S T A T E O F N E W Y O R K

9029

2009-2010 Regular Sessions

I N A S S E M B L Y

June 19, 2009

Introduced by M. of A. MILLMAN, SILVER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the retirement and social security law, in relation to making technical corrections relating to the investment advisory committee and the mortgage advisory committee (Part A); to amend the executive law, in relation to prohibiting the use of placement agents by managers doing business with the common retirement fund (Part B); to amend the executive law, in relation to the adoption of a code of conduct by the state comptroller (Part C); to amend the election law, in relation to enacting the "State Comptroller Campaign Finance Reform Act"; to amend the election law, the state finance law and the tax law, in relation to providing for optional partial public financing of certain election campaigns in this state; and to amend the election law, in relation to identification of the source of certain political communications (Part D); to amend the executive law, in relation to authorizing the state comptroller to establish a timeframe and frequency for reporting information relating to transactions of the common retirement fund (Part E); to amend the retirement and social security law, in relation to the establishment of the variable interest rate bond liquidity and monoline insurer investment program; to amend the retirement and social security law, in relation to the investment of moneys in in-state private equities; and to amend the retirement and social security law, in relation to the investment of moneys in real assets (Part F); and to amend the executive law, in relation to creating a fair fund program for the collection of civil penalties assessed upon perpetrators of frauds against the common retirement fund (Part G)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "New York state common retirement fund reformation act".

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

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S 2. This act enacts into law major components of legislation which are necessary to implement the New York state common retirement fund reformation act. Each component is wholly contained within a Part identified as Parts A through G. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular competent, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

Section 1. Subdivision b and the first undesignated paragraph of section 423 of the retirement and social security law, as amended by chapter 770 of the laws of 1970, are amended to read as follows:

b. To assist in the management of the monies of the common retirement fund, the comptroller shall appoint an investment advisory committee consisting of not less than seven members who shall serve for his OR HER term of office. A vacancy occurring from any cause other than expiration of term shall be filled by the comptroller for the remainder of the term. Each member of the committee shall be experienced in the field of investments and shall have served, or shall be serving, as a senior officer or member of the board of an insurance company, banking corporation or other financial or investment organization authorized to do business in the state of New York. The committee shall advise the comptroller on investment policies relating to the monies of the common retirement fund and shall review, from time to time, the investment portfolio of the fund and make such recommendations as may be deemed necessary. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INDIVIDUALS APPOINTED TO THE INVESTMENT ADVISORY COMMITTEE SHALL BE ELIGIBLE FOR DEFENSE AND INDEMNIFICATION IN ACCORDANCE WITH SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW.

The comptroller shall appoint a separate [mortgage] REAL ESTATE advisory committee, with the advice and consent of the investment advisory committee, to review proposed [mortgage and] real estate AND MORTGAGE investments by the common retirement fund. In making investments, as authorized by law, the comptroller shall be guided by policies established by each committee from time to time; and, in the event the [mortgage] REAL ESTATE advisory committee disapproves a proposed [mortgage or] real estate investment, such INVESTMENT shall not be made. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INDIVIDUALS APPOINTED TO THE REAL ESTATE ADVISORY COMMITTEE SHALL BE ELIGIBLE FOR DEFENSE AND INDEMNIFICATION IN ACCORDANCE WITH SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW.

S 2. This act shall take effect immediately and shall apply to all claims, actions and proceedings pending on or commenced on or after such effective date.

PART B

Section 1. The executive law is amended by adding a new section 41-b to read as follows:

S 41-B. USE OF PLACEMENT AGENTS OR INTERMEDIARIES PROHIBITED. 1. IN ORDER TO PRESERVE THE INDEPENDENCE AND INTEGRITY OF THE COMMON RETIREMENT FUND AND TO PRECLUDE POTENTIAL CONFLICTS OF INTEREST, NO EMPLOYEE

OF THE COMMON RETIREMENT FUND SHALL KNOWINGLY AND WILLFULLY MAKE ANY COMMITMENT OF THE ASSETS OR RESOURCES OF SUCH FUND TO ANY INVESTMENT MANAGER IF SUCH INVESTMENT MANAGER HAS ENGAGED, HIRED, UTILIZED OR RETAINED FOR COMPENSATION A PLACEMENT AGENT OR INTERMEDIARY FOR THE PURPOSE OF SECURING OR INFLUENCING THE DECISION TO SECURE A PARTICULAR TRANSACTION OR INVESTMENT BY SUCH FUND.

2. FOR THE PURPOSES OF THIS SECTION:

(A) "INVESTMENT MANAGER" SHALL MEAN ANY PERSON, OTHER THAN AN EMPLOYEE OF THE STATE COMPTROLLER, OR ENTITY ENGAGED BY THE COMMON RETIREMENT FUND IN THE MANAGEMENT OF PART OR ALL OF AN INVESTMENT PORTFOLIO OF THE FUND. "MANAGEMENT" SHALL INCLUDE, BUT IS NOT LIMITED TO, ANALYSIS OF PORTFOLIO HOLDINGS, AND THE PURCHASE, SALE, AND LENDING THEREOF.

(B) "PLACEMENT AGENT OR INTERMEDIARY" SHALL MEAN ANY PERSON OR ENTITY, INCLUDING A REGISTERED LOBBYIST, THAT IS DIRECTLY OR INDIRECTLY, FOR COMPENSATION, WHETHER UPON A FIXED, CONTINGENT OR ANY OTHER BASIS, HIRED, ENGAGED, UTILIZED OR RETAINED FOR FACILITATING THE PLACEMENT OF AN INVESTMENT WITH THE INVESTMENT MANAGER. A PLACEMENT AGENT OR INTERMEDIARY DOES NOT INCLUDE A REGULAR EMPLOYEE OF THE INVESTMENT MANAGER.

S 2. This act shall take effect immediately; provided, however, that the provisions of section 41-b of the executive law, as added by section one of this act shall apply to agreements between the common retirement fund and investment managers entered into on and after such date.

PART C

Section 1. The executive law is amended by adding a new section 41-c to read as follows:

S 41-C. CODE OF CONDUCT. 1. FOR PURPOSES OF MAINTAINING THE INTEGRITY OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM AND OF THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM, THE STATE COMPTROLLER SHALL, WITHIN HIS OR HER DISCRETION, ADOPT A CODE OF CONDUCT. SUCH CODE OF CONDUCT SHALL ESTABLISH STANDARDS OF CONDUCT FOR THE MANAGEMENT OF SUCH SYSTEMS AND SHALL APPLY TO THE CONDUCT OF BUSINESS OF SUCH SYSTEMS BY THE STATE COMPTROLLER AS THE SOLE TRUSTEE OF THE NEW YORK STATE COMMON RETIREMENT FUND AND AS THE ADMINISTRATIVE HEAD OF SUCH SYSTEMS, BY THE OFFICERS AND EMPLOYEES OF THE OFFICE OF STATE COMPTROLLER WITH RESPONSIBILITY FOR MATTERS RELATING TO SUCH SYSTEMS OR FUND, BY THE ADVISORS, CONSULTANTS AND INVESTMENT MANAGERS ENGAGED BY THE NEW YORK STATE COMMON RETIREMENT FUND AND BY THE MEMBERS OF ADVISORY COMMITTEES TO THE STATE COMPTROLLER.

2. SUCH CODE OF CONDUCT SHALL BE DESIGNED TO ENSURE THAT THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM AND THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM AND THE NEW YORK STATE COMMON RETIREMENT FUND SHALL ADHERE TO AND BE MANAGED IN ACCORDANCE WITH THE CARE, SKILL, PRUDENCE AND DILIGENCE UNDER THE CIRCUMSTANCES THEN PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH SUCH MATTERS WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE CHARACTER AND WITH LIKE AIMS AND THAT ACTIONS ON BEHALF OF SUCH SYSTEMS AND FUND SHALL BE FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS, RETIREES AND BENEFICIARIES OF SUCH SYSTEMS.

3. SUCH CODE OF CONDUCT MAY INCLUDE, BUT NEED NOT BE LIMITED TO, FIDUCIARY DUTIES OF THE STATE COMPTROLLER; THE REQUIREMENT OF AN INVESTMENT POLICY STATEMENT FOR THE NEW YORK STATE COMMON RETIREMENT FUND; DUTIES OF THE ADVISORY COUNCIL AND COMMITTEES INCLUDING, BUT NOT LIMITED TO, THE INVESTMENT COMMITTEE, REAL ESTATE ADVISORY COMMITTEES, THE AUDIT COMMITTEE AND THE ACTUARIAL COMMITTEE; FIDUCIARY DUTIES OF EMPLOYEES OF

THE OFFICE OF STATE COMPTROLLER WHO HAVE RESPONSIBILITY FOR MATTERS RELATING TO THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM AND THE NEW YORK STATE COMMON RETIREMENT FUND INCLUDING, BUT NOT LIMITED TO, FIDUCIARY AND ETHICS TRAINING AND COMPLIANCE WITH THE PROVISIONS OF THE PUBLIC OFFICERS LAW; POLICIES TO PREVENT THE MISUSE OF MATERIAL AND CONFIDENTIAL INFORMATION BY OFFICERS, AND EMPLOYEES; GUIDELINES FOR INTERNAL AUDITS OF SUCH SYSTEMS AND FUND; FIDUCIARY DUTIES AND CONFLICT OF INTEREST DISCLOSURE POLICIES FOR INVESTMENT MANAGERS, CONSULTANTS AND ADVISORS TO SUCH FUND; GUIDELINES FOR THE PROCUREMENT OF SERVICES OF INVESTMENT MANAGERS, CONSULTANTS AND ADVISORS; GUIDELINES FOR THE AUDIT OF FEES BY THE SUPERINTENDENT OF THE DEPARTMENT OF INSURANCE; GUIDELINES FOR THE INVESTIGATION OF COMPLAINTS OF ABUSE WITHIN SUCH SYSTEMS OR FUND, GUIDELINES FOR THE MAINTENANCE OF ALL BOOKS AND RECORDS OF SUCH SYSTEMS AND FUND; GUIDELINES FOR AN ANNUAL AUDIT OF SUCH SYSTEMS AND FUND; AND GUIDELINES FOR THE PUBLICATION OF INFORMATION RELATED TO SUCH SYSTEMS AND FUND INCLUDING, BUT NOT LIMITED TO, FUND PERFORMANCE AND TRANSACTIONS.

S 2. This act shall take effect immediately.

PART D

Section 1. Short title. This act shall be known and may be cited as the "State Comptroller Campaign Finance Reform Act".

S 2. Legislative findings and declaration. The legislature is committed to reforming New York's campaign finance system and bolstering public confidence in the democratic process. Whether or not a system of large campaign contributions creates actual unfair influence, the appearance and perception of such influence gives rise to distrust in government and citizen apathy that could undermine the democratic political process.

The legislature finds that the high cost of running a campaign for statewide office in New York discourages qualified candidates from running and inevitably forces candidates to spend too much time raising money rather than attending to official duties and concentrating on the issues that do concern and should concern voters. Addressing such concerns in the context of the election to the office of state comptroller is an appropriate place to start in reforming New York's system of campaign finance; the state comptroller campaign finance reform act is a first step.

Therefore, the legislature finds that limiting campaign contributions to a level that is sufficient to permit candidates to raise money to run an effective, statewide campaign as title II of article 14 of the election law requires, furthers the state's legitimate interest in reducing real and perceived unjust influence on government. Such title's program of voluntary expenditure caps combined with public financing and a minimal threshold for participation in the program, furthers the state's interest in encouraging qualified candidates to run for office regardless of their access to substantial wealth, thus increasing public debate and participation in the democratic process. The legislature also believes that such title's voluntary spending caps ensure a level playing field for all candidates who participate.

Thus, the legislature enacts the state comptroller campaign finance reform act with the express purpose of furthering all of these state interests which, if strengthened, will only make the election process more open and fair and, ultimately, more democratic.

S 3. The article heading of article 14 of the election law is amended to read as follows:

CAMPAIGN RECEIPTS AND EXPENDITURES; PUBLIC FINANCING

S 4. Section 14-100 of the election law is amended by adding three new subdivisions 12, 13, and 14 to read as follows:

12. "CLEARLY IDENTIFIED CANDIDATE" MEANS THAT:

(A) THE NAME OF THE CANDIDATE INVOLVED APPEARS;

(B) A PHOTOGRAPH OR DRAWING OF THE CANDIDATE APPEARS; OR

(C) THE IDENTITY OF THE CANDIDATE IS APPARENT BY UNAMBIGUOUS REFERENCE.

13. "GENERAL PUBLIC AUDIENCE" MEANS AN AUDIENCE COMPOSED OF MEMBERS OF THE PUBLIC, INCLUDING A TARGETED SUBGROUP OF MEMBERS OF THE PUBLIC; PROVIDED, HOWEVER, IT DOES NOT MEAN AN AUDIENCE SOLELY COMPRISED OF MEMBERS, RETIREES AND STAFF OF A LABOR ORGANIZATION OR THEIR IMMEDIATE FAMILY MEMBERS OR AN AUDIENCE SOLELY COMPRISED OF EMPLOYEES OF A BUSINESS ENTITY.

14. "LABOR ORGANIZATION" MEANS ANY ORGANIZATION OF ANY KIND WHICH EXISTS FOR THE PURPOSE, IN WHOLE OR IN PART, OF REPRESENTING EMPLOYEES EMPLOYED WITHIN THE STATE OF NEW YORK IN DEALING WITH EMPLOYERS OR EMPLOYER ORGANIZATIONS OR WITH A STATE GOVERNMENT, OR ANY POLITICAL OR CIVIL SUBDIVISION OR OTHER AGENCY THEREOF, CONCERNING TERMS AND CONDITIONS OF EMPLOYMENT, GRIEVANCES, LABOR DISPUTES, OR OTHER MATTERS INCIDENTAL TO THE EMPLOYMENT RELATIONSHIP. FOR THE PURPOSES OF THIS ARTICLE, EACH LOCAL, PARENT NATIONAL OR PARENT INTERNATIONAL ORGANIZATION OF A STATEWIDE LABOR ORGANIZATION, AND EACH STATEWIDE FEDERATION RECEIVING DUES FROM SUBSIDIARY LABOR ORGANIZATIONS, SHALL BE CONSIDERED A SEPARATE LABOR ORGANIZATION.

S 5. Section 14-106 of the election law, as amended by chapter 8 of the laws of 1978, is amended to read as follows:

S 14-106. Political [advertisements and literature] COMMUNICATION. The statements required to be filed under the provisions of this article next succeeding a primary, general or special election shall be accompanied by a [facsimile or] copy of all BROADCAST, CABLE OR SATELLITE SCHEDULES AND SCRIPTS, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced [and a schedule of all radio or television time, and scripts used therein], AND REPRODUCTIONS OF STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICE, purchased in connection with such election by or under the authority of the person filing the statement or the committee or the person on whose behalf it is filed, as the case may be. Such [facsimiles,] copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof.

S 5-a. The election law is amended by adding a new section 14-107 to read as follows:

S 14-107. INDEPENDENT EXPENDITURE REPORTING. 1. FOR PURPOSES OF THIS ARTICLE:

(A) "INDEPENDENT EXPENDITURE" MEANS AN EXPENDITURE MADE BY A PERSON FOR AN AUDIO OR VIDEO COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA BROADCAST, CABLE OR SATELLITE OR A WRITTEN COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS, BROCHURES, LETTERHEADS OR OTHER PRINTED MATTER AND STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC

AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICES WHICH: (I) EXPRESSLY ADVOCATES THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED CANDIDATE OR THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL AND (II) SUCH CANDIDATE, THE CANDIDATE'S POLITICAL COMMITTEE OR ITS AGENTS, OR A POLITICAL COMMITTEE FORMED TO PROMOTE THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL OR ITS AGENTS, DID NOT AUTHORIZE, REQUEST, SUGGEST, FOSTER OR COOPERATE IN ANY SUCH COMMUNICATION.

(B) INDEPENDENT EXPENDITURES DO NOT INCLUDE:

(I) A COMMUNICATION APPEARING IN A WRITTEN NEWS STORY, COMMENTARY, OR EDITORIAL OR DISTRIBUTED THROUGH THE FACILITIES OF ANY BROADCASTING STATION, CABLE OR SATELLITE UNLESS SUCH PUBLICATION OR FACILITIES ARE OWNED OR CONTROLLED BY ANY POLITICAL PARTY, POLITICAL COMMITTEE OR CANDIDATE; OR

(II) A COMMUNICATION THAT CONSTITUTES A CANDIDATE DEBATE OR FORUM; OR

(III) A COMMUNICATION WHICH CONSTITUTES AN EXPENDITURE MADE BY AN ENTITY REQUIRED TO REPORT SUCH EXPENDITURE WITH A BOARD OF ELECTIONS.

(C) FOR PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL MEAN PERSON, GROUP OF PERSONS, ENTITY, ORGANIZATION OR ASSOCIATION.

2. WHENEVER ANY PERSON MAKES AN INDEPENDENT EXPENDITURE THAT COSTS MORE THAN ONE THOUSAND DOLLARS IN THE AGGREGATE, SUCH COMMUNICATION SHALL CLEARLY STATE THE NAME OF THE PERSON WHO PAID FOR, OR OTHERWISE PUBLISHED OR DISTRIBUTED, THE COMMUNICATION AND STATE, WITH RESPECT TO COMMUNICATIONS REGARDING CANDIDATES, THAT THE COMMUNICATION IS NOT AUTHORIZED BY ANY CANDIDATE, ANY CANDIDATE'S POLITICAL COMMITTEE OR ANY OF ITS AGENTS. A KNOWING AND WILLFUL VIOLATION OF THE PROVISIONS OF THIS SUBDIVISION SHALL SUBJECT THE PERSON TO A CIVIL PENALTY EQUAL TO ONE THOUSAND DOLLARS OR THE COST OF THE COMMUNICATION, WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD OF ELECTIONS.

3. (A) ANY PERSON WHICH MAKES INDEPENDENT EXPENDITURES THAT COST MORE THAN ONE THOUSAND DOLLARS IN THE AGGREGATE SHALL REPORT SUCH INDEPENDENT EXPENDITURES TO THE STATE BOARD OF ELECTIONS ON STATEMENTS AS PROVIDED FOR IN SECTION 14-108 OF THIS ARTICLE.

(B) ANY INDEPENDENT EXPENDITURE MADE AFTER THE CLOSE OF THE PERIOD TO BE COVERED IN THE LAST STATEMENT FILED BEFORE ANY PRIMARY OR GENERAL ELECTION, BUT BEFORE SUCH ELECTION, SHALL BE REPORTED WITHIN TWENTY-FOUR HOURS IN THE SAME MANNER AS PROVIDED FOR IN SUBDIVISION TWO OF SECTION 14-108 OF THIS ARTICLE.

4. EACH SUCH STATEMENT SHALL INCLUDE:

(A) THE NAME AND ADDRESS OF THE PERSON MAKING THE STATEMENT;

(B) THE NAME AND ADDRESS OF THE PERSON MAKING THE INDEPENDENT EXPENDITURE;

(C) THE NAME AND ADDRESS OF ANY PERSON OR ENTITY PROVIDING A GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE HUNDRED DOLLARS OR MORE FOR THE INDEPENDENT EXPENDITURE, OR THE PROVISION OF SERVICES FOR THE SAME, AND THE DATE IT WAS GIVEN; PROVIDED, HOWEVER, THE NAME AND ADDRESS OF A MEMBER OF A LABOR ORGANIZATION IS NOT REQUIRED FOR A GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE HUNDRED DOLLARS OR MORE TO A LABOR ORGANIZATION OR A LABOR ORGANIZATION POLITICAL ACTION COMMITTEE;

(D) THE DOLLAR AMOUNT PAID FOR EACH INDEPENDENT EXPENDITURE, THE NAME AND ADDRESS OF THE PERSON OR ENTITY RECEIVING THE PAYMENT, THE DATE THE PAYMENT WAS MADE AND A DESCRIPTION OF THE INDEPENDENT EXPENDITURE; AND

(E) THE ELECTION TO WHICH THE INDEPENDENT EXPENDITURE PERTAINS AND THE NAME OF THE CLEARLY IDENTIFIED CANDIDATE OR THE BALLOT PROPOSAL REFERENCED.

5. ANY REPORT MADE PURSUANT TO THIS SECTION SHALL INCLUDE A COPY OF ALL MATERIALS THAT PERTAIN TO THE INDEPENDENT EXPENDITURE, INCLUDING BUT NOT LIMITED TO BROADCAST, CABLE OR SATELLITE SCHEDULE AND SCRIPTS, ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS, BROCHURES, LETTERHEADS AND OTHER PRINTED MATTER.

6. ANY REPORT OF A LOAN THAT IS MADE FOR AN INDEPENDENT EXPENDITURE SHALL INCLUDE WRITTEN EVIDENCE OF THE INDEBTEDNESS.

7. EVERY STATEMENT REQUIRED TO BE FILED PURSUANT TO THIS SECTION SHALL BE FILED BY ELECTRONIC REPORTING PROCESS OR OVERNIGHT MAIL TO THE STATE BOARD OF ELECTIONS.

8. THE STATE BOARD OF ELECTIONS SHALL PROMULGATE REGULATIONS WITH RESPECT TO THE STATEMENTS REQUIRED TO BE FILED BY THIS SECTION AND SHALL PROVIDE FORMS SUITABLE FOR SUCH STATEMENTS.

S 5-b. Section 14-112 of the election law, as amended by chapter 930 of the laws of 1981, is amended to read as follows:

S 14-112. Political committee authorization statement. 1. Any political committee aiding or taking part in the election or nomination of any candidate, other than by making contributions, shall file, in the office in which the statements of such committee are to be filed pursuant to this article, either a sworn verified statement by the treasurer of such committee that the candidate has authorized the political committee to aid or take part in his election or that the candidate has not authorized the committee to aid or take part in his election.

2. NO LATER THAN THREE DAYS AFTER THE LAST DAY TO FILE DESIGNATING PETITIONS, A CANDIDATE FOR STATE COMPTROLLER SHALL FILE A STATEMENT WITH THE STATE BOARD OF ELECTIONS STATING WHETHER THE CANDIDATE HAS OR WILL CONTRIBUTE PERSONAL FUNDS TO HIS OR HER AUTHORIZED COMMITTEE FOR USE IN SUCH ELECTION AND AN ESTIMATE OF THE AMOUNT OF PERSONAL FUNDS CONTRIBUTED OR TO BE CONTRIBUTED. THE KNOWING AND WILLFUL FAILURE TO FILE THE STATEMENT REQUIRED BY THIS SUBDIVISION SHALL SUBJECT THE CANDIDATE TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD OF ELECTIONS.

S 5-c. Section 14-126 of the election law, as amended by chapter 8 of the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of 1994, subdivisions 2, 3, and 4 as redesignated by chapter 9 of the laws of 1978, is amended to read as follows:

S 14-126. Violations; penalties. 1. Any person who fails to file a statement required to be filed by this article shall be subject to a civil penalty, not in excess of five hundred dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections or other board of elections.

2. ANY PERSON WHO KNOWINGLY AND WILLFULLY FAILS TO IDENTIFY INDEPENDENT EXPENDITURES AS REQUIRED BY SUBDIVISION TWO OF SECTION 14-107 OR KNOWINGLY AND WILLFULLY FAILS TO FILE THE STATEMENT REQUIRED BY SUBDIVISION TWO OF SECTION 14-112 SHALL BE SUBJECT TO A CIVIL PENALTY IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD OF ELECTIONS.

[2.] 3. Any person who knowingly and willfully fails to file a statement required to be filed by this article within ten days after the date provided for filing such statement or any person who knowingly and willfully violates any other provision of this article shall be guilty of a misdemeanor.

[3.] 4. Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a misdemeanor.

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

S 6. Sections 14-100 through 14-130 of article 14 of the election law are designated title 1 and a new title heading is added to read as follows:

CAMPAIGN RECEIPTS AND EXPENDITURES

S 7. Article 14 of the election law is amended by adding a new title 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.

S 14-200. DEFINITIONS. AS USED IN THIS TITLE, UNLESS ANOTHER MEANING IS CLEARLY INDICATED:

1. THE TERM "STATE BOARD" SHALL MEAN THE STATE BOARD OF ELECTIONS.

2. THE TERM "ELIGIBLE CANDIDATE" SHALL MEAN A CANDIDATE FOR NOMINATION OR ELECTION TO THE OFFICE OF STATE COMPTROLLER.

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 OR GENERAL 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, HAS MET THE THRESHOLD FOR ELIGIBILITY AND HAS ELECTED TO PARTICIPATE IN THE PUBLIC FINANCING SYSTEM.

5. THE TERM "MATCHABLE CONTRIBUTIONS" SHALL MEAN THAT PORTION OF THE AGGREGATE CONTRIBUTIONS MADE 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 BY NATURAL PERSONS RESIDENT IN THE STATE OF NEW YORK TO A CANDIDATE FOR NOMINATION OR ELECTION TO THE OFFICE 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 STATE BOARD, 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 "FUND" SHALL MEAN THE NEW YORK STATE CAMPAIGN FINANCE FUND.

8. 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.

9. THE TERM "CONTRIBUTION" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION NINE OF SECTION 14-100 OF THIS ARTICLE.

S 14-202. ELIGIBILITY. 1. TO BE ELIGIBLE FOR OPTIONAL PUBLIC FINANCING UNDER THIS TITLE, A CANDIDATE FOR NOMINATION OR ELECTION MUST:

(A) MEET ALL THE REQUIREMENTS OF THIS CHAPTER AND OTHER PROVISIONS OF LAW TO HAVE HIS OR HER NAME ON THE BALLOT;

(B) BE A CANDIDATE FOR STATE COMPTROLLER AT A PRIMARY OR GENERAL ELECTION AND MEET THE THRESHOLD FOR ELIGIBILITY SET FORTH IN SUBDIVISION TWO OF THIS SECTION;

(C) ELECT TO PARTICIPATE IN THE PUBLIC FINANCING SYSTEM ESTABLISHED BY THIS TITLE NOT LATER THAN SEVEN DAYS AFTER THE LAST DAY TO FILE DESIGNATING PETITIONS FOR THE OFFICE SUCH CANDIDATE IS SEEKING;

(D) AGREE TO OBTAIN AND FURNISH TO THE STATE BOARD ANY EVIDENCE IT MAY REASONABLY REQUEST RELATING TO HIS OR HER CAMPAIGN EXPENDITURES OR CONTRIBUTIONS AND FURNISH SUCH OTHER PROOF OF COMPLIANCE WITH THIS TITLE AS MAY BE REQUESTED BY THE STATE BOARD;

(E) HAVE A SINGLE AUTHORIZED POLITICAL COMMITTEE WHICH HE OR SHE CERTIFIES AS THE PARTICIPATING COMMITTEE FOR THE PURPOSES OF THIS TITLE; AND

(F) AGREE TO IDENTIFY ACCURATELY IN ALL CAMPAIGN MATERIALS THE PERSON OR ENTITY THAT PAID FOR SUCH CAMPAIGN MATERIAL.

2. THE THRESHOLD FOR ELIGIBILITY FOR PUBLIC FUNDING FOR STATE COMPTROLLER CANDIDATES IN A PRIMARY OR GENERAL ELECTION SHALL BE NOT LESS THAN THREE HUNDRED THOUSAND DOLLARS FROM AT LEAST THREE THOUSAND MATCHABLE CONTRIBUTIONS MADE UP OF SUMS OF UP TO TWO HUNDRED FIFTY DOLLARS PER INDIVIDUAL CONTRIBUTOR WHO RESIDES IN NEW YORK STATE.

3. IN ORDER TO BE ELIGIBLE TO RECEIVE PUBLIC FUNDS IN A PRIMARY ELECTION A CANDIDATE MUST AGREE, THAT IN THE EVENT SUCH CANDIDATE IS A CANDIDATE FOR SUCH OFFICE IN THE GENERAL ELECTION IN SUCH YEAR, THAT SUCH CANDIDATE WILL BE BOUND BY THE PROVISIONS OF THIS TITLE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT AND EXPENDITURE LIMITS OF THIS TITLE.

4. CANDIDATES WHO ARE CONTESTED IN A PRIMARY ELECTION AND WHO DO NOT SEEK PUBLIC FUNDS SHALL NOT BE ELIGIBLE FOR PUBLIC FUNDS FOR THE GENERAL ELECTION IN THAT YEAR.

5. CANDIDATES WHO ARE UNOPPOSED IN A GENERAL ELECTION SHALL NOT BE ELIGIBLE TO RECEIVE PUBLIC FUNDS.

6. NO CANDIDATE FOR ELECTION TO THE OFFICE OF STATE COMPTROLLER IN A PRIMARY OR GENERAL ELECTION WHO HAS ELECTED TO PARTICIPATE IN THE PUBLIC FINANCING SYSTEM SHALL BE DEEMED OPPOSED AND RECEIVE PUBLIC FUNDS UNLESS AT LEAST ONE OTHER CANDIDATE FOR SUCH OFFICE IN SUCH ELECTION WHO ALSO ELECTED TO PARTICIPATE IN THE PUBLIC FINANCING SYSTEM, OR SUCH CANDIDATE'S COMMITTEE, OR AT LEAST ONE OTHER CANDIDATE FOR SUCH OFFICE IN SUCH ELECTION WHO HAS NOT ELECTED TO PARTICIPATE, OR SUCH CANDIDATE'S COMMITTEE, HAVE EITHER SPENT, CONTRACTED OR OBLIGATED TO SPEND, OR HAVE CONTRIBUTED SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMIT-

TEE OR HAVE RECEIVED IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING TEN PERCENT OF THE EXPENDITURE LIMIT FOR SUCH OFFICE IN SUCH ELECTION WHICH IS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT SUCH PUBLIC FUNDS. IF ANY CANDIDATE FOR SUCH OFFICE AND THE COMMITTEE OF SUCH CANDIDATE REACHES THE THRESHOLD TO QUALIFY TO RECEIVE PUBLIC FUNDS, OR SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING TEN PERCENT OF THE EXPENDITURE LIMIT FOR SUCH OFFICE IN SUCH ELECTION AT ANY TIME AFTER THE FILING DEADLINE FOR THE LAST REPORT REQUIRED TO BE FILED BEFORE THE FIRST DISTRIBUTION OF PUBLIC FUNDS FOR SUCH ELECTION, SUCH CANDIDATE OR COMMITTEE MUST NOTIFY THE STATE BOARD OF THAT FACT WITHIN TWENTY-FOUR HOURS IN THE SAME MANNER AS PROVIDED IN SUBDIVISION TWO OF SECTION 14-108 OF THIS ARTICLE.

S 14-204. QUALIFIED CAMPAIGN EXPENDITURES. 1. PUBLIC FUNDS PROVIDED UNDER THE PROVISIONS OF THIS TITLE MAY ONLY BE USED FOR EXPENDITURES BY THE PARTICIPATING COMMITTEE AUTHORIZED BY THE CANDIDATE TO MAKE EXPENDITURES ON SUCH CANDIDATE'S BEHALF, TO FURTHER THE CANDIDATE'S NOMINATION OR ELECTION AFTER JANUARY FIRST OF THE YEAR IN WHICH THE PRIMARY OR GENERAL ELECTION IS HELD FOR THE OFFICE SOUGHT, FOR SERVICES, MATERIALS, FACILITIES OR OTHER THINGS OF VALUE USED DURING THAT CAMPAIGN CYCLE. THE TOTAL OF ALL EXPENDITURES MADE BY THE CANDIDATE AND SUCH CANDIDATE'S PARTICIPATING COMMITTEE, INCLUDING ALL PAYMENTS RECEIVED FROM THE FUND, SHALL NOT EXCEED THE EXPENDITURE LIMITATIONS ESTABLISHED IN SECTION 14-210 OF THIS TITLE, EXCEPT INSOFAR AS SUCH PAYMENTS ARE MADE TO REPAY LOANS USED TO PAY CAMPAIGN EXPENDITURES.

2. SUCH PUBLIC FUNDS MAY NOT BE USED FOR:

(A) AN EXPENDITURE IN VIOLATION OF ANY LAW OF THE UNITED STATES OR OF THIS STATE;

(B) PAYMENTS OR ANYTHING OF VALUE GIVEN OR MADE TO THE CANDIDATE, A RELATIVE OF THE CANDIDATE, OR TO A BUSINESS ENTITY IN WHICH ANY SUCH PERSON HAS A TEN PERCENT OR GREATER OWNERSHIP INTEREST OR OF WHICH ANY SUCH PERSON IS AN OFFICER, DIRECTOR OR EMPLOYEE;

(C) PAYMENT IN EXCESS OF THE FAIR MARKET VALUE OF SERVICES, MATERIALS, FACILITIES OR OTHER THINGS OF VALUE RECEIVED IN EXCHANGE;

(D) ANY EXPENDITURE MADE AFTER THE PARTICIPATING CANDIDATE, OR THE ONLY REMAINING OPPONENT OF SUCH CANDIDATE, HAS BEEN DISQUALIFIED OR HAD SUCH CANDIDATE'S PETITIONS DECLARED INVALID BY A BOARD OF ELECTIONS OR A COURT OF COMPETENT JURISDICTION UNTIL AND UNLESS SUCH FINDING IS REVERSED BY A HIGHER AUTHORITY.

(E) ANY EXPENDITURE MADE TO CHALLENGE THE VALIDITY OF ANY PETITION OF DESIGNATION OR NOMINATION OR ANY CERTIFICATE OF NOMINATION, ACCEPTANCE, AUTHORIZATION, DECLINATION OR SUBSTITUTION;

(F) EXPENDITURE FOR NONCAMPAIGN RELATED FOOD, DRINK OR ENTERTAINMENT; AND

(G) GIFTS, EXCEPT BROCHURES, BUTTONS, SIGNS AND OTHER CAMPAIGN MATERIAL.

S 14-206. OPTIONAL PUBLIC FINANCING. 1. PARTICIPATING CANDIDATES FOR NOMINATION OR ELECTION IN A PRIMARY OR GENERAL ELECTION MAY OBTAIN PAYMENT TO A PARTICIPATING COMMITTEE FROM PUBLIC FUNDS FOR QUALIFIED CAMPAIGN EXPENDITURES. NO SUCH PUBLIC FUNDS SHALL BE PAID TO A PARTICIPATING COMMITTEE UNTIL THE CANDIDATE HAS QUALIFIED TO APPEAR ON THE BALLOT AND FILED A SWORN STATEMENT WITH THE STATE BOARD ELECTING TO PARTICIPATE IN THE OPTIONAL PUBLIC FINANCING SYSTEM AND AGREEING TO ABIDE BY THE REQUIREMENTS OF THIS TITLE. PAYMENTS SHALL NOT EXCEED THE AMOUNTS SPECIFIED IN THIS TITLE, AND SHALL BE MADE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE. SUCH PAYMENTS MAY ONLY BE MADE TO A

PARTICIPATING CANDIDATE'S PARTICIPATING COMMITTEE. NO PUBLIC FUNDS SHALL BE USED EXCEPT AS REIMBURSEMENT OR PAYMENT FOR QUALIFIED CAMPAIGN EXPENDITURES ACTUALLY AND LAWFULLY INCURRED OR TO REPAY LOANS USED TO PAY QUALIFIED CAMPAIGN EXPENDITURES.

2. THE PARTICIPATING COMMITTEE OF EACH PARTICIPATING CANDIDATE SHALL BE ENTITLED TO FOUR DOLLARS IN PUBLIC FUNDS FOR EACH ONE DOLLAR OF MATCHABLE CONTRIBUTIONS OBTAINED AND REPORTED TO THE STATE BOARD IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE, PROVIDED, HOWEVER, SUCH PUBLIC FUNDS SHALL ONLY BE USED FOR QUALIFIED CAMPAIGN EXPENDITURES.

3. (A) HOWEVER, IF ANY CANDIDATE IN ANY ELECTION FOR AN OFFICE FOR WHICH PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THE PROVISIONS OF THIS TITLE, ELECTS NOT TO ACCEPT PUBLIC FUNDS AND SUCH CANDIDATE OR SUCH CANDIDATE'S COMMITTEE EITHER SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING THE EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, THEN (I) SUCH CANDIDATE OR COMMITTEE MUST NOTIFY THE STATE BOARD OF THE FACT WITHIN TWENTY-FOUR HOURS VIA THE INTERNET USING THE ELECTRONIC FILING SYSTEM ESTABLISHED BY THE STATE BOARD, OR IF SUCH CANDIDATE DOES NOT FILE ELECTRONICALLY VIA THE INTERNET, BY FACSIMILE OR OVERNIGHT MAIL; AND (II) THE PARTICIPATING COMMITTEE OF EACH PARTICIPATING CANDIDATE FOR SUCH OFFICE SHALL BE ENTITLED TO A GRANT OF PUBLIC FUNDS EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF PUBLIC FUNDS RECEIVED BY THE PARTICIPATING CANDIDATE FOR MATCHABLE CONTRIBUTIONS OBTAINED AND REPORTED TO THE STATE BOARD. SUCH GRANT SHALL BE PAID WITHIN TWO BUSINESS DAYS AND SHALL ONLY BE USED FOR QUALIFIED CAMPAIGN EXPENDITURES.

(B) HOWEVER, IF ANY CANDIDATE IN ANY ELECTION FOR AN OFFICE FOR WHICH PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THE PROVISIONS OF THIS TITLE, ELECTS NOT TO ACCEPT PUBLIC FUNDS AND SUCH CANDIDATE OR SUCH CANDIDATE'S COMMITTEE EITHER SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING THE TOTAL OF THE EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, PLUS THE TWENTY-FIVE PERCENT GRANT ALREADY RECEIVED BY THE PARTICIPATING CANDIDATE, THEN (I) SUCH CANDIDATE OR COMMITTEE MUST NOTIFY THE STATE BOARD OF THE FACT WITHIN TWENTY-FOUR HOURS VIA THE INTERNET USING THE ELECTRONIC FILING SYSTEM ESTABLISHED BY THE STATE BOARD, OR IF SUCH CANDIDATE DOES NOT FILE ELECTRONICALLY VIA THE INTERNET, BY FACSIMILE OR OVERNIGHT MAIL; AND (II) THE PARTICIPATING COMMITTEE OF EACH PARTICIPATING CANDIDATE FOR SUCH OFFICE SHALL BE ENTITLED TO AN ADDITIONAL GRANT OF PUBLIC FUNDS EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF PUBLIC FUNDS RECEIVED BY THE PARTICIPATING CANDIDATE FOR MATCHABLE CONTRIBUTIONS OBTAINED AND REPORTED TO THE STATE BOARD. SUCH GRANT SHALL BE PAID WITHIN TWO BUSINESS DAYS AND SHALL ONLY BE USED FOR QUALIFIED CAMPAIGN EXPENDITURES.

(C) HOWEVER, IF ANY CANDIDATE IN ANY ELECTION FOR AN OFFICE FOR WHICH PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THE PROVISIONS OF THIS TITLE, ELECTS NOT TO ACCEPT PUBLIC FUNDS AND SUCH CANDIDATE OR SUCH CANDIDATE'S COMMITTEE EITHER SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING THE TOTAL OF THE EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, PLUS THE FIFTY PERCENT TOTAL AGGREGATE GRANT ALREADY RECEIVED BY THE PARTICIPATING CANDIDATE, THEN (I) SUCH CANDIDATE OR COMMITTEE MUST NOTIFY THE STATE BOARD OF THE FACT

WITHIN TWENTY-FOUR HOURS VIA THE INTERNET USING THE ELECTRONIC FILING SYSTEM ESTABLISHED BY THE STATE BOARD, OR IF SUCH CANDIDATE DOES NOT FILE ELECTRONICALLY VIA THE INTERNET, BY FACSIMILE OR OVERNIGHT MAIL; AND (II) THE PARTICIPATING COMMITTEE OF EACH PARTICIPATING CANDIDATE FOR SUCH OFFICE SHALL BE ENTITLED TO AN ADDITIONAL GRANT OF PUBLIC FUNDS EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF PUBLIC FUNDS RECEIVED BY THE PARTICIPATING CANDIDATE FOR MATCHABLE CONTRIBUTIONS OBTAINED AND REPORTED TO THE STATE BOARD. SUCH GRANT SHALL BE PAID WITHIN TWO BUSINESS DAYS AND SHALL ONLY BE USED FOR QUALIFIED CAMPAIGN EXPENDITURES.

(D) HOWEVER, IF ANY CANDIDATE IN ANY ELECTION FOR AN OFFICE FOR WHICH PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THE PROVISIONS OF THIS TITLE, ELECTS NOT TO ACCEPT PUBLIC FUNDS AND SUCH CANDIDATE OR SUCH CANDIDATE'S COMMITTEE EITHER SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING THE TOTAL OF THE EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, PLUS THE SEVENTY-FIVE PERCENT TOTAL AGGREGATE GRANT ALREADY RECEIVED BY THE PARTICIPATING CANDIDATE, THEN (I) SUCH CANDIDATE OR COMMITTEE MUST NOTIFY THE STATE BOARD OF THE FACT WITHIN TWENTY-FOUR HOURS VIA THE INTERNET USING THE ELECTRONIC FILING SYSTEM ESTABLISHED BY THE STATE BOARD, OR IF SUCH CANDIDATE DOES NOT FILE ELECTRONICALLY VIA THE INTERNET, BY FACSIMILE OR OVERNIGHT MAIL; AND (II) THE PARTICIPATING COMMITTEE OF EACH PARTICIPATING CANDIDATE FOR SUCH OFFICE SHALL BE ENTITLED TO AN ADDITIONAL GRANT OF PUBLIC FUNDS EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF PUBLIC FUNDS RECEIVED BY THE PARTICIPATING CANDIDATE FOR MATCHABLE CONTRIBUTIONS OBTAINED AND REPORTED TO THE STATE BOARD. SUCH GRANT SHALL BE PAID WITHIN TWO BUSINESS DAYS AND MAY ONLY BE USED FOR QUALIFIED CAMPAIGN EXPENDITURES.

4. (A) NO PARTICIPATING CANDIDATE FOR NOMINATION FOR AN OFFICE WHO IS UNOPPOSED IN A PRIMARY ELECTION SHALL BE ENTITLED TO PAYMENT FROM THE FUND FOR QUALIFIED CAMPAIGN EXPENDITURES.

(B) WHERE THERE IS A CONTEST IN SUCH PRIMARY FOR THE NOMINATION OF AT LEAST ONE OTHER PARTY FOR SUCH OFFICE, THE PARTICIPATING COMMITTEE OF AN UNOPPOSED PARTICIPATING CANDIDATE FOR NOMINATION MAY RAISE AND SPEND AN AMOUNT EQUAL TO ONE-HALF THE EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, WITH CONTRIBUTIONS OF UP TO TWO THOUSAND DOLLARS PER CONTRIBUTOR. SUCH PAYMENT CAN ONLY BE EXPENDED FOR PROPERTY, SERVICES OR FACILITIES USED ON OR BEFORE THE DATE OF SUCH PRIMARY ELECTION.

5. THE STATE BOARD SHALL PROMPTLY EXAMINE ALL REPORTS OF CONTRIBUTIONS TO DETERMINE WHETHER, ON THEIR FACE, THEY MEET THE REQUIREMENTS FOR MATCHABLE CONTRIBUTIONS, AND SHALL KEEP A RECORD OF SUCH CONTRIBUTIONS.

6. THE STATE BOARD SHALL PROMULGATE REGULATIONS FOR THE CERTIFICATION OF THE AMOUNT OF FUNDS PAYABLE BY THE COMPTROLLER, FROM THE FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-T OF THE STATE FINANCE LAW, TO A PARTICIPATING CANDIDATE THAT HAS QUALIFIED TO RECEIVE SUCH PAYMENT. THESE REGULATIONS SHALL INCLUDE THE PROMULGATION AND DISTRIBUTION OF FORMS ON WHICH CONTRIBUTIONS AND EXPENDITURES ARE TO BE REPORTED, THE PERIODS DURING WHICH SUCH REPORTS MUST BE FILED AND THE VERIFICATION REQUIRED. THE STATE BOARD SHALL INSTITUTE PROCEDURES WHICH WILL MAKE POSSIBLE PAYMENT BY THE FUND WITHIN FOUR BUSINESS DAYS AFTER RECEIPT OF THE REQUIRED FORMS AND VERIFICATIONS.

S 14-208. CONTRIBUTION AND RECEIPT LIMITATIONS. 1. IN ANY PRIMARY OR GENERAL ELECTION FOR THE OFFICE OF STATE COMPTROLLER, NO CONTRIBUTOR MAY

MAKE A CONTRIBUTION TO ANY PARTICIPATING CANDIDATE OR SUCH CANDIDATE'S PARTICIPATING COMMITTEE, AND NO PARTICIPATING CANDIDATE OR PARTICIPATING COMMITTEE MAY ACCEPT ANY CONTRIBUTION FROM ANY CONTRIBUTOR WHICH, IN THE AGGREGATE AMOUNT, IS GREATER THAN TWO THOUSAND DOLLARS.

2. (A) NOTWITHSTANDING THE EXPENDITURE LIMIT FOR SUCH OFFICE AS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, A PARTICIPATING CANDIDATE FOR STATE COMPTROLLER IN A PRIMARY OR GENERAL ELECTION OR SUCH CANDIDATE'S PARTICIPATING COMMITTEE MAY ACCEPT FROM A STATE PARTY COMMITTEE WHICH HAS NOMINATED SUCH CANDIDATE SERVICES IN AN AMOUNT WHICH, IN THE AGGREGATE, DOES NOT EXCEED ONE MILLION DOLLARS; PROVIDED, HOWEVER, THAT TWENTY-FIVE PERCENT OF SUCH AMOUNT MAY BE ACCEPTED IN THE FORM OF A TRANSFER.

(B) FOR PURPOSES OF THIS SUBDIVISION, THE TERM STATE PARTY COMMITTEE INCLUDES ANY OF ITS SUBCOMMITTEES.

3. NOTWITHSTANDING ANY EXPENDITURE LIMIT IN THIS SUBDIVISION, EACH COUNTY COMMITTEE OF ANY PARTY WHICH NOMINATES A CANDIDATE FOR STATE COMPTROLLER, INCLUDING WITHIN THE TERM COUNTY COMMITTEE ANY OF ITS SUBCOMMITTEES, MAY EXPEND IN SUPPORT OF EACH SUCH CANDIDATE OF SUCH PARTY WHO HAS AGREED TO ACCEPT PUBLIC FINANCING, AN AMOUNT WHICH SHALL NOT EXCEED THE SUM OF TWO CENTS FOR EACH VOTER REGISTERED IN SUCH COUNTY AS DETERMINED BY THE RECORDS OF THE APPROPRIATE BOARD OF ELECTIONS AS OF THE PRECEDING GENERAL ELECTION.

4. IN COMPUTING THE AGGREGATE AMOUNT EXPENDED FOR PURPOSES OF THIS SECTION, EXPENDITURES MADE BY A STATE PARTY COMMITTEE OR A COUNTY COMMITTEE IN SUPPORT OF MORE THAN ONE CANDIDATE SHALL BE ALLOCATED AMONG SUCH CANDIDATES SUPPORTED BY THE COMMITTEE IN ACCORDANCE WITH FORMULAS PROMULGATED BY THE STATE BOARD OR, IN THE ABSENCE OF SUCH OFFICIAL FORMULAS, IN ACCORDANCE WITH A FORMULA BASED UPON REASONABLE STANDARDS. THE STATEMENTS FILED BY SUCH PARTY COMMITTEE IN ACCORDANCE WITH THIS CHAPTER SHALL SET FORTH, IN ADDITION TO THE OTHER INFORMATION REQUIRED, THE TOTAL AMOUNT EXPENDED BY THE PARTY COMMITTEE ON BEHALF OF ALL SUCH CANDIDATES AND THE AMOUNT ALLOCATED TO EACH CANDIDATE BY DOLLAR AMOUNT AND PERCENTAGE. EXPENDITURES BY A PARTY FOR ACTIVITIES WHICH DO NOT SUPPORT OR OPPOSE THE ELECTION OF ANY CANDIDATE OR CANDIDATES BY NAME OR BY CLEAR INFERENCE SHALL NOT BE REGARDED AS EXPENDITURES ON BEHALF OF OR IN OPPOSITION TO A CANDIDATE.

5. A PARTICIPATING CANDIDATE FOR A PUBLIC OFFICE FOR WHICH PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THIS TITLE SHALL NOT ACCEPT ANY CONTRIBUTIONS ANY EARLIER THAN ONE DAY AFTER THE PREVIOUS GENERAL ELECTION FOR THE OFFICE WHICH SUCH CANDIDATE IS SEEKING, OR ANY LATER THAN THE DAY OF THE GENERAL ELECTION FOR THE OFFICE SOUGHT, EXCEPT THAT A PARTICIPATING CANDIDATE OR PARTICIPATING COMMITTEE WHICH HAS A DEFICIT ON THE DAY OF THE GENERAL ELECTION MAY, AFTER SUCH DATE, ACCEPT CONTRIBUTIONS WHICH DO NOT EXCEED THE AMOUNT OF SUCH DEFICIT AND THE EXPENSES INCURRED IN RAISING SUCH CONTRIBUTIONS OR THE EXPENDITURE LIMIT FOR SUCH OFFICE AS FIXED BY THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS. CONTRIBUTIONS TO A PARTICIPATING CANDIDATE OR PARTICIPATING COMMITTEE WHICH WERE RECEIVED BEFORE JANUARY FIRST OF THE YEAR IN WHICH THE PRIMARY OR GENERAL ELECTION IS HELD FOR THE PUBLIC OFFICE SOUGHT, MAY NOT BE EXPENDED DURING THE YEAR IN WHICH THE ELECTION FOR SUCH OFFICE IS HELD.

6. EXCEPT FOR THE LIMITATIONS SPECIFICALLY SET FORTH IN THIS SECTION, PARTICIPATING CANDIDATES SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

S 14-210. EXPENDITURE LIMITATIONS. THE FOLLOWING EXPENDITURE LIMITATIONS APPLY TO ALL EXPENDITURES BY PARTICIPATING CANDIDATES AND THEIR

PARTICIPATING COMMITTEES RECEIVING PUBLIC FUNDS PURSUANT TO THE PROVISIONS OF THIS TITLE:

1. (A) IN ANY PRIMARY ELECTION, EXPENDITURES BY PARTICIPATING CANDIDATES FOR STATE COMPTROLLER AND BY THEIR PARTICIPATING COMMITTEES SHALL NOT EXCEED THE SUM OF ONE DOLLAR AND TEN CENTS FOR EACH VOTER ENROLLED IN THE CANDIDATE'S PARTY IN THE STATE; PROVIDED, HOWEVER, SUCH SUM SHALL NOT BE LESS THAN SIX HUNDRED THOUSAND DOLLARS NOR MORE THAN SIX MILLION DOLLARS;

(B) THE ENROLLMENT NUMBERS USED TO CALCULATE THE EXPENDITURE LIMITS PROVIDED FOR IN THIS SUBDIVISION SHALL BE THE ENROLLMENTS DULY REPORTED BY THE APPROPRIATE BOARD OR BOARDS OF ELECTION AS OF THE LAST GENERAL ELECTION PRECEDING THE PRIMARY ELECTION.

2. IN ANY GENERAL ELECTION, EXPENDITURES BY PARTICIPATING CANDIDATES FOR STATE COMPTROLLER AND BY THEIR PARTICIPATING COMMITTEES SHALL NOT EXCEED EIGHT MILLION DOLLARS.

3. PARTICIPATING CANDIDATES FOR OFFICE WHO ARE UNOPPOSED IN THE PRIMARY ELECTION MAY EXPEND BEFORE THE PRIMARY ELECTION, FOR SERVICES, MATERIALS OR FACILITIES USED ON OR BEFORE THE DATE OF SUCH PRIMARY ELECTION, AN AMOUNT EQUAL TO HALF THE SUM SUCH CANDIDATES WOULD BE ENTITLED TO SPEND IF THEIR NOMINATION WAS CONTESTED IN SUCH PRIMARY ELECTION PROVIDED THERE IS A PRIMARY CONTEST FOR THE NOMINATION OF AT LEAST ONE OTHER PARTY FOR SUCH OFFICE.

4. EXPENDITURES FOR LEGAL FEES AND REASONABLE EXPENSES TO DEFEND THE VALIDITY OF PETITIONS OF DESIGNATION OR NOMINATION OR CERTIFICATES OF NOMINATION, ACCEPTANCE, AUTHORIZATION, DECLINATION OR SUBSTITUTION, OR TO SUCCESSFULLY CHALLENGE ANY SUCH PETITION OR CERTIFICATE ON GROUNDS OF FRAUD, OR FOR EXPENSES INCURRED TO COMPLY WITH THE CAMPAIGN FINANCE REPORTING REQUIREMENTS OF THIS ARTICLE, SHALL NOT BE SUBJECT TO THE EXPENDITURE LIMITS OF THIS SUBDIVISION.

S 14-212. EXAMINATIONS AND AUDITS; REPAYMENTS. 1. THE STATE BOARD SHALL CONDUCT A THOROUGH EXAMINATION AND AUDIT OF THE CONTRIBUTIONS AND QUALIFIED CAMPAIGN EXPENSES OF THE PARTICIPATING COMMITTEE OF EVERY PARTICIPATING CANDIDATE WHO RECEIVED PAYMENTS PURSUANT TO SECTION 14-206 OF THIS TITLE.

2. (A) IF THE STATE BOARD DETERMINES THAT ANY PORTION OF THE PAYMENT MADE TO A PARTICIPATING COMMITTEE FROM THE FUND WAS IN EXCESS OF THE AGGREGATE AMOUNT OF PAYMENTS TO WHICH SUCH ELIGIBLE CANDIDATE WAS ENTITLED PURSUANT TO SECTION 14-206 OF THIS TITLE, IT SHALL NOTIFY SUCH COMMITTEE OF THE EXCESS AMOUNT AND SUCH COMMITTEE SHALL PAY TO THE STATE BOARD AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS PAYMENTS.

(B) IF THE STATE BOARD DETERMINES THAT ANY AMOUNT OF PAYMENT MADE TO A PARTICIPATING COMMITTEE FROM THE FUND WAS USED FOR PURPOSES OTHER THAN TO DEFRAY QUALIFIED CAMPAIGN EXPENSES, IT SHALL NOTIFY SUCH PARTICIPATING COMMITTEE OF THE AMOUNT DISQUALIFIED AND SUCH PARTICIPATING COMMITTEE SHALL PAY TO THE STATE BOARD AN AMOUNT EQUAL TO SUCH DISQUALIFIED AMOUNT.

(C) IF THE TOTAL OF CONTRIBUTIONS AND PAYMENTS FROM THE FUND RECEIVED BY ANY PARTICIPATING CANDIDATE AND SUCH CANDIDATE'S PARTICIPATING COMMITTEE, EXCEEDS THE CAMPAIGN EXPENDITURES OF SUCH CANDIDATE AND COMMITTEE, SUCH CANDIDATE AND COMMITTEE SHALL USE SUCH EXCESS FUNDS TO REIMBURSE THE FUND FOR PAYMENTS RECEIVED BY SUCH COMMITTEE FROM THE FUND NOT LATER THAN TEN DAYS AFTER ALL PERMISSIBLE LIABILITIES HAVE BEEN PAID AND IN ANY EVENT, NOT LATER THAN MARCH THIRTY-FIRST OF THE YEAR FOLLOWING THE YEAR OF THE ELECTION FOR WHICH SUCH PAYMENTS WERE INTENDED. NO SUCH EXCESS FUNDS SHALL BE USED FOR ANY OTHER PURPOSE.

3. IF A COURT OF COMPETENT JURISDICTION DISQUALIFIES A CANDIDATE WHOSE PARTICIPATING COMMITTEE HAS RECEIVED PUBLIC FUNDS ON THE GROUNDS THAT SUCH CANDIDATE COMMITTED FRAUDULENT ACTS IN ORDER TO OBTAIN A PLACE ON THE BALLOT AND SUCH DECISION IS NOT REVERSED BY A HIGHER COURT, SUCH CANDIDATE AND SUCH CANDIDATE'S PARTICIPATING COMMITTEE SHALL PAY TO THE STATE BOARD AN AMOUNT EQUAL TO THE TOTAL OF PUBLIC FUNDS RECEIVED BY SUCH PARTICIPATING COMMITTEE.

4. THE STATE BOARD MUST PROVIDE WRITTEN NOTICE OF ALL PAYMENTS DUE FROM A PARTICIPATING CANDIDATE OR SUCH CANDIDATE'S COMMITTEE TO THE STATE BOARD AND PROVIDE AN OPPORTUNITY FOR THE CANDIDATE OR COMMITTEE TO REBUT, IN WHOLE OR IN PART, THE ALLEGED AMOUNT DUE. UPON A FINAL WRITTEN DETERMINATION BY THE STATE BOARD, THE AMOUNT DUE SHALL BE PAID TO THE STATE BOARD WITHIN THIRTY DAYS OF SUCH DETERMINATION.

5. ALL PAYMENTS RECEIVED BY THE STATE BOARD PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE NEW YORK STATE CAMPAIGN FINANCE FUND ESTABLISHED BY SECTION NINETY-TWO-T OF THE STATE FINANCE LAW.

S 14-214. CIVIL PENALTIES. 1. ANY PERSON WHO FAILS TO FILE A STATEMENT OR RECORD REQUIRED TO BE FILED BY THIS TITLE OR THE RULES OR REGULATIONS OF THE STATE BOARD IN IMPLEMENTATION THEREOF SHALL BE SUBJECT TO A CIVIL PENALTY, NOT IN EXCESS OF FIVE THOUSAND DOLLARS, TO BE RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD.

2. IF THE AGGREGATE AMOUNT OF EXPENDITURES BY A PARTICIPATING CANDIDATE AND SUCH CANDIDATE'S PARTICIPATING COMMITTEE EXCEEDS THE EXPENDITURE LIMITATIONS CONTAINED IN THIS TITLE SUCH PARTICIPATING CANDIDATE SHALL BE LIABLE FOR A CIVIL PENALTY IN AN AMOUNT EQUAL TO THREE TIMES THE SUM BY WHICH SUCH EXPENDITURES EXCEED THE PERMITTED AMOUNT, TO BE RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD.

3. ALL PAYMENTS RECEIVED BY THE STATE BOARD PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE NEW YORK STATE CAMPAIGN FINANCE FUND ESTABLISHED BY SECTION NINETY-TWO-T OF THE STATE FINANCE LAW.

S 8. The election law is amended by adding a new section 16-103 to read as follows:

S 16-103. PROCEEDINGS AS TO PUBLIC FINANCING. 1. THE DETERMINATION OF ELIGIBILITY PURSUANT TO SECTION 14-202 OF THIS CHAPTER AND ANY QUESTION OR ISSUE RELATING TO PAYMENTS FOR QUALIFIED CAMPAIGN EXPENDITURES PURSUANT TO SECTION 14-206 OF THIS CHAPTER MAY BE CONTESTED IN A PROCEEDING INSTITUTED IN THE SUPREME COURT, ALBANY COUNTY, BY ANY AGGRIEVED CANDIDATE.

2. A PROCEEDING WITH RESPECT TO SUCH A DETERMINATION OF ELIGIBILITY OR PAYMENT FOR QUALIFIED CAMPAIGN EXPENDITURES PURSUANT TO SECTION 14-206 OF THIS CHAPTER SHALL BE INSTITUTED WITHIN SEVEN DAYS AFTER SUCH DETERMINATION WAS MADE. THE STATE BOARD SHALL BE MADE A PARTY TO ANY SUCH PROCEEDING.

3. UPON THE STATE BOARD'S FAILURE TO RECEIVE THE AMOUNT DUE FROM A PARTICIPATING CANDIDATE OR SUCH CANDIDATE'S COMMITTEE AFTER THE ISSUANCE OF WRITTEN NOTICE OF SUCH AMOUNT DUE, AS REQUIRED BY SUBDIVISION FOUR OF SECTION 14-212 OF THIS CHAPTER, THE STATE BOARD IS AUTHORIZED TO INSTITUTE A SPECIAL PROCEEDING OR CIVIL ACTION IN SUPREME COURT, ALBANY COUNTY, TO OBTAIN A JUDGMENT FOR ANY AMOUNTS DETERMINED TO BE PAYABLE TO THE STATE BOARD AS A RESULT OF AN EXAMINATION AND AUDIT MADE PURSUANT TO TITLE II OF ARTICLE FOURTEEN OF THIS CHAPTER.

4. THE STATE BOARD IS AUTHORIZED TO INSTITUTE A SPECIAL PROCEEDING OR CIVIL ACTION IN SUPREME COURT, ALBANY COUNTY, TO OBTAIN A JUDGMENT FOR CIVIL PENALTIES DETERMINED TO BE PAYABLE TO THE STATE BOARD PURSUANT TO SECTION 14-214 OF THIS CHAPTER.

S 9. The state finance law is amended by adding a new section 92-t to read as follows:

S 92-T. NEW YORK STATE CAMPAIGN FINANCE FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A FUND TO BE KNOWN AS THE NEW YORK STATE CAMPAIGN FINANCE FUND.

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED FROM THE NEW YORK STATE CAMPAIGN FINANCE FUND CHECK-OFF PURSUANT TO SUBSECTION (F) OF SECTION SIX HUNDRED FIFTY-EIGHT OF THE TAX LAW, FROM THE GENERAL FUND, AND FROM ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE, MAY BE EXPENDED FOR THE PURPOSES OF MAKING PAYMENTS TO CANDIDATES PURSUANT TO TITLE II OF ARTICLE FOURTEEN OF THE ELECTION LAW. MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE STATE BOARD OF ELECTIONS, OR ITS DULY DESIGNATED REPRESENTATIVE, IN THE MANNER PRESCRIBED BY LAW, NOT MORE THAN FOUR WORKING DAYS AFTER SUCH VOUCHER IS RECEIVED BY THE STATE COMPTROLLER.

4. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, IF, IN ANY STATE FISCAL YEAR, THE STATE CAMPAIGN FINANCE FUND LACKS THE AMOUNT OF MONEY TO PAY ALL CLAIMS VOUCHERED BY ELIGIBLE CANDIDATES AND CERTIFIED OR APPROVED BY THE STATE BOARD OF ELECTIONS, ANY SUCH DEFICIENCY SHALL BE PAID, UPON AUDIT AND WARRANT OF THE STATE COMPTROLLER, FROM FUNDS DEPOSITED IN THE GENERAL FUND OF THE STATE NOT MORE THAN FOUR WORKING DAYS AFTER SUCH VOUCHER IS RECEIVED BY THE STATE COMPTROLLER.

5. COMMENCING IN TWO THOUSAND FIFTEEN, IF THE SURPLUS IN THE FUND ON APRIL FIRST OF THE YEAR AFTER A YEAR IN WHICH A GOVERNOR IS ELECTED EXCEEDS TWENTY-FIVE PERCENT OF THE DISBURSEMENTS FROM THE FUND OVER THE PREVIOUS FOUR YEARS, THE EXCESS SHALL REVERT TO THE GENERAL FUND OF THE STATE.

6. NO PUBLIC FUNDS SHALL BE PAID TO ANY PARTICIPATING CANDIDATES IN A PRIMARY ELECTION ANY EARLIER THAN THE DAY THAT SUCH CANDIDATE IS CERTIFIED AS BEING ON THE BALLOT FOR SUCH PRIMARY ELECTION.

7. NO PUBLIC FUNDS SHALL BE PAID TO ANY PARTICIPATING CANDIDATES IN A GENERAL ELECTION ANY EARLIER THAN THE DAY AFTER THE DAY OF THE PRIMARY ELECTION HELD TO NOMINATE CANDIDATES FOR SUCH ELECTION.

8. NO PUBLIC FUNDS SHALL BE PAID TO ANY PARTICIPATING CANDIDATE WHO HAS BEEN DISQUALIFIED OR WHOSE DESIGNATING PETITIONS HAVE BEEN DECLARED INVALID BY THE APPROPRIATE BOARD OF ELECTIONS OR A COURT OF COMPETENT JURISDICTION UNTIL AND UNLESS SUCH FINDING IS REVERSED BY A HIGHER AUTHORITY. NO PAYMENT FROM THE FUND IN THE POSSESSION OF SUCH A CANDIDATE OR SUCH CANDIDATE'S PARTICIPATING COMMITTEE ON THE DATE OF SUCH DISQUALIFICATION OR INVALIDATION MAY THEREAFTER BE EXPENDED FOR ANY PURPOSE EXCEPT THE PAYMENT OF LIABILITIES INCURRED BEFORE SUCH DATE. ALL SUCH MONEYS SHALL BE REPAID TO THE FUND.

S 10. Section 658 of the tax law is amended by adding a new subsection (f) to read as follows:

(F) NEW YORK STATE CAMPAIGN FINANCE FUND CHECK-OFF. (1) FOR EACH TAXABLE YEAR BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND NINE, EVERY INDIVIDUAL WHOSE NEW YORK STATE INCOME TAX LIABILITY FOR THE TAXABLE YEAR FOR WHICH THE RETURN IS FILED IS FIVE DOLLARS OR MORE MAY DESIGNATE ON SUCH RETURN THAT FIVE DOLLARS BE PAID INTO THE NEW YORK STATE CAMPAIGN FINANCE FUND ESTABLISHED BY SECTION NINETY-TWO-T OF THE STATE FINANCE LAW. WHERE A HUSBAND AND WIFE FILE A JOINT RETURN AND HAVE A NEW YORK STATE INCOME TAX LIABILITY FOR THE TAXABLE YEAR FOR

WHICH THE RETURN IS FILED OF TEN DOLLARS OR MORE, OR FILE SEPARATE RETURNS ON A SINGLE FORM, EACH SUCH TAXPAYER MAY MAKE SEPARATE DESIGNATIONS ON SUCH RETURN OF FIVE DOLLARS TO BE PAID INTO THE NEW YORK STATE CAMPAIGN FINANCE FUND.

(2) THE COMMISSIONER SHALL TRANSFER TO THE NEW YORK STATE CAMPAIGN FINANCE FUND, ESTABLISHED PURSUANT TO SECTION NINETY-TWO-T OF THE STATE FINANCE LAW, AN AMOUNT EQUAL TO FIVE DOLLARS MULTIPLIED BY THE NUMBER OF DESIGNATIONS.

(3) FOR PURPOSES OF THIS SUBSECTION, THE INCOME TAX LIABILITY OF AN INDIVIDUAL FOR ANY TAXABLE YEAR IS THE AMOUNT OF TAX IMPOSED UNDER THIS ARTICLE REDUCED BY THE SUM OF THE CREDITS (AS SHOWN IN HIS OR HER RETURN) ALLOWABLE UNDER THIS ARTICLE.

(4) THE DEPARTMENT SHALL INCLUDE A PLACE ON EVERY PERSONAL INCOME TAX RETURN FORM TO BE FILED BY AN INDIVIDUAL FOR A TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE, IMMEDIATELY ABOVE THE CERTIFICATION UNDER WHICH THE TAXPAYER IS REQUIRED TO SIGN SUCH FORM, FOR SUCH TAXPAYER TO MAKE THE DESIGNATIONS DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION. SUCH RETURN FORM SHALL CONTAIN A CONCISE EXPLANATION OF THE PURPOSE OF SUCH OPTIONAL DESIGNATIONS.

S 11. Campaign finance review panel. 1. There is hereby created and established the "campaign finance review panel". The panel shall consist of the commissioner of taxation and finance, the director of the division of the budget, the state comptroller and the four members of the state board of elections. The commissioner of taxation and finance shall be chairperson.

2. The panel is empowered and it shall be its duty to monitor and review the implementation of the State Comptroller Campaign Finance Reform Act. The panel shall report to the governor and the legislature on March 31, 2011. The report shall include: (a) the number of candidates qualifying and opting for public financing, the amounts expended for this purpose in the preceding fiscal year and a projection of the number of candidates likely to qualify and opt for public financing and their expenditures in future elections; (b) an analysis of the effect of the State Comptroller Campaign Finance Reform Act on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates and the candidate's ability to campaign effectively for public office; (c) a review of the procedures utilized in providing public funds to candidates; and (d) such recommended changes in the State Comptroller Campaign Finance Reform Act as it deems appropriate.

S 12. Severability. If any clause, sentence, subdivision, paragraph, section or part of title II of article 14 of the election law, as added by section seven of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 13. This act shall take effect immediately.

PART E

Section 1. The executive law is amended by adding a new section 41-d to read as follows:

S 41-D. TRANSACTION REPORTING. THE STATE COMPTROLLER, WITHIN HIS OR HER DISCRETION, AND IN CONSULTATION WITH THE SUPERINTENDENT OF INSUR-

ANCE, MAY ESTABLISH THE FREQUENCY FOR REPORTING INFORMATION RELATING TO TRANSACTIONS OF THE COMMON RETIREMENT FUND INCLUDING, BUT NOT LIMITED TO, INVESTMENT PERFORMANCE RESULTS, PROXY VOTING RECORDS, ASSET ALLOCATION, PERFORMANCE FIGURES, AND AN INTERIM PERFORMANCE STATEMENT. SUCH FREQUENCY OF REPORTING MAY INCLUDE, BUT NOT BE LIMITED TO MONTHLY, QUARTERLY, SEMI-ANNUALLY AND ANNUALLY. THE PUBLICATION OF ANY SUCH INFORMATION SHALL BE MADE AVAILABLE UPON COMPTROLLER'S INTERNET WEBSITE.

S 2. This act shall take effect immediately.

PART F

Section 1. The retirement and social security law is amended by adding a new section 424-a to read as follows:

S 424-A. VARIABLE INTEREST RATE BOND LIQUIDITY AND MONOLINE INSURER INVESTMENT PROGRAM. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMPTROLLER MAY, IN AN AMOUNT NOT TO EXCEED ONE BILLION DOLLARS FOR VARIABLE INTEREST RATE BOND LIQUIDITY AND IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED MILLION DOLLARS FOR THE MONOLINE INSURER INVESTMENTS, SUBJECT TO AND CONSISTENT WITH HIS OR HER FIDUCIARY DUTIES AS TRUSTEE OF THE COMMON RETIREMENT FUND, ESTABLISH VARIABLE INTEREST BOND LIQUIDITY AND MONOLINE INSURER INVESTMENT PROGRAMS, HEREINAFTER REFERRED TO AS THE "PROGRAM", TO ASSIST ENTITIES OF STATE AND LOCAL GOVERNMENT AND OTHER ISSUERS OF MUNICIPAL DEBT, WHERE SUCH DEBT IS ISSUED FOR PROJECTS SPONSORED BY SUCH STATE AND LOCAL GOVERNMENTS, TO SECURE MORE FAVORABLE FINANCING TERMS BY:

(A) PROVIDING LETTERS OF CREDIT, STANDBY BOND PURCHASE AGREEMENTS AND SIMILAR LIQUIDITY FACILITIES FOR VARIABLE INTEREST RATE BONDS; AND

(B) INVESTING IN EXISTING OR NEW MONOLINE INSURERS THAT ENHANCE SUCH TYPES OF DEBT.

2. ANY PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 503(B) OF THE INTERNAL REVENUE CODE.

3. NO PROGRAM ESTABLISHED BY THE COMMON RETIREMENT FUND PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION SHALL BE DEEMED TO PROVIDE FINANCIAL GUARANTEE INSURANCE AS DEFINED IN PARAGRAPH ONE OF SUBSECTION (A) OF SECTION SIX THOUSAND NINE HUNDRED ONE OF THE INSURANCE LAW.

4. ANY PROGRAM ESTABLISHED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION SHALL ONLY ENHANCE OBLIGATIONS THAT THE COMMON RETIREMENT FUND WOULD BE AUTHORIZED TO PURCHASE DIRECTLY, PROVIDED, HOWEVER, THAT THE PERCENTAGE LIMITATIONS CONTAINED IN PARAGRAPH (B) OF SUBDIVISION ONE-A OF SECTION ONE HUNDRED SEVENTY-SEVEN OF THIS CHAPTER SHALL NOT APPLY TO INVESTMENTS MADE PURSUANT TO THIS SECTION AND THE PERCENTAGE LIMITATIONS CONTAINED IN PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION ONE HUNDRED SEVENTY-SEVEN OF THIS CHAPTER SHALL APPLY TO INVESTMENTS ENHANCING OBLIGATIONS THAT WOULD ONLY BE ELIGIBLE FOR PURCHASE PURSUANT TO SUBDIVISION NINE OF SECTION ONE HUNDRED SEVENTY-SEVEN OF THIS CHAPTER.

5. THE AGGREGATE OUTSTANDING BALANCE OF OBLIGATIONS ENHANCED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION SHALL NOT EXCEED TEN PERCENT OF THE ASSETS OF THE COMMON RETIREMENT FUND; AND THE AGGREGATE OUTSTANDING BALANCE OF OBLIGATIONS ENHANCED FOR A SINGLE ISSUER SHALL NOT EXCEED TWO PERCENT OF THE ASSETS OF THE COMMON RETIREMENT FUND.

6. THE AGGREGATE OF ALL INVESTMENTS PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION SHALL NOT EXCEED FIVE PERCENT OF THE ASSETS OF THE COMMON RETIREMENT FUND, AND THE MAXIMUM LIABILITY OF THE

COMMON RETIREMENT FUND AS A RESULT OF ITS INVESTMENT IN ANY MONOLINE INSURER SHALL NOT EXCEED THE DOLLAR AMOUNT OF SUCH INVESTMENT.

S 2. Section 177 of the retirement and social security law is amended by adding a new subdivision 8-a to read as follows:

8-A. IN-STATE PRIVATE EQUITY INVESTMENTS IN PARTNERSHIPS, CORPORATIONS, TRUSTS OR LIMITED LIABILITY COMPANIES ORGANIZED ON A FOR-PROFIT BASIS. SUCH INVESTMENTS, IN AN AMOUNT NOT TO EXCEED A TOTAL OF ONE BILLION FIVE HUNDRED MILLION DOLLARS, MAY BE AT ANY STAGE OF DEVELOPMENT OF SUCH PARTNERSHIPS, CORPORATIONS, TRUSTS OR LIMITED LIABILITY COMPANIES. SUCH IN-STATE PRIVATE EQUITY INVESTMENTS SHALL HAVE:

(A) AN INVESTMENT STRATEGY DESIGNED TO PROVIDE RETURNS CONSISTENT WITH SIMILAR, NON-NEW YORK FOCUSED INVESTMENTS;

(B) A COHERENT INVESTMENT STRATEGY CONSISTENT WITH THE BUSINESS ENVIRONMENT;

(C) AN ABILITY TO RAISE CAPITAL FROM OTHER SOURCES; AND

(D) AN INVESTMENT STRATEGY DESIGNED TO RESULT IN BUSINESS PRESENCE IN THIS STATE.

S 3. Section 177 of the retirement and social security law is amended by adding a new subdivision 8-b to read as follows:

8-B. REAL ASSETS, IN AN AMOUNT NOT TO EXCEED A TOTAL OF ONE BILLION DOLLARS, WHICH, FOR THE PURPOSES OF THIS SECTION, SHALL INCLUDE, BUT NOT BE LIMITED TO, ACTUAL, TANGIBLE ASSETS SUCH AS COMMODITIES, NATURAL RESOURCES AND TIMBER.

S 4. This act shall take effect immediately.

PART G

Section 1. Subdivisions 2 and 3 of section 63-c of the executive law, as added by chapter 310 of the laws of 1962, are amended to read as follows:

2. Upon the commencement by the state of any action, suit or other judicial proceeding, as prescribed in this section, the entire cause of action, including the title to the money, funds, credits, or other property, with respect to which the suit or action is brought, and to the damages or other compensation recoverable for the obtaining, receipt, payment, conversion or disposition thereof, if not previously so vested, is transferred to and becomes absolutely vested in the state. PROVIDED, HOWEVER, THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO ANY MONEY, FUNDS, CREDITS, OR OTHER PROPERTY, WITH RESPECT TO WHICH THE SUIT OR ACTION IS BROUGHT, NOR TO THE DAMAGES OR OTHER COMPENSATION RECOVERABLE FOR THE OBTAINING, RECEIPT, PAYMENT, CONVERSION OR DISPOSITION THEREOF IF SUCH ACTION, SUIT OR OTHER JUDICIAL PROCEEDING IS COMMENCED ON BEHALF OF THE COMMON RETIREMENT FUND, ESTABLISHED PURSUANT TO SECTION FOUR HUNDRED TWENTY-TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, OR IN THE EVENT ANY MONEYS RECOVERED BY SETTLEMENT OR JUDGMENT ARE THE RESULT OF CIVIL PENALTIES OR FORFEITURE ASSESSED TO BENEFIT THE COMMON RETIREMENT FUND AND ITS MEMBERS AS VICTIMS OF SECURITIES FRAUD. TITLE TO SUCH MONEY, FUNDS, CREDITS, OR OTHER PROPERTY AS WELL AS DAMAGES, FORFEITURES AND CIVIL PENALTIES SHALL BE TRANSFERRED TO AND BECOME ABSOLUTELY VESTED IN THE COMMON RETIREMENT FUND.

3. Any court of the state in which an action is brought by the state, as prescribed in this section, may direct, by the final judgment therein, or by a subsequent order, that any money, funds, damages, credits, or other property, recovered by or awarded to the plaintiff therein, which, if that action had not been brought, would not have vested in the state, be disposed of, as justice requires, in such a manner as to rein-

state the lawful custody thereof, or to apply the same or the proceeds thereof to the objects and purposes for which they were authorized to be raised or procured; after paying into the state treasury out of the proceeds of the recovery all expenses incurred by the state in the action; PROVIDED, HOWEVER, NO EXPENSES INCURRED BY THE STATE IN THE ACTION MAY BE DEDUCTED FROM ANY MONEYS DUE AND OWING THE COMMON RETIREMENT FUND.

S 2. This act shall take effect immediately and shall apply to actions commenced on and after January 1, 2007.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately provided, however, that the applicable effective dates of Parts A through G of this act shall be as specifically set forth in the last section of such Parts.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill enacts the New York State Common Retirement Fund Reformation Act. It would make technical corrections, prohibit the use of placement agents, amend the adoption of a code of conduct by the state comptroller, enact the comptroller campaign finance reform act, authorize the state comptroller to establish a timeframe and frequency for reporting information, establish the variable interest rate bond liquidity and monoline insurer investments program; affect the investment of moneys in in-state private equities; and real assets, and create a fair fund program for the collection of civil penalties assessed upon perpetrators of frauds against the common retirement fund.

If this bill is enacted, we assume that there would be small investment changes as a result of enactment. Any increases or decreases in investment earnings will result in decreases or increases, respectively, in employer contributions. Annual changes in assets will be shared by all employers and will be spread over the future working lifetimes of active members.

This estimate, dated June 15, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note Number 2009-270 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.