state legislative
23 office or constitutional convention delegate no contributor may make a
24 contribution to any participating candidate or such candidate's partic-
25 ipating committee, and no participating candidate or participating
26 committee may accept any contribution from any contributor which, in the
27 aggregate amount, is greater than two hundred fifty dollars.

28 2. A participating candidate for a public office for which public
29 funds are available pursuant to this title shall not accept any contrib-
30 utions any earlier than one day after the previous general election for
31 the office which such candidate is seeking, or any later than the day of
32 the general election for the office sought. Contributions to a partic-
33 ipating candidate or participating committee which were received before
34 January first of the year in which the primary or general election is
35 held for the public office sought or, in the case of a special election
36 received more than six months before the special election, may not be
37 expended in any election for any such office.

38 3. Except for the limitations specifically set forth in this section,
39 participating candidates shall be subject to the provisions of this
40 article.

41 § 14-210. Expenditure limitations. The following expenditure limita-
42 tions apply to all expenditures by participating candidates and their
43 participating committees receiving public funds pursuant to the
44 provisions of this title:

45 1. (a) In any primary election, expenditures by participating candi-
46 dates and by their participating committees shall not exceed:

47 (i) for governor, the sum of one dollar and ten cents for each voter
48 enrolled in the candidate's party in the state; provided, however, such
49 sum shall not be less than eight hundred thousand dollars nor more than
50 eight million dollars;

51 (ii) for lieutenant governor, comptroller or attorney general, the sum
52 of one dollar and ten cents for each voter enrolled in the candidate's
53 party in the state; provided, however, such sum shall not be less than
54 five hundred thousand dollars nor more than five million dollars;

55 (iii) for senator, the sum of two dollars and fifty cents for each
56 voter enrolled in the candidate's party in the senate district;



1 provided, however, such sum shall not be less than twenty thousand
2 dollars nor more than two hundred thousand dollars;

3 (iv) for member of the assembly, the sum of two dollars and fifty
4 cents for each voter enrolled in the candidate's party in the assembly
5 district; provided, however, such sum shall not be less than eight thou-
6 sand dollars nor more than eighty thousand dollars;

7 (v) for at-large delegate to a constitutional convention, the sum of
8 fifteen cents for each voter enrolled in the candidate's party in the
9 state; provided, however, such sum shall not be less than seventy-five
10 thousand dollars nor more than one hundred seventy-five thousand
11 dollars;

12 (vi) for district delegates to a constitutional convention, the sum of
13 one dollar and ten cents for each voter enrolled in the candidate's
14 party in the district; provided, however, such sum shall not be less
15 than five thousand dollars nor more than fifty thousand dollars;

16 (b) The enrollment numbers used to calculate the expenditure limits
17 provided for in this subdivision shall be the enrollments duly reported
18 by the appropriate board or boards of election as of the last general
19 election preceding the primary election.

20 2. In any general or special election, expenditures by participating
21 candidates for the following offices and by their participating commit-
22 tees shall not exceed the following amounts:

23 Candidates for election to the office of:

24 <u>Governor and lieutenant governor (combined)</u>	<u>\$12,000,000</u>
25 <u>Attorney general</u>	<u>\$8,000,000</u>
26 <u>Comptroller</u>	<u>\$8,000,000</u>
27 <u>Member of senate</u>	<u>\$300,000</u>
28 <u>Member of assembly</u>	<u>\$125,000</u>
29 <u>Delegate at-large to a constitutional convention</u>	<u>\$300,000</u>
30 <u>District delegate to a constitutional convention</u>	<u>\$75,000</u>

31 3. Expenditures for legal fees and reasonable expenses to defend the
32 validity of petitions of designation or nomination or certificates of
33 nomination, acceptance, authorization, declination or substitution, or
34 to successfully challenge any such petition or certificate on grounds of
35 fraud, or for expenses incurred to comply with the campaign finance
36 reporting requirements of this article, shall not be subject to the
37 expenditure limits of this subdivision.

38 4. Monies of the public financing system, following appropriation by
39 the legislature, may be expended for the purpose of making payments to
40 candidates pursuant to title II of article fourteen of the election law.
41 Monies shall be paid out by the ethics commission on vouchers certified
42 or approved by the ethics commission, or its duly designated represen-
43 tative, in the manner prescribed by law, not more than four working days
44 after such voucher is received.

45 5. No public funds shall be paid to any participating candidates in a
46 primary election any earlier than the day that such candidate is certi-
47 fied as being on the ballot for such primary election.

48 6. No public funds shall be paid to any participating candidates in a
49 general election any earlier than the day after the day of the primary
50 election held to nominate candidates for such election.

51 7. No public funds shall be paid to any participating candidates in a
52 special election any earlier than the day after the last day to file
53 certificates of party nomination for such special election.

54 8. No public funds shall be paid to any participating candidate who
55 has been disqualified or whose designating petitions have been declared
56 invalid by the appropriate board of elections or a court of competent

1 jurisdiction until and unless such finding is reversed by a higher
2 authority. No payment from the fund in the possession of such candi-
3 date or such candidate's participating committee on the date of such
4 disqualification or invalidation may thereafter be expended for any
5 purpose except the payment of liabilities incurred before such date. All
6 such moneys shall be repaid to the fund.

7 § 14-212. Examinations and audits; repayments; report. 1. The ethics
8 commission shall have the power to audit and examine all matters relat-
9 ing to the proper administration of this article. The ethics commission
10 shall promulgate rules and regulations regarding what documentation is
11 sufficient in demonstrating financial activity and the method of
12 conducting audits, including real time audits. These audit and examina-
13 tion powers extend to all participating candidates and non-participating
14 candidates, and the authorized committees of all participating and non-
15 participating candidates.

16 2. (a) If the ethics commission determines that any portion of the
17 payment made to a participating committee was in excess of the aggregate
18 amount of payments to which such eligible candidate was entitled pursu-
19 ant to section 14-206 of this title, it shall notify such committee of
20 the excess amount and such committee shall pay to the ethics commission
21 an amount equal to the amount of excess payments.

22 (b) If the ethics commission determines that any amount of payment
23 made to a participating committee was used for purposes other than to
24 defray qualified campaign expenses, it shall notify such participating
25 committee of the amount disqualified and such participating committee
26 shall pay to the ethics commission an amount equal to such disqualified
27 amount.

28 (c) If the total of contributions and payments received by any partic-
29 ipating candidate and such candidate's participating committee, exceeds
30 the campaign expenditures of such candidate and committee, such candi-
31 date and committee shall use such excess funds to reimburse the ethics
32 commission for payments received by such committee, up to the amount of
33 public funds received by such participating candidate, not later than
34 ten days after all permissible liabilities have been paid and in any
35 event, not later than March thirty-first of the year following the year
36 of the election for which such payments were intended. No such excess
37 funds shall be used for any other purpose.

38 3. If a court of competent jurisdiction disqualifies a candidate whose
39 participating committee has received public funds on the grounds that
40 such candidate committed fraudulent acts in order to obtain a place on
41 the ballot and such decision is not reversed by a higher court, such
42 candidate and such candidate's participating committee shall pay to the
43 ethics commission an amount equal to the total of public funds received
44 by such participating committee.

45 4. The ethics commission must provide written notice of all payments
46 due from a participating candidate or such candidate's committee to the
47 ethics commission and provide an opportunity for the candidate or
48 committee to rebut, in whole or in part, the alleged amount due. Upon a
49 final written determination by the ethics commission, the amount due
50 shall be paid to the ethics commission within thirty days of such deter-
51 mination.

52 5. The ethics commission shall review the implementation of public
53 financing under this article and report to the governor and the legisla-
54 ture on January first, two thousand thirteen. The report shall include
55 but not be limited to: (a) the number of candidates qualifying and
56 opting for public financing, the amounts expended for this purpose in

1 the preceding fiscal year and a projection of the number of candidates
2 likely to qualify and opt for public financing and their expenditures in
3 future elections; (b) an analysis of the effect of public financing on
4 political campaigns, including its effect on the sources and amounts of
5 private financing, the level of campaign expenditures, voter partic-
6 ipation, the number of candidates and the candidate's ability to
7 campaign effectively for public office; (c) a review of the procedures
8 utilized in providing public funds to candidates; and (d) such recom-
9 mended changes in public financing under this article as it deems appro-
10 priate.

11 § 14-214. Civil penalties. 1. Any person who fails to file a statement
12 or record required to be filed by this title or the rules or regulations
13 of the ethics commission in implementation thereof shall be subject to a
14 civil penalty, not in excess of ten thousand dollars, to be recoverable
15 in a special proceeding or civil action brought by the ethics commis-
16 sion.

17 2. If the aggregate amount of expenditures by a participating candi-
18 date and such candidate's participating committee exceeds the expendi-
19 ture limitations contained in this title such participating candidate
20 shall be liable for a civil penalty in an amount equal to three times
21 the sum by which such expenditures exceed the permitted amount, to be
22 recoverable in a special proceeding or civil action brought by the
23 ethics commission.

24 § 31. The election law is amended by adding a new section 16-103 to
25 read as follows:

26 § 16-103. Proceedings as to public financing. 1. The determination of
27 eligibility pursuant to section 14-202 of this chapter and any question
28 or issue relating to payments for qualified campaign expenditures pursu-
29 ant to section 14-206 of this chapter may be contested in a proceeding
30 instituted in the Supreme court, Albany county, by any aggrieved candi-
31 date.

32 2. A proceeding with respect to such a determination of eligibility or
33 payment for qualified campaign expenditures pursuant to section 14-206
34 of this chapter shall be instituted within seven days after such deter-
35 mination was made. The ethics commission shall be made a party to any
36 such proceeding.

37 3. Upon the ethics commission's failure to receive the amount due from
38 a participating candidate or such candidate's committee after the issu-
39 ance of written notice of such amount due, as required by subdivision
40 four of section 14-212 of this chapter, the ethics commission is author-
41 ized to institute a special proceeding or civil action in Supreme Court,
42 Albany county, to obtain a judgment for any amounts determined to be
43 payable to the ethics commission as a result of an examination and audit
44 made pursuant to title II of article fourteen of this chapter.

45 4. The ethics commission is authorized to institute a special proceed-
46 ing or civil action in Supreme Court, Albany county, to obtain a judg-
47 ment for civil penalties determined to be payable to the ethics commis-
48 sion pursuant to section 14-214 of this chapter.

49 § 32. Severability clause. If any clause, sentence, paragraph, subdi-
50 vision, section or part of this act shall be adjudged by any court of
51 competent jurisdiction to be invalid, such judgment shall not affect,
52 impair or invalidate the remainder thereof, but shall be confined in its
53 operation to the clause, sentence, paragraph, subdivision, section or
54 part thereof directly involved in the controversy in which such judgment
55 shall have been rendered. It is hereby declared to be the intent of the

1 legislature that this act would have been enacted even if such invalid
2 provisions had not been included herein.

3 § 33. This act shall take effect immediately; provided however that:

4 a. sections one through twenty-eight of this act shall take effect on
5 the sixtieth day after it shall have become a law;

6 b. all amendments to article 14 of the election law made by this act,
7 which establish new contribution limits, shall apply January 1, 2011;

8 c. contributions legally received prior to the effective date of this
9 act may be retained and expended for lawful purposes and shall not
10 provide the basis for a violation of article 14 of the election law, as
11 amended by this act;

12 d. the state board of elections shall notify all candidates and poli-
13 tical committees of the applicable provisions of this act within thirty
14 days after this act shall have become a law; and

15 e. sections twenty-nine, thirty and thirty-one of this act shall take
16 effect immediately; provided, however, state legislature candidates will
17 be eligible to participate in the public financing system beginning with
18 the 2012 election, and all state candidates and constitutional conven-
19 tion delegates will be eligible to participate in the public financing
20 system beginning with the 2014 election.

21

PART D

22 Section 1. The retirement and social security law is amended by adding
23 a new article 3-C to read as follows:

24

ARTICLE 3-C

25

PENSION FORFEITURE FOR PUBLIC CORRUPTION ACT

26

Section 157. Short title.

27

157-a. Definitions.

28

157-b. Pension forfeiture.

29

157-c. Miscellaneous.

30

§ 157. Short title. This article shall be known and may be cited as
31 the "pension forfeiture for public corruption act".

32

§ 157-a. Definitions. The following words and phrases, as used in this
33 article, shall have the following meanings, unless a different meaning
34 is plainly required by the context:

35

1. "Defendant" shall mean a person against whom a forfeiture action is
36 commenced.

37

2. "Designated felony offense" shall mean: (a) any felony offense set
38 forth in the penal law; (b) a conspiracy to commit any felony offense
39 set forth in the penal law; or (c) any criminal offense committed in any
40 other state, district, or territory of the United States and classified
41 as a felony therein, which if committed within this state, would consti-
42 tute an offense designated in paragraph (a) or (b) of this subdivision.

43

3. "Comptroller" shall mean the comptroller of the state of New York
44 in his or her capacity as administrative head of the New York state and
45 local employees' retirement system and the New York state and local
46 police and fire retirement system.

47

4. "Member" shall mean a member of the New York state and local
48 employees' retirement system or the New York state and local police and
49 fire retirement system who joined such system on or after the effective
50 date of this article.

51

5. "Retired member" shall mean a person who is retired from and who is
52 receiving a retirement allowance from a retirement system and who had
53 joined such system on or after the effective date of this article.



1 6. "Retirement system" shall mean the New York state and local employ-
2 ees' retirement system or the New York state and local police and fire
3 retirement system.

4 § 157-b. Pension forfeiture. Notwithstanding any other provision of
5 general, special or local law, rule or regulation to the contrary:

6 1. In the case of a member or retired member who is convicted of any
7 designated felony offense set forth in paragraph (a) or (b) of subdivi-
8 sion two of section one hundred fifty-seven-a of this article, the
9 commission of which is related to the performance or failure to perform
10 such member or retired member's official duties and responsibilities, an
11 action may be commenced in supreme court by the district attorney having
12 jurisdiction over the offense for the forfeiture of all or a portion of
13 those rights and benefits to which such person is or will be entitled as
14 a member or retired member provided that any contributions made by the
15 official to his or her retirement system shall not be subject to forfei-
16 ture, but shall be returned to such official. Such action shall be
17 commenced within six months of such conviction. For purposes of this
18 article, a designated felony offense is related to the performance or
19 failure to perform such member or retired member's official duties and
20 responsibilities if it: (a) constituted a material violation of such
21 member or retired member's duties and responsibilities as a public serv-
22 ant; or (b) even though committed outside the scope of such member's
23 official duties or responsibilities, involved actions or conduct by
24 which such member or retired member indicated or conveyed that he or she
25 was acting with the authority of, or under color of the authority of,
26 any governmental entity.

27 2. Where the attorney general finds that a member or a retired member
28 has been convicted of a designated felony offense as defined in para-
29 graph (c) of subdivision two of section one hundred fifty-seven-a of
30 this article, the commission of which is related to the performance or
31 failure to perform such member or retired member's official duties and
32 responsibilities, an action may be commenced in supreme court by the
33 attorney general for the forfeiture of all or a portion of those rights
34 and benefits to which such person is or will be entitled as a member or
35 retired member. Such action shall be commenced within one year of such
36 conviction.

37 3. Prior to commencement of such action described in subdivision one
38 or two of this section, the district attorney or the attorney general,
39 as the case may be, shall provide notice to the comptroller stating that
40 he or she has reason to believe that the person convicted committed the
41 felony related to his or her official duties and responsibilities.
42 Within twenty days of receipt of such notice, the comptroller shall
43 submit a notice of applicability to the district attorney or the attor-
44 ney general as the case may be. The notice of applicability shall
45 contain a statement specifying whether the person convicted is or has
46 been a member or retired member of the New York state and local employ-
47 ees' retirement system or the New York state and local police and fire
48 retirement system and shall describe the rights and benefits to which
49 such person is or will be entitled from such public retirement system.

50 4. No forfeiture action may be commenced by the district attorney or
51 the attorney general until receipt of the notice of applicability as set
52 forth in subdivision three of this section. In determining whether to
53 seek forfeiture of a portion, rather than all, of such retirement bene-
54 fits, the district attorney or the attorney general may consider miti-
55 gating factors including, but not limited to: the nature and seriousness
56 of the offense committed in relation to the amount of the forfeiture

1 penalty; whether the defendant's conduct in committing the offense was
2 willful or malicious; whether the defendant made any substantial good
3 faith efforts to prevent or mitigate the harm caused by the offense;
4 whether the defendant's participation in the crime was under duress,
5 coercion or induced by others; the impact of the crime on the state or
6 local government and the number of years of the defendant's public
7 service performed without criminal conduct; the pecuniary benefit to the
8 defendant from the crime; and whether and to what extent the defendant's
9 family is dependent upon the defendant's present and future retirement
10 benefits.

11 5. Upon motion by the district attorney or the attorney general, as
12 the case may be, made upon commencement of or at any time during the
13 pendency of a forfeiture action, pursuant to the procedure set forth in
14 subdivision one of section sixty-three hundred eleven or section sixty-
15 three hundred thirteen of the civil practice law and rules, the court
16 may issue a temporary restraining order or a preliminary injunction
17 prohibiting the defendant from receiving any rights or benefits from the
18 appropriate retirement system. A preliminary injunction may be granted
19 where the court finds that there is a substantial probability that the
20 district attorney or attorney general will prevail on the issue of
21 forfeiture. No showing of irreparable harm shall be required. The court
22 may not consider on such motion any issues presented to the court which
23 heard the criminal action in which the defendant was convicted or which
24 arise out of such criminal action and may be presented on appeal.

25 6. All defendants in a forfeiture action brought pursuant to this
26 article shall have the right to trial by jury on any issue of fact.

27 7. The burden of proof shall be upon the district attorney or the
28 attorney general, as the case may be, to prove by clear and convincing
29 evidence the facts necessary to establish a claim of pension forfeiture.

30 8. At any time during the pendency of a forfeiture action, the court
31 may dismiss the action if it finds that such relief is warranted by the
32 existence of some compelling factor, consideration or circumstance
33 including, but not limited to, one or more of the mitigating factors set
34 forth in subdivision four of this section, or other information or
35 evidence which demonstrates that such forfeiture would not serve the
36 ends of justice. The court shall issue a written decision stating the
37 basis for an order issued pursuant to this subdivision.

38 9. (a) Upon a finding by the court that the defendant has committed a
39 felony in connection with his or her official duties and responsibil-
40 ities in this state, the court shall issue an order to the appropriate
41 retirement system for: (i) the forfeiture or recoupment of all or a
42 portion of the defendant's rights and benefits as a member or retired
43 member of such system; (ii) the recoupment of all or a portion of the
44 retirement benefits paid to the defendant; and (iii) the refund to the
45 defendant of any contributions made by the defendant to the retirement
46 system for any period for which the defendant's rights and benefits as a
47 member or retired member of such retirement system have been ordered
48 forfeit.

49 (b) In determining the extent of the forfeiture or recoupment that is
50 warranted, the court may consider one or more of the mitigating factors
51 set forth in subdivision four of this section. All orders and findings
52 made by the court pursuant to this section shall be served upon the
53 comptroller.

54 10. Upon a final determination that reverses or vacates the conviction
55 or convictions of a designated offense or offenses, the member or
56 retired member who has forfeited retirement rights and benefits pursuant



1 to this section shall have such rights and benefits retroactively
2 restored upon application to the court with jurisdiction over the
3 forfeiture action, regardless of any temporary restraining order or
4 preliminary injunction which may be outstanding or order which may have
5 been issued. Such court, upon finding that such a final determination
6 has occurred, shall issue an order retroactively restoring such rights
7 and benefits, together with such other relief deemed appropriate. As a
8 condition to full restoration of rights and benefits as provided in this
9 subdivision, the member or retired member shall reimburse the retirement
10 system for any contributions that were refunded to the member or retired
11 member pursuant to the provisions of paragraph (a) of subdivision nine
12 of this section.

13 11. Except as otherwise provided by this article, the civil practice
14 law and rules shall govern the procedure in actions commenced under this
15 article, except where the action is regulated by any inconsistent
16 provisions herein. In such actions, the court may not consider any
17 issues presented to the court which heard the criminal action in which
18 the defendant was convicted or which arise out of such criminal action
19 and may be presented on appeal.

20 § 157-c. Miscellaneous. The remedies provided for in this article are
21 not intended to substitute for, limit or supersede the lawful authority
22 of any public officer, agency or other person to enforce any other right
23 or remedy provided for by law.

24 § 2. This act shall take effect immediately.

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

34 § 3. This act shall take effect immediately provided, however, that
35 the applicable effective date of Parts A through D of this act shall be
36 as specifically set forth in the last section of such Parts.