

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

S. 6615--A

A. 9715--A

S E N A T E - A S S E M B L Y

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

LBD12677-02-0

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

12 PART A

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

15 S 2. Article 1-A of the legislative law is REPEALED.

16 S 3. Article 5 of the legislative law is REPEALED.

17 S 4. The public officers law is amended by adding a new section 73-c
18 to read as follows:

19 S 73-C. STATE GOVERNMENT ETHICS COMMISSION; FUNCTIONS, POWERS AND
20 DUTIES; REVIEW OF FINANCIAL DISCLOSURE STATEMENTS; ADMINISTRATION OF
21 CAMPAIGN FINANCE PRACTICES; ADVISORY OPINIONS; INVESTIGATION AND
22 ENFORCEMENT. 1. THERE IS ESTABLISHED WITHIN THE DEPARTMENT OF STATE A
23 STATE GOVERNMENT ETHICS COMMISSION WHICH SHALL CONSIST OF FIVE MEMBERS
24 AND SHALL HAVE AND EXERCISE THE POWERS AND DUTIES SET FORTH IN THIS
25 SECTION WITH RESPECT TO STATE ELECTED OFFICIALS AND STATE OFFICERS AND
26 EMPLOYEES, AS DEFINED IN SECTIONS SEVENTY-THREE AND SEVENTY-THREE-A OF
27 THIS ARTICLE; CANDIDATES FOR STATE ELECTED OFFICE, THE POLITICAL PARTY
28 CHAIRMAN AS THAT TERM IS DEFINED IN SECTION SEVENTY-THREE-A OF THIS
29 ARTICLE, LOBBYISTS AND THE CLIENTS OF LOBBYISTS AS SUCH TERMS ARE
30 DEFINED IN SECTION SEVENTY-THREE-D OF THIS ARTICLE, MEMBERS OF THE
31 LEGISLATURE, LEGISLATIVE EMPLOYEES AS DEFINED IN SECTION SEVENTY-THREE
32 OF THIS ARTICLE, CANDIDATES FOR MEMBERS OF THE LEGISLATURE AND INDIVID-
33 UALS WHO HAVE FORMERLY HELD SUCH POSITIONS OR WHO HAVE FORMERLY BEEN
34 SUCH CANDIDATES. THIS ACT SHALL NOT REVOKE OR RESCIND ANY REGULATIONS
35 DULY PROMULGATED OR ADVISORY OPINIONS DULY ISSUED BY THE STATE COMMIS-
36 SION ON PUBLIC INTEGRITY, THE STATE ETHICS COMMISSION, THE TEMPORARY
37 LOBBYING COMMISSION, THE LEGISLATIVE ETHICS COMMISSION, THE STATE BOARD
38 OF ELECTIONS AS SUCH REGULATIONS OR OPINIONS PERTAIN TO ARTICLE FOURTEEN
39 OF THE ELECTION LAW, AND THE COMMITTEE ON OPEN GOVERNMENT AS SUCH REGU-
40 LATIONS OR OPINIONS PERTAIN TO ARTICLE SEVEN OF THIS CHAPTER IN EFFECT
41 UPON THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND TEN
42 WHICH ADDED THIS SECTION TO THE EXTENT THAT SUCH REGULATIONS OR OPINIONS
43 ARE NOT INCONSISTENT WITH ANY LAW OF THE STATE OF NEW YORK. THE STATE
44 GOVERNMENT ETHICS COMMISSION SHALL UNDERTAKE A COMPREHENSIVE REVIEW OF
45 ALL SUCH REGULATIONS AND OPINIONS, WHICH WILL ADDRESS THE CONSISTENCY
46 OF SUCH REGULATIONS AND OPINIONS AMONG EACH OTHER AND WITH THE NEW STAT-
47 UTORY LANGUAGE. THE STATE GOVERNMENT ETHICS COMMISSION SHALL, BEFORE
48 JUNE FIRST, TWO THOUSAND TEN, REPORT TO THE GOVERNOR AND LEGISLATURE
49 REGARDING SUCH REVIEW AND SHALL PROPOSE ANY REGULATORY CHANGES AND
50 ISSUE ANY ADVISORY OPINIONS NECESSITATED BY SUCH REVIEW.

51 2. THE MEMBERS OF THE COMMISSION SHALL BE APPOINTED BY THE DESIGNATING
52 COMMISSION AS DEFINED IN SECTION SEVENTY-THREE-E OF THIS ARTICLE.

53 3. MEMBERS OF THE STATE GOVERNMENT ETHICS COMMISSION SHALL SERVE FOR
54 TERMS OF FIVE YEARS; PROVIDED, HOWEVER, THAT OF THE MEMBERS FIRST

1 APPOINTED BY THE DESIGNATING COMMISSION, ONE SHALL SERVE FOR ONE YEAR,
2 ONE SHALL SERVE FOR TWO YEARS, ONE SHALL SERVE FOR THREE YEARS, ONE
3 SHALL SERVE FOR FOUR YEARS AND ONE SHALL SERVE FOR FIVE YEARS, AS DESIG-
4 NATED BY RANDOM CHANCE. THE PROCESS FOR DETERMINING STAGGERED TERMS
5 SHALL BE MADE BY A DRAWING OF LOTS.

6 4. THE CHAIRMAN OR ANY THREE MEMBERS OF THE COMMISSION MAY CALL A
7 MEETING.

8 5. ANY VACANCY OCCURRING ON THE STATE GOVERNMENT ETHICS COMMISSION
9 SHALL BE FILLED WITHIN SIXTY DAYS OF ITS OCCURRENCE IN THE SAME MANNER
10 AS THE MEMBER WHOSE VACANCY IS BEING FILLED WAS APPOINTED. A PERSON
11 APPOINTED TO FILL A VACANCY OCCURRING OTHER THAN BY EXPIRATION OF A TERM
12 OF OFFICE SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER HE OR
13 SHE SUCCEEDS.

14 6. THREE MEMBERS OF THE STATE GOVERNMENT ETHICS COMMISSION SHALL
15 CONSTITUTE A QUORUM, AND THE COMMISSION SHALL HAVE POWER TO ACT BY
16 MAJORITY VOTE OF THE TOTAL NUMBER OF MEMBERS OF THE COMMISSION WITHOUT
17 VACANCY.

18 7. MEMBERS OF THE STATE GOVERNMENT ETHICS COMMISSION MAY BE REMOVED
19 BY APPLICATION AND MOTION OF THE ATTORNEY GENERAL IN A STATE TRIAL LEVEL
20 COURT FOR SUBSTANTIAL NEGLECT OF DUTY, GROSS MISCONDUCT IN OFFICE,
21 INABILITY TO DISCHARGE THE POWERS OR DUTIES OF OFFICE OR VIOLATION OF
22 THIS SECTION, AFTER WRITTEN NOTICE AND OPPORTUNITY FOR A REPLY. THE
23 ATTORNEY GENERAL ALSO MAY SEEK RECUSAL OF ANY MEMBER OR MEMBERS UPON THE
24 SHOWING OF A CONFLICT OF INTEREST AND ANY FAILURE TO RECUSE.

25 8. THE MEMBERS OF THE COMMISSION SHALL NOT RECEIVE COMPENSATION BUT
26 SHALL BE REIMBURSED FOR REASONABLE EXPENSES INCURRED IN THE PERFORMANCE
27 OF THEIR OFFICIAL DUTIES.

28 9. THE COMMISSION SHALL:

29 (A) APPOINT AND EMPLOY AND AT PLEASURE REMOVE COUNSEL, AN EXECUTIVE
30 DIRECTOR, INVESTIGATORS, ACCOUNTANTS, CLERKS AND OTHER SUCH PERSONS AS
31 IT MAY DEEM NECESSARY WHO SHALL ACT IN ACCORDANCE WITH THE POLICIES OF
32 THE COMMISSION. THE COMMISSION MAY DELEGATE AUTHORITY TO THE EXECUTIVE
33 DIRECTOR TO ACT IN THE NAME OF THE COMMISSION BETWEEN MEETINGS OF THE
34 COMMISSION PROVIDED SUCH DELEGATION IS IN WRITING AND THE SPECIFIC
35 POWERS TO BE DELEGATED ARE ENUMERATED.

36 (B) APPOINT SUCH OTHER STAFF AS ARE NECESSARY TO CARRY OUT ITS DUTIES
37 UNDER THIS SECTION.

38 (C) ADOPT, AMEND, AND RESCIND RULES AND REGULATIONS TO GOVERN PROCE-
39 DURES OF THE COMMISSION, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
40 PROCEDURE WHEREBY A PERSON WHO IS REQUIRED TO FILE AN ANNUAL FINANCIAL
41 DISCLOSURE STATEMENT WITH THE COMMISSION MAY REQUEST AN ADDITIONAL PERI-
42 OD OF TIME WITHIN WHICH TO FILE SUCH STATEMENT, DUE TO JUSTIFIABLE CAUSE
43 OR UNDUE HARDSHIP; SUCH RULES OR REGULATIONS SHALL PROVIDE FOR A DATE
44 BEYOND WHICH IN ALL CASES OF JUSTIFIABLE CAUSE OR UNDUE HARDSHIP NO
45 FURTHER EXTENSION OF TIME WILL BE GRANTED.

46 (D) ADOPT, AMEND, AND RESCIND RULES AND REGULATIONS TO ASSIST APPOINT-
47 ING AUTHORITIES IN DETERMINING WHICH PERSONS HOLD POLICY-MAKING POSI-
48 TIONS FOR PURPOSES OF SECTION SEVENTY-THREE-A OF THIS ARTICLE.

49 (E) MAKE AVAILABLE FORMS FOR ANNUAL STATEMENTS OF FINANCIAL DISCLOSURE
50 REQUIRED TO BE FILED PURSUANT TO SECTION SEVENTY-THREE-A OF THIS ARTI-
51 CLE.

52 (F) REVIEW FINANCIAL DISCLOSURE STATEMENTS IN ACCORDANCE WITH THE
53 PROVISIONS OF THIS SECTION, PROVIDED HOWEVER, THAT THE COMMISSION MAY
54 DELEGATE ALL OR PART OF THIS REVIEW FUNCTION TO THE EXECUTIVE DIRECTOR
55 WHO SHALL BE RESPONSIBLE FOR COMPLETING STAFF REVIEW OF SUCH STATEMENTS
56 IN A MANNER CONSISTENT WITH THE TERMS OF THE COMMISSION'S DELEGATION.

1 (F-1) ISSUE INSTRUCTIONS AND PROMULGATE RULES AND REGULATIONS RELATING
2 TO THE ADMINISTRATION OF CAMPAIGN FINANCE PRACTICES CONSISTENT WITH
3 ARTICLE FOURTEEN OF THE ELECTION LAW IN CONSULTATION WITH THE STATE
4 BOARD OF ELECTIONS AND PROVIDING THE GOVERNMENT ETHICS COMMISSION WITH
5 THE POWER AND DUTY TO:

6 (I) PREPARE UNIFORM FORMS FOR THE STATEMENTS REQUIRED BY ARTICLE FOUR-
7 TEEN OF THE ELECTION LAW;

8 (II) (A) DEVELOP AN ELECTRONIC REPORTING SYSTEM TO PROCESS THE STATE-
9 MENTS OF RECEIPTS, CONTRIBUTIONS, TRANSFERS AND EXPENDITURES REQUIRED TO
10 BE FILED WITH THE GOVERNMENT ETHICS COMMISSION PURSUANT TO THE
11 PROVISIONS OF SECTIONS 14-102 AND 14-104 OF THE ELECTION LAW;

12 (B) PRESCRIBE THE INFORMATION REQUIRED IN THE FORM FOR EACH STATEMENT
13 TO BE FILED;

14 (C) ESTABLISH A TRAINING PROGRAM ON THE ELECTRONIC REPORTING PROCESS
15 AND MAKE IT AVAILABLE TO ANY SUCH CANDIDATE OR COMMITTEE;

16 (D) MAKE THE ELECTRONIC REPORTING PROCESS AVAILABLE TO ANY SUCH CANDI-
17 DATE OR COMMITTEE WHICH IS REQUIRED TO FILE OR WHICH AGREES TO FILE SUCH
18 STATEMENTS BY SUCH ELECTRONIC REPORTING PROCESS;

19 (E) CAUSE ALL INFORMATION CONTAINED IN SUCH A STATEMENT FILED WITH THE
20 GOVERNMENT ETHICS COMMISSION WHICH IS NOT ON SUCH ELECTRONIC REPORTING
21 SYSTEM TO BE ENTERED IN SUCH SYSTEM AS SOON AS PRACTICABLE BUT IN NO
22 EVENT LATER THAN TEN BUSINESS DAYS AFTER ITS RECEIPT BY THE GOVERNMENT
23 ETHICS COMMISSION; AND

24 (F) MAKE ALL DATA FROM THE ELECTRONIC REPORTING PROCESS AVAILABLE AT
25 ALL TIMES ON THE INTERNET;

26 (III) STUDY AND EXAMINE THE ADMINISTRATION OF CAMPAIGN FINANCING AND
27 CAMPAIGN FINANCE REPORTING WITHIN THE STATE;

28 (IV) RECOMMEND SUCH LEGISLATION OR ADMINISTRATIVE MEASURES AS IT FINDS
29 APPROPRIATE TO ADJUST THE CONTRIBUTION LIMITATIONS SET FORTH IN ARTICLE
30 FOURTEEN OF THE ELECTION LAW; AND

31 (V) INSTITUTE SUCH JUDICIAL PROCEEDINGS AS MAY BE NECESSARY TO ENFORCE
32 COMPLIANCE WITH ANY PROVISION OF ARTICLE FOURTEEN OF THE ELECTION LAW OR
33 ANY REGULATION PROMULGATED THEREUNDER INCLUDING, BUT NOT LIMITED TO,
34 APPLICATION, ON NOTICE SERVED UPON THE RESPONDENT IN THE MANNER DIRECTED
35 BY THE COURT AT LEAST SIX HOURS PRIOR TO THE TIME OF RETURN THEREON, TO
36 A JUSTICE OF THE SUPREME COURT WITHIN THE JUDICIAL DISTRICT IN WHICH AN
37 ALLEGED VIOLATION OF ANY SUCH PROVISION OR REGULATION OCCURRED OR IS
38 THREATENED, FOR AN ORDER PROHIBITING THE CONTINUED OR THREATENED
39 VIOLATION THEREOF OR FOR SUCH OTHER OR FURTHER RELIEF AS THE COURT MAY
40 DEEM JUST AND PROPER.

41 (G) RECEIVE COMPLAINTS ALLEGING A VIOLATION OF SECTION SEVENTY-THREE,
42 SEVENTY-THREE-A, SEVENTY-THREE-D, OR SEVENTY-FOUR OF THIS ARTICLE OR
43 SECTION ONE HUNDRED SEVEN OF THE CIVIL SERVICE LAW OR RECEIVE COMPLAINTS
44 AS AUTHORIZED BY SUBDIVISION ONE OF SECTION ONE HUNDRED SEVEN OF THIS
45 CHAPTER AS IT RELATES TO STATE OPEN MEETINGS AND ARTICLE FOURTEEN OF THE
46 ELECTION LAW.

47 (H) PERMIT ANY PERSON REQUIRED TO FILE A FINANCIAL DISCLOSURE STATE-
48 MENT TO REQUEST THE COMMISSION TO DELETE FROM THE COPY THEREOF MADE
49 AVAILABLE FOR PUBLIC INSPECTION ONE OR MORE ITEMS OF INFORMATION WHICH
50 MAY BE DELETED BY THE COMMISSION, AFTER DENIAL OF A REQUEST FOR DELETION
51 BY THE COMMITTEE ON OPEN GOVERNMENT PURSUANT TO SECTION EIGHTY-NINE OF
52 THIS CHAPTER, UPON A FINDING BY A MAJORITY OF THE TOTAL NUMBER OF
53 MEMBERS OF THE COMMISSION WITHOUT VACANCY THAT THE INFORMATION WHICH
54 WOULD OTHERWISE BE REQUIRED TO BE MADE AVAILABLE FOR PUBLIC INSPECTION
55 WILL HAVE NO MATERIAL BEARING ON THE DISCHARGE OF THE REPORTING PERSON'S
56 OFFICIAL DUTIES. IF SUCH REQUEST FOR DELETION IS DENIED, THE COMMISSION,

1 IN ITS NOTIFICATION OF DENIAL, SHALL INFORM THE PERSON OF HIS OR HER
2 RIGHT TO APPEAL THE COMMISSION'S DETERMINATION PURSUANT TO ITS RULES
3 GOVERNING ADJUDICATORY PROCEEDINGS AND APPEALS ADOPTED PURSUANT TO
4 SUBDIVISION THIRTEEN OF THIS SECTION. THE COMMISSION SHALL PROMULGATE
5 RULES AND REGULATIONS GOVERNING THE ISSUANCE OF WRITTEN DECISIONS IN
6 CONNECTION WITH APPEALS FROM THE COMMITTEE ON OPEN GOVERNMENT PURSUANT
7 TO SECTION EIGHTY-NINE OF THIS CHAPTER.

8 (I) PERMIT ANY PERSON REQUIRED TO FILE A FINANCIAL DISCLOSURE STATE-
9 MENT TO REQUEST AN EXEMPTION FROM ANY REQUIREMENT TO REPORT ONE OR MORE
10 ITEMS OF INFORMATION WHICH PERTAIN TO SUCH PERSON'S SPOUSE OR UNEMANCI-
11 PATED CHILDREN WHICH ITEM OR ITEMS MAY BE EXEMPTED BY THE COMMISSION,
12 INCLUDING THE NAMES OF CLIENTS OF PUBLIC OFFICERS WHO ARE CONSULTANTS OR
13 OTHER PROFESSIONALS WHERE DISCLOSURE OF SUCH CLIENTS IDENTITY COULD
14 REVEAL THE NATURE OF AN ATTORNEY-CLIENT COMMUNICATION OR PURSUANT TO
15 SECTION EIGHTY-NINE OF THIS CHAPTER AS PROVIDED IN SUBDIVISION EIGHTEEN
16 OF THIS SECTION, UPON A FINDING BY A MAJORITY OF THE TOTAL NUMBER OF
17 MEMBERS OF THE COMMISSION WITHOUT VACANCY THAT THE REPORTING INDIVID-
18 UAL'S SPOUSE, ON HIS OR HER OWN BEHALF OR ON BEHALF OF AN UNEMANCIPATED
19 CHILD, OBJECTS TO PROVIDING THE INFORMATION NECESSARY TO MAKE SUCH
20 DISCLOSURE AND THAT THE INFORMATION WHICH WOULD OTHERWISE BE REQUIRED TO
21 BE REPORTED WILL HAVE NO MATERIAL BEARING ON THE DISCHARGE OF THE
22 REPORTING PERSON'S OFFICIAL DUTIES, PROVIDED THAT THE ADDRESS AND TELE-
23 PHONE NUMBERS OF SPOUSES AND UNEMANCIPATED CHILDREN SHALL IN NO INSTANCE
24 BE MADE AVAILABLE TO THE PUBLIC. IF SUCH REQUEST FOR EXEMPTION IS
25 DENIED, THE COMMISSION, IN ITS NOTIFICATION OF DENIAL, SHALL INFORM THE
26 PERSON OF HIS OR HER RIGHT TO APPEAL THE COMMISSION'S DETERMINATION
27 PURSUANT TO ITS RULES GOVERNING ADJUDICATORY PROCEEDINGS AND APPEALS
28 ADOPTED PURSUANT TO SUBDIVISION THIRTEEN OF THIS SECTION. THE COMMIS-
29 SION SHALL PROMULGATE RULES AND REGULATIONS GOVERNING THE ISSUANCE OF
30 WRITTEN DECISIONS IN CONNECTION WITH APPEALS FROM THE COMMITTEE ON OPEN
31 GOVERNMENT.

32 (J) ADVISE AND ASSIST ANY STATE OFFICER, STATE AGENCY OR THE LEGISLA-
33 TURE IN ESTABLISHING RULES AND REGULATIONS RELATING TO POSSIBLE
34 CONFLICTS BETWEEN PRIVATE INTERESTS AND OFFICIAL DUTIES OF PRESENT OR
35 FORMER STATE ELECTED OFFICIALS, MEMBERS OF THE LEGISLATURE AND LEGISLA-
36 TIVE EMPLOYEES, AND STATE OFFICERS AND EMPLOYEES.

37 (K) PERMIT ANY PERSON WHO HAS NOT BEEN DETERMINED BY HIS OR HER
38 APPOINTING AUTHORITY OR THE LEGISLATURE TO HOLD A POLICY-MAKING POSITION
39 BUT WHO IS OTHERWISE REQUIRED TO FILE A FINANCIAL DISCLOSURE STATEMENT
40 TO REQUEST AN EXEMPTION FROM SUCH REQUIREMENT IN ACCORDANCE WITH RULES
41 AND REGULATIONS GOVERNING SUCH EXEMPTIONS. SUCH RULES AND REGULATIONS
42 SHALL PROVIDE FOR EXEMPTIONS TO BE GRANTED EITHER ON THE APPLICATION OF
43 AN INDIVIDUAL OR ON BEHALF OF PERSONS WHO SHARE THE SAME JOB TITLE OR
44 EMPLOYMENT CLASSIFICATION WHICH THE COMMISSION DEEMS TO BE COMPARABLE
45 FOR PURPOSES OF THIS SECTION. SUCH RULES AND REGULATIONS MAY PERMIT THE
46 GRANTING OF AN EXEMPTION WHERE, IN THE DISCRETION OF THE COMMISSION, THE
47 PUBLIC INTEREST DOES NOT REQUIRE DISCLOSURE AND THE APPLICANT'S DUTIES
48 DO NOT INVOLVE THE NEGOTIATION, AUTHORIZATION OR APPROVAL OF:

49 (I) CONTRACTS, LEASES, FRANCHISES, REVOCABLE CONSENTS, CONCESSIONS,
50 VARIANCES, SPECIAL PERMITS, OR LICENSES AS DEFINED IN SECTION
51 SEVENTY-THREE OF THIS ARTICLE;

52 (II) THE PURCHASE, SALE, RENTAL OR LEASE OF REAL PROPERTY, GOODS OR
53 SERVICES, OR A CONTRACT THEREFOR;

54 (III) THE OBTAINING OF GRANTS OF MONEY OR LOANS; OR

55 (IV) THE ADOPTION OR REPEAL OF ANY LAW, RULE OR REGULATION HAVING THE
56 FORCE AND EFFECT OF LAW.

1 (L) PREPARE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE SUMMARIZ-
2 ING THE ACTIVITIES OF THE COMMISSION DURING THE PREVIOUS YEAR AND RECOM-
3 MENDING ANY CHANGES IN THE LAWS GOVERNING THE CONDUCT OF PERSONS SUBJECT
4 TO THE JURISDICTION OF THE COMMISSION, OR THE RULES, REGULATIONS AND
5 PROCEDURES GOVERNING THE COMMISSION'S CONDUCT. SUCH REPORT SHALL
6 INCLUDE: (I) A LISTING BY ASSIGNED NUMBER OF EACH COMPLAINT AND REFERRAL
7 RECEIVED WHICH ALLEGED A POSSIBLE VIOLATION WITHIN ITS JURISDICTION,
8 INCLUDING THE CURRENT STATUS OF EACH COMPLAINT, AND (II) WHERE A MATTER
9 HAS BEEN RESOLVED, THE DATE AND NATURE OF THE DISPOSITION AND ANY SANC-
10 TION IMPOSED, SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF THIS
11 SECTION, PROVIDED, HOWEVER, THAT SUCH ANNUAL REPORT SHALL NOT CONTAIN
12 ANY INFORMATION FOR WHICH DISCLOSURE IS NOT PERMITTED PURSUANT TO SUBDI-
13 VISION SEVENTEEN OF THIS SECTION.

14 (M) DETERMINE A QUESTION COMMON TO A CLASS OR DEFINED CATEGORY OF
15 PERSONS OR ITEMS OF INFORMATION REQUIRED TO BE DISCLOSED, WHERE DETERMI-
16 NATION OF THE QUESTION WILL PREVENT UNDUE REPETITION OF REQUESTS FOR
17 EXEMPTION OR DELETION OR PREVENT UNDUE COMPLICATION IN COMPLYING WITH
18 THE REQUIREMENTS OF SUCH SECTION.

19 10. THE COMMISSION, OR THE EXECUTIVE DIRECTOR AND STAFF OF THE COMMIS-
20 SION IF RESPONSIBILITY THEREFOR HAS BEEN DELEGATED, SHALL REGULARLY
21 INSPECT ALL FINANCIAL DISCLOSURE STATEMENTS FILED WITH THE COMMISSION TO
22 ASCERTAIN WHETHER ANY PERSON SUBJECT TO THE REPORTING REQUIREMENTS OF
23 SECTION SEVENTY-THREE-A OF THIS ARTICLE HAS FAILED TO FILE SUCH A STATE-
24 MENT, HAS FILED A DEFICIENT STATEMENT OR HAS FILED A STATEMENT WHICH
25 REVEALS A POSSIBLE VIOLATION OF SECTION SEVENTY-THREE, SEVENTY-THREE-A,
26 SEVENTY-THREE-D, OR SEVENTY-FOUR OF THIS ARTICLE OR ARTICLE SEVEN AS IT
27 RELATES TO STATE OPEN MEETINGS. THE COMMISSION SHALL PROMULGATE GUIDE-
28 LINES TO CONDUCT A PROGRAM OF REGULAR AND RANDOM REVIEWS OF ANNUAL
29 FINANCIAL DISCLOSURE STATEMENTS FILED WITH THE COMMISSION, SUBJECT TO
30 THE CONDITIONS OF THIS SECTION. SUCH PROGRAM SHALL BE CARRIED OUT IN THE
31 FOLLOWING MANNER:

32 (A) THE COMMISSION SHALL SELECT ANNUAL FINANCIAL DISCLOSURE STATEMENTS
33 REQUIRED TO BE FILED PURSUANT TO THIS ARTICLE FOR REVIEW. ANY SUCH
34 SELECTION SHALL BE DONE IN A MANNER PURSUANT TO WHICH THE IDENTITY OF
35 ANY PARTICULAR PERSON WHOSE STATEMENT IS SELECTED FOR REVIEW IS UNKNOWN
36 TO THE COMMISSION AND ITS STAFF.

37 (B) THE COMMISSION SHALL DEVELOP PROTOCOLS FOR THE CONDUCT OF SUCH
38 REGULAR AND RANDOM REVIEWS. SUCH REGULAR AND RANDOM REVIEWS MAY REQUIRE
39 THE PRODUCTION OF BOOKS, PAPERS, RECORDS OR MEMORANDA RELEVANT AND MATE-
40 RIAL TO THE PREPARATION OF THE SELECTED STATEMENTS FOR EXAMINATION. ANY
41 SUCH PROTOCOLS SHALL ENSURE THAT SIMILARLY SITUATED STATEMENTS ARE
42 AUDITED IN A UNIFORM MANNER.

43 (C) THE COMMISSION MAY CONTRACT WITH AN OUTSIDE ACCOUNTING ENTITY,
44 WHICH SHALL MONITOR THE PROCESS PURSUANT TO WHICH THE COMMISSION SELECTS
45 STATEMENTS FOR REVIEW, AND THE PROCESS PURSUANT TO WHICH THE COMMISSION
46 CARRIES OUT THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION
47 AND CERTIFIES THAT SUCH PROCESS COMPLIES WITH THE PROVISIONS OF SUCH
48 PARAGRAPHS.

49 (D) UPON COMPLETION OF A REVIEW BY THE COMMISSION CONDUCTED IN ACCORD-
50 ANCE WITH THE PROVISIONS OF PARAGRAPHS (A), (B) AND (C) OF THIS SUBDIVI-
51 SION, THE COMMISSION SHALL DETERMINE WHETHER THERE IS REASONABLE CAUSE
52 TO BELIEVE THAT ANY SUCH STATEMENT OR REPORT IS INACCURATE OR INCOM-
53 PLETE. UPON A DETERMINATION THAT SUCH REASONABLE CAUSE EXISTS, THE
54 COMMISSION MAY REQUIRE THE PRODUCTION OF FURTHER BOOKS, RECORDS OR MEMO-
55 RANDA, SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE AND TESTIMONY AND
56 ADMINISTER OATHS OR AFFIRMATIONS, TO THE EXTENT THE COMMISSION DETER-

1 MINES SUCH ACTIONS ARE NECESSARY TO OBTAIN INFORMATION RELEVANT AND
2 MATERIAL TO INVESTIGATING SUCH INACCURACIES OR OMISSIONS.

3 11. (A) IF A PERSON REQUIRED TO FILE A FINANCIAL DISCLOSURE STATEMENT
4 WITH THE COMMISSION HAS FAILED TO FILE A DISCLOSURE STATEMENT OR HAS
5 FILED A DEFICIENT STATEMENT, THE COMMISSION SHALL NOTIFY THE REPORTING
6 PERSON IN WRITING, STATE THE FAILURE TO FILE OR DETAIL THE DEFICIENCY,
7 PROVIDE THE PERSON WITH A FIFTEEN DAY PERIOD TO CURE THE DEFICIENCY, AND
8 ADVISE THE PERSON OF THE PENALTIES FOR FAILURE TO COMPLY WITH THE
9 REPORTING REQUIREMENTS. SUCH NOTICE SHALL BE CONFIDENTIAL. IF THE PERSON
10 FAILS TO MAKE SUCH FILING OR FAILS TO CURE THE DEFICIENCY WITHIN THE
11 SPECIFIED TIME PERIOD, THE COMMISSION SHALL SEND A NOTICE OF DELINQUEN-
12 CY: (I) TO THE REPORTING PERSON; AND (II) IN THE CASE OF A STATE ELECTED
13 OFFICIAL, MEMBER OF THE LEGISLATURE, OR LEGISLATIVE EMPLOYEE, TO THE
14 TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY; AND
15 (III) IN THE CASE OF A STATE OFFICER OR EMPLOYEE, TO THE APPOINTING
16 AUTHORITY FOR SUCH PERSON. SUCH NOTICE OF DELINQUENCY MAY BE SENT AT
17 ANY TIME DURING THE REPORTING PERSON'S SERVICE AS A STATE ELECTED OFFI-
18 CIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE, LEGISLATIVE
19 EMPLOYEE, POLITICAL PARTY CHAIR OR WHILE A CANDIDATE FOR STATEWIDE
20 OFFICE OR MEMBER OF THE LEGISLATURE, OR WITHIN ONE YEAR AFTER TERMI-
21 NATION OF SUCH SERVICE OR CANDIDACY. THE JURISDICTION OF THE COMMISSION,
22 WHEN ACTING PURSUANT TO SUBDIVISION THIRTEEN OF THIS SECTION WITH
23 RESPECT TO FINANCIAL DISCLOSURE, SHALL CONTINUE NOTWITHSTANDING THAT THE
24 REPORTING PERSON SEPARATES FROM STATE SERVICE, OR CEASES TO HOLD OFFICE
25 AS A STATE ELECTED OFFICIAL, MEMBER OF THE LEGISLATURE OR POLITICAL
26 PARTY CHAIR, OR CEASES TO BE A CANDIDATE, PROVIDED THE COMMISSION NOTI-
27 FIES SUCH PERSON OF THE ALLEGED FAILURE TO FILE OR DEFICIENT FILING
28 PURSUANT TO THIS SUBDIVISION.

29 (B) IF THE COMMISSION RECEIVES ANY COMPLAINT THAT A CORPORATION IS
30 USING ITS NOT FOR PROFIT STATUS TO CONCEAL POLITICAL CAMPAIGN FINANCE
31 SUPPORT WITHIN ITS ISSUE ADVOCACY REALM, THE COMMISSION SHALL HAVE THE
32 AUTHORITY TO DETERMINE WHETHER THERE HAVE BEEN VIOLATIONS OF THE STATE'S
33 CAMPAIGN FINANCE LAWS. THE COMMISSION SHALL FILE A SUMMARY PROCEEDING IN
34 THE SUPREME COURT REQUIRING THE CORPORATION TO STATE ANY REASONS WHY IT
35 SHOULD NOT BE COMPELLED TO OPEN ITS FISCAL BOOKS FOR INSPECTION BY THE
36 COMMISSION IN ORDER TO DETERMINE WHETHER VIOLATIONS OF THE STATE'S
37 CAMPAIGN FINANCE LAWS HAVE TAKEN PLACE. UPON THE FINDING OF ANY
38 VIOLATIONS, THE COMMISSION MAY ISSUE A FINE TO SUCH CORPORATION OR
39 CORPORATIONS OR MAY FINE THE PARTICIPANTS FOUND TO HAVE VIOLATED THE
40 STATE'S CAMPAIGN FINANCE LAWS IN AN AMOUNT NOT TO EXCEED FORTY THOUSAND
41 DOLLARS. FURTHER, UPON ANY FINDING OF A VIOLATION OF THE CAMPAIGN
42 FINANCE LAWS THE COMMISSION SHALL ALSO NOTIFY THE FEDERAL INTERNAL
43 REVENUE SERVICE, THE DISTRICT ATTORNEY OF THE COUNTY WHERE THE VIOLATION
44 OCCURRED, AS WELL AS THE ATTORNEY GENERAL OF SUCH VIOLATION OR
45 VIOLATIONS.

46 12. (A) IF THE COMMISSION RECEIVES A SWORN COMPLAINT ALLEGING A
47 VIOLATION OF SECTION SEVENTY-THREE, SEVENTY-THREE-A, SEVENTY-THREE-D OR
48 SEVENTY-FOUR OF THIS ARTICLE OR ARTICLE SEVEN OF THIS CHAPTER AS IT
49 RELATES TO STATE OPEN MEETINGS, OR RECEIVES COMPLAINTS AS AUTHORIZED BY
50 ARTICLE FOURTEEN OF THE ELECTION LAW OR SECTION ONE HUNDRED SEVEN OF THE
51 CIVIL SERVICE LAW BY A PERSON OR ENTITY SUBJECT TO SUCH LAW UNDER THE
52 COMMISSION'S JURISDICTION, OR IF A REPORTING INDIVIDUAL HAS FILED A
53 STATEMENT WHICH REVEALS A POSSIBLE VIOLATION THEREOF, OR IF THE COMMIS-
54 SION DETERMINES ON ITS OWN INITIATIVE TO INVESTIGATE A POSSIBLE
55 VIOLATION, THE COMMISSION SHALL NOTIFY THE INDIVIDUAL IN WRITING,
56 DESCRIBE THE POSSIBLE OR ALLEGED VIOLATION OF SUCH LAW AND PROVIDE THE

1 PERSON WITH A FIFTEEN DAY PERIOD IN WHICH TO SUBMIT A WRITTEN RESPONSE
2 SETTING FORTH INFORMATION RELATING TO THE ACTIVITIES CITED AS A POSSIBLE
3 OR ALLEGED VIOLATION OF LAW. IF THE COMMISSION THEREAFTER MAKES A DETER-
4 MINATION THAT FURTHER INQUIRY IS JUSTIFIED, IT SHALL GIVE THE INDIVIDUAL
5 AN OPPORTUNITY TO BE HEARD. THE COMMISSION SHALL ALSO INFORM THE INDI-
6 VIDUAL OF ITS RULES REGARDING THE CONDUCT OF ADJUDICATORY PROCEEDINGS
7 AND APPEALS AND THE DUE PROCESS PROCEDURAL MECHANISMS AVAILABLE TO SUCH
8 INDIVIDUAL. IF THE COMMISSION DETERMINES AT ANY STAGE OF THE PROCEEDING,
9 THAT THERE IS NO VIOLATION OR THAT ANY POTENTIAL CONFLICT OF INTEREST
10 VIOLATION HAS BEEN RECTIFIED, IT SHALL SO ADVISE THE INDIVIDUAL AND THE
11 COMPLAINANT, IF ANY. ALL OF THE FOREGOING PROCEEDINGS SHALL BE CONFIDEN-
12 TIAL, EXCEPT AS RELATING TO LOBBYISTS AND CLIENTS OF LOBBYISTS. THE
13 COMMISSION SHALL PROMULGATE A STATEMENT OF NON-DISCLOSURE AND ESTABLISH
14 RULES FOR ABIDING BY SUCH STATEMENT. EVERY COMMISSIONER AND EVERY
15 EMPLOYEE OF THE COMMISSION SHALL BE REQUIRED TO SIGN A NON-DISCLOSURE
16 STATEMENT PRIOR TO REVIEWING ANY INFORMATION.

17 (B) IF THE COMMISSION DETERMINES THAT THERE IS REASONABLE CAUSE TO
18 BELIEVE THAT A VIOLATION HAS OCCURRED, IT SHALL SEND A NOTICE OF REASON-
19 ABLE CAUSE: (I) TO THE REPORTING PERSON; (II) IN THE CASE OF A STATE
20 ELECTED OFFICIAL, TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE
21 SPEAKER OF THE ASSEMBLY; (III) IN THE CASE OF A MEMBER OF THE SENATE OR
22 EMPLOYEE OF THE SENATE, TO THE TEMPORARY PRESIDENT OF THE SENATE, (IV)
23 IN THE CASE OF A MEMBER OF THE ASSEMBLY OR EMPLOYEE OF THE ASSEMBLY, TO
24 THE SPEAKER OF THE ASSEMBLY; AND (V) IN THE CASE OF A STATE OFFICER OR
25 EMPLOYEE, TO THE APPOINTING AUTHORITY FOR SUCH PERSON.

26 (C) THE JURISDICTION OF THE COMMISSION WHEN ACTING PURSUANT TO THIS
27 SECTION SHALL CONTINUE NOTWITHSTANDING THAT A STATE ELECTED OFFICIAL,
28 MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, OR A STATE OFFICER OR
29 EMPLOYEE SEPARATES FROM STATE SERVICE, OR A POLITICAL PARTY CHAIR CEASES
30 TO HOLD SUCH OFFICE, OR A CANDIDATE CEASES TO BE A CANDIDATE, OR A
31 LOBBYIST OR CLIENT OF A LOBBYIST CEASES TO ACT AS SUCH, PROVIDED THAT
32 THE COMMISSION NOTIFIES SUCH INDIVIDUAL OR ENTITY OF THE ALLEGED
33 VIOLATION OF LAW PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION WITHIN
34 ONE YEAR FROM HIS OR HER SEPARATION FROM STATE OR LEGISLATIVE SERVICE,
35 OR HIS OR HER TERMINATION OF PARTY SERVICE OR CANDIDACY, OR HIS OR HER
36 OR ITS TERMINATION OF LOBBYING ACTIVITY. NOTHING IN THIS SECTION SHALL
37 SERVE TO LIMIT THE JURISDICTION OF THE COMMISSION IN ENFORCEMENT OF
38 SUBDIVISION EIGHT OF SECTION SEVENTY-THREE OF THIS ARTICLE.

39 13. AN INDIVIDUAL SUBJECT TO THE JURISDICTION OF THE COMMISSION WHO
40 KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF SUBDIVISIONS TWO
41 THROUGH FIVE, SEVEN, EIGHT, TWELVE OR SUBDIVISIONS FOURTEEN THROUGH
42 SEVENTEEN OF SECTION SEVENTY-THREE OF THIS ARTICLE, SECTION ONE HUNDRED
43 SEVEN OF THE CIVIL SERVICE LAW, OR A REPORTING INDIVIDUAL WHO KNOWINGLY
44 AND WILFULLY FAILS TO FILE AN ANNUAL STATEMENT OF FINANCIAL DISCLOSURE
45 OR WHO KNOWINGLY AND WILFULLY WITH INTENT TO DECEIVE MAKES A FALSE
46 STATEMENT OR OMISSION OR GIVES INFORMATION WHICH SUCH INDIVIDUAL KNOWS
47 TO BE FALSE ON SUCH STATEMENT OF FINANCIAL DISCLOSURE FILED PURSUANT TO
48 SECTION SEVENTY-THREE-A OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL
49 PENALTY IN AN AMOUNT NOT TO EXCEED FORTY THOUSAND DOLLARS PLUS THE
50 DISGORGEMENT OF THE AMOUNT OF THE VALUE OF ANY GIFT, COMPENSATION OR
51 BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. AN INDIVIDUAL WHO KNOW-
52 INGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH B, C, D OR
53 I OF SUBDIVISION THREE OF SECTION SEVENTY-FOUR OF THIS ARTICLE SHALL BE
54 SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED FORTY THOUSAND
55 DOLLARS AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A
56 RESULT OF SUCH VIOLATION. AN INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY

1 VIOLATES THE PROVISIONS OF PARAGRAPH A, E OR G OF SUBDIVISION THREE OF
2 SECTION SEVENTY-FOUR OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY
3 IN AN AMOUNT NOT TO EXCEED THE VALUE OF ANY GIFT, COMPENSATION OR BENE-
4 FIT RECEIVED AS A RESULT OF SUCH VIOLATION. AN INDIVIDUAL WHO KNOWINGLY
5 VIOLATES THE PROVISIONS OF PARAGRAPH J OF SUBDIVISION THREE OF SECTION
6 SEVENTY-FOUR OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY IN AN
7 AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY DOLLARS. ASSESSMENT OF A CIVIL
8 PENALTY HEREUNDER SHALL BE MADE BY THE COMMISSION WITH RESPECT TO
9 PERSONS SUBJECT TO ITS JURISDICTION. FOR A VIOLATION OF THIS SUBDIVI-
10 SION, OTHER THAN FOR CONDUCT WHICH CONSTITUTES A VIOLATION OF SUBDIVI-
11 SION TWELVE OF SECTION SEVENTY-THREE OR SECTION SEVENTY-FOUR OF THIS
12 ARTICLE, THE COMMISSION MAY, IN LIEU OF A CIVIL PENALTY, REFER A
13 VIOLATION TO THE DISTRICT ATTORNEY OF THE COUNTY OR COUNTIES HAVING
14 JURISDICTION OF THE ACT OR THE STATE ATTORNEY GENERAL AND UPON
15 CONVICTION, SUCH VIOLATION SHALL BE PUNISHABLE AS A CLASS A MISDEMEANOR,
16 EXCEPT THAT A VIOLATION OF SECTION ONE HUNDRED SEVEN OF THE CIVIL
17 SERVICE LAW SHALL BE PUNISHABLE AS PROVIDED HEREIN. A CIVIL PENALTY FOR
18 FALSE FILING MAY NOT BE IMPOSED HEREUNDER IN THE EVENT A CATEGORY OF
19 "VALUE" OR "AMOUNT" REPORTED HEREUNDER IS INCORRECT UNLESS SUCH REPORTED
20 INFORMATION IS FALSELY UNDERSTATED. NOTWITHSTANDING ANY OTHER PROVISION
21 OF LAW TO THE CONTRARY, NO OTHER PENALTY, CIVIL OR CRIMINAL MAY BE
22 IMPOSED FOR A FAILURE TO FILE, OR FOR A FALSE FILING, OF SUCH STATEMENT,
23 OR A VIOLATION OF SECTION SEVENTY-THREE OF THIS ARTICLE, EXCEPT THAT THE
24 APPOINTING AUTHORITY MAY IMPOSE DISCIPLINARY ACTION AS OTHERWISE
25 PROVIDED BY LAW. THE STATE GOVERNMENT ETHICS COMMISSION MAY REFER
26 VIOLATIONS OF THIS ARTICLE TO THE APPOINTING AUTHORITY FOR DISCIPLINARY
27 ACTION AS OTHERWISE PROVIDED BY LAW. THE STATE GOVERNMENT ETHICS
28 COMMISSION SHALL BE DEEMED TO BE AN AGENCY WITHIN THE MEANING OF ARTICLE
29 THREE OF THE STATE ADMINISTRATIVE PROCEDURE ACT AND SHALL ADOPT RULES
30 GOVERNING THE CONDUCT OF ADJUDICATORY PROCEEDINGS AND APPEALS TAKEN
31 PURSUANT TO A PROCEEDING COMMENCED UNDER ARTICLE SEVENTY-EIGHT OF THE
32 CIVIL PRACTICE LAW AND RULES RELATING TO THE ASSESSMENT OF THE CIVIL
33 PENALTIES HEREIN AUTHORIZED AND COMMISSION DENIALS OF REQUESTS FOR
34 CERTAIN DELETIONS OR EXEMPTIONS TO BE MADE FROM A FINANCIAL DISCLOSURE
35 STATEMENT AS AUTHORIZED IN PARAGRAPH (H) OR PARAGRAPH (I) OF SUBDIVISION
36 NINE OF THIS SECTION. SUCH RULES, WHICH SHALL NOT BE SUBJECT TO THE
37 APPROVAL REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT, SHALL
38 PROVIDE FOR DUE PROCESS PROCEDURAL MECHANISMS SUBSTANTIALLY SIMILAR TO
39 THOSE SET FORTH IN ARTICLE THREE OF THE STATE ADMINISTRATIVE PROCEDURE
40 ACT BUT SUCH MECHANISMS NEED NOT BE IDENTICAL IN TERMS OR SCOPE. ASSESS-
41 MENT OF A CIVIL PENALTY OR COMMISSION DENIAL OF SUCH A REQUEST SHALL BE
42 FINAL UNLESS MODIFIED, SUSPENDED OR VACATED WITHIN THIRTY DAYS OF IMPO-
43 SITION, WITH RESPECT TO THE ASSESSMENT OF SUCH PENALTY, OR UNLESS SUCH
44 DENIAL OF REQUEST IS REVERSED WITHIN SUCH TIME PERIOD, AND UPON BECOMING
45 FINAL SHALL BE SUBJECT TO REVIEW AT THE INSTANCE OF THE AFFECTED REPORT-
46 ING INDIVIDUALS IN A PROCEEDING COMMENCED AGAINST THE STATE GOVERNMENT
47 ETHICS COMMISSION, PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRAC-
48 TICE LAW AND RULES.

49 14. A COPY OF ANY NOTICE OF DELINQUENCY OR NOTICE OF REASONABLE CAUSE
50 SENT PURSUANT TO SUBDIVISIONS ELEVEN AND TWELVE OF THIS SECTION SHALL BE
51 INCLUDED IN THE REPORTING PERSON'S FILE AND BE AVAILABLE FOR PUBLIC
52 INSPECTION UPON A FINDING OR FINAL DETERMINATION OF WRONGDOING OR A
53 NOTICE OF CIVIL ASSESSMENT IS ISSUED.

54 15. UPON WRITTEN REQUEST FROM ANY PERSON WHO IS SUBJECT TO THE JURIS-
55 DICTION OF THE COMMISSION TO THE REQUIREMENTS OF SECTIONS SEVENTY-THREE,
56 SEVENTY-THREE-A, SEVENTY-THREE-D, SEVENTY-FOUR OF THIS ARTICLE OR ARTI-

1 CLE FOURTEEN OF THE ELECTION LAW, THE COMMISSION SHALL RENDER ADVISORY
2 OPINIONS ON THE REQUIREMENTS OF SAID PROVISIONS. AN OPINION RENDERED BY
3 THE COMMISSION, UNTIL AND UNLESS AMENDED OR REVOKED, SHALL BE BINDING ON
4 THE COMMISSION IN ANY SUBSEQUENT PROCEEDING CONCERNING THE PERSON WHO
5 REQUESTED THE OPINION AND WHO ACTED IN GOOD FAITH, UNLESS MATERIAL FACTS
6 WERE OMITTED OR MISSTATED BY THE PERSON IN THE REQUEST FOR AN OPINION.
7 SUCH OPINION MAY ALSO BE RELIED UPON BY SUCH PERSON, AND MAY BE INTRO-
8 DUCED AND SHALL BE A DEFENSE, IN ANY CRIMINAL OR CIVIL ACTION. SUCH
9 REQUESTS SHALL BE CONFIDENTIAL BUT THE COMMISSION MAY PUBLISH SUCH OPIN-
10 IONS PROVIDED THAT THE NAME OF THE REQUESTING PERSON AND OTHER IDENTIFY-
11 ING DETAILS SHALL NOT BE INCLUDED IN THE PUBLICATION.

12 16. IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED BY LAW, THE
13 COMMISSION SHALL HAVE THE POWER AND DUTY TO:

14 (A) PROMULGATE RULES CONCERNING RESTRICTIONS ON OUTSIDE ACTIVITIES,
15 LIMITATIONS ON THE RECEIPT OF GIFTS AND HONORARIA BY PERSONS SUBJECT TO
16 ITS JURISDICTION, PROVIDED, HOWEVER, A VIOLATION OF SUCH RULES IN AND OF
17 ITSELF SHALL NOT BE PUNISHABLE PURSUANT TO SUBDIVISION THIRTEEN OF THIS
18 SECTION UNLESS THE CONDUCT CONSTITUTING THE VIOLATION WOULD OTHERWISE
19 CONSTITUTE A VIOLATION OF THIS SECTION; AND

20 (B) CONDUCT TRAINING PROGRAMS IN COOPERATION WITH THE GOVERNOR'S
21 OFFICE OF EMPLOYEE RELATIONS, THE LEGISLATURE, THE ATTORNEY GENERAL,
22 OFFICE OF STATE COMPTROLLER AND UNIFIED COURT SYSTEM TO PROVIDE EDUCA-
23 TION TO INDIVIDUALS SUBJECT TO ITS JURISDICTION; AND

24 (C) ADMINISTER AND ENFORCE ALL THE PROVISIONS OF THIS SECTION; AND

25 (D) CONDUCT ANY INVESTIGATION NECESSARY TO CARRY OUT THE PROVISIONS OF
26 THIS SECTION. PURSUANT TO THIS POWER AND DUTY, THE COMMISSION MAY ADMIN-
27 ISTER OATHS OR AFFIRMATIONS, SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE
28 AND REQUIRE THE PRODUCTION OF ANY BOOKS OR RECORDS WHICH IT MAY DEEM
29 RELEVANT OR MATERIAL.

30 16-A. WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS
31 SUBDIVISION, THE COMMISSION SHALL CREATE AND THEREAFTER MAINTAIN A
32 PUBLICLY ACCESSIBLE WEBSITE WHICH SHALL SET FORTH THE PROCEDURE FOR
33 FILING A COMPLAINT WITH THE COMMISSION, AND WHICH SHALL CONTAIN THE
34 DOCUMENTS IDENTIFIED IN SUBDIVISION SEVENTEEN OF THIS SECTION, OTHER
35 THAN FINANCIAL DISCLOSURE STATEMENTS, AND ANY OTHER RECORDS OR INFORMA-
36 TION WHICH THE COMMISSION DETERMINES TO BE APPROPRIATE.

37 17. (A) NOTWITHSTANDING THE PROVISIONS OF ARTICLE SIX OF THIS CHAPTER,
38 THE ONLY RECORDS OF THE COMMISSION WHICH SHALL BE AVAILABLE FOR PUBLIC
39 INSPECTION AND COPYING ARE:

40 (1) THE INFORMATION SET FORTH IN AN ANNUAL STATEMENT OF FINANCIAL
41 DISCLOSURE FILED PURSUANT TO SECTION SEVENTY-THREE-A OF THIS CHAPTER
42 EXCEPT THE CATEGORIES OF VALUE OR AMOUNT, WHICH SHALL REMAIN CONFIDEN-
43 TIAL, AND ANY OTHER ITEM OF INFORMATION DELETED PURSUANT TO PARAGRAPH
44 (H) OF SUBDIVISION NINE OF THIS SECTION;

45 (2) NOTICES OF DELINQUENCY SENT UNDER SUBDIVISION ELEVEN OF THIS
46 SECTION;

47 (3) NOTICES OF REASONABLE CAUSE SENT UNDER PARAGRAPH (B) OF SUBDIVI-
48 SION TWELVE OF THIS SECTION;

49 (4) NOTICES OF CIVIL ASSESSMENTS IMPOSED UNDER THIS SECTION WHICH
50 SHALL INCLUDE A DESCRIPTION OF THE NATURE OF THE ALLEGED WRONGDOING, THE
51 PROCEDURAL HISTORY OF THE COMPLAINT, THE FINDINGS AND DETERMINATIONS
52 MADE BY THE COMMISSION, AND ANY SANCTION IMPOSED; AND

53 (5) THE TERMS OF ANY SETTLEMENT OR COMPROMISE OF A COMPLAINT OR REFER-
54 RAL WHICH INCLUDES A FINE, PENALTY OR OTHER REMEDY.

55 (B) NOTWITHSTANDING THE PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER,
56 NO MEETING OR PROCEEDING, INCLUDING ANY SUCH PROCEEDING CONTEMPLATED

1 UNDER PARAGRAPH (H) OR (I) OF SUBDIVISION NINE OF THIS SECTION, OF THE
2 COMMISSION SHALL BE OPEN TO THE PUBLIC, EXCEPT IF EXPRESSLY PROVIDED
3 OTHERWISE BY THE COMMISSION.

4 (C) PENDING ANY APPLICATION FOR DELETION OR EXEMPTION TO THE COMMIS-
5 SION, ALL INFORMATION WHICH IS THE SUBJECT OR A PART OF THE APPLICATION
6 SHALL REMAIN CONFIDENTIAL. UPON AN ADVERSE DETERMINATION BY THE COMMIS-
7 SION, THE REPORTING INDIVIDUAL MAY REQUEST, AND UPON SUCH REQUEST THE
8 COMMISSION SHALL PROVIDE, THAT ANY INFORMATION WHICH IS THE SUBJECT OR
9 PART OF THE APPLICATION REMAIN CONFIDENTIAL FOR A PERIOD OF THIRTY DAYS
10 FOLLOWING NOTICE OF SUCH DETERMINATION. IN THE EVENT THAT THE REPORTING
11 INDIVIDUAL RESIGNS HIS OFFICE AND HOLDS NO OTHER OFFICE SUBJECT TO THE
12 JURISDICTION OF THE COMMISSION, THE INFORMATION SHALL NOT BE MADE PUBLIC
13 AND SHALL BE EXPUNGED IN ITS ENTIRETY.

14 18. IF ANY PART OR PROVISION OF THIS SECTION OR THE APPLICATION THERE-
15 OF TO ANY PERSON OR ORGANIZATION IS ADJUDGED BY A COURT OF COMPETENT
16 JURISDICTION TO BE UNCONSTITUTIONAL OR OTHERWISE INVALID, SUCH JUDGMENT
17 SHALL NOT AFFECT OR IMPAIR ANY OTHER PART OR PROVISION OR THE APPLICA-
18 TION THEREOF TO ANY OTHER PERSON OR ORGANIZATION, BUT SHALL BE CONFINED
19 IN ITS OPERATION TO SUCH PART OR PROVISION.

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

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

37 S 73-D. LOBBYING ACTIVITY. 1. SHORT TITLE. THIS SECTION SHALL BE
38 KNOWN AND MAY BE CITED AS THE "LOBBYING ACT".

39 2. DEFINITIONS. AS USED IN THIS SECTION UNLESS THE CONTEXT OTHERWISE
40 REQUIRES:

41 (A) THE TERM "LOBBYIST" SHALL MEAN EVERY PERSON OR ORGANIZATION
42 RETAINED, EMPLOYED OR DESIGNATED BY ANY CLIENT TO ENGAGE IN DIRECTLY OR
43 TO SOLICIT OTHERS TO COMMUNICATE FOR THE PURPOSES OF LOBBYING. THE TERM
44 "LOBBYIST" SHALL NOT INCLUDE ANY OFFICER, DIRECTOR, TRUSTEE, EMPLOYEE,
45 COUNSEL OR AGENT OF THE STATE, OR ANY MUNICIPALITY OR SUBDIVISION THERE-
46 OF OF NEW YORK WHEN DISCHARGING THEIR OFFICIAL DUTIES; EXCEPT THOSE
47 OFFICERS, DIRECTORS, TRUSTEES, EMPLOYEES, COUNSELS, OR AGENTS OF
48 COLLEGES, AS DEFINED BY SECTION TWO OF THE EDUCATION LAW.

49 (B) THE TERM "CLIENT" SHALL MEAN EVERY PERSON OR ORGANIZATION WHO
50 RETAINS, EMPLOYS OR DESIGNATES ANY PERSON OR ORGANIZATION TO CARRY ON
51 LOBBYING ACTIVITIES ON BEHALF OF SUCH CLIENT.

52 (C) THE TERM "LOBBYING" OR "LOBBYING ACTIVITIES" SHALL MEAN AND
53 INCLUDE ANY ATTEMPT BY A PERSON OR ENTITY TO DIRECTLY OR TO SOLICIT
54 OTHERS TO COMMUNICATE FOR THE PURPOSE OF INFLUENCING:

1 (I) THE PASSAGE OR DEFEAT OF ANY LEGISLATION BY EITHER HOUSE OF THE
2 STATE LEGISLATURE OR APPROVAL OR DISAPPROVAL OF ANY LEGISLATION BY THE
3 GOVERNOR;

4 (II) THE ADOPTION, ISSUANCE, RESCISSION, MODIFICATION OR TERMS OF A
5 GUBERNATORIAL EXECUTIVE ORDER;

6 (III) THE ADOPTION OR REJECTION OF ANY PROCEDURE, RULE OR REGULATION
7 HAVING THE FORCE AND EFFECT OF LAW BY A STATE AGENCY;

8 (IV) THE OUTCOME OF ANY RATE MAKING PROCEEDING BY A STATE AGENCY;

9 (V) ANY DETERMINATION: (A) BY A PUBLIC OFFICIAL, OR BY A PERSON OR
10 ENTITY WORKING IN COOPERATION WITH A PUBLIC OFFICIAL RELATED TO A
11 GOVERNMENTAL PROCUREMENT, (B) BY AN OFFICER OR EMPLOYEE OF THE UNIFIED
12 COURT SYSTEM, OR BY A PERSON OR ENTITY WORKING IN COOPERATION WITH AN
13 OFFICER OR EMPLOYEE OF THE UNIFIED COURT SYSTEM RELATED TO A GOVERN-
14 MENTAL PROCUREMENT, OR (C) BY THE STATE OR NEW YORK CITY COMPTROLLER
15 WORKING IN COOPERATION WITH A PERSON OR ENTITY FOR THE INVESTMENT OF
16 PUBLIC PENSION FUNDS;

17 (VI) THE APPROVAL, DISAPPROVAL, IMPLEMENTATION OR ADMINISTRATION OF
18 TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING, OR ANY OTHER TRIBAL-
19 STATE AGREEMENTS AND ANY OTHER STATE ACTIONS RELATED TO CLASS III GAMING
20 AS PROVIDED IN 25 U.S.C. S 2701, EXCEPT TO THE EXTENT DESIGNATION OF
21 SUCH ACTIVITIES AS "LOBBYING" IS BARRED BY THE FEDERAL INDIAN GAMING
22 REGULATORY ACT, BY A PUBLIC OFFICIAL OR BY A PERSON OR ENTITY WORKING IN
23 COOPERATION WITH A PUBLIC OFFICIAL IN RELATION TO SUCH APPROVAL, DISAP-
24 PROVAL, IMPLEMENTATION OR ADMINISTRATION;

25 (VII) THE PASSAGE OR DEFEAT OF ANY LOCAL LAW, ORDINANCE, RESOLUTION,
26 OR REGULATION BY ANY MUNICIPALITY OR SUBDIVISION THEREOF;

27 (VIII) THE ADOPTION, ISSUANCE, RESCISSION, MODIFICATION OR TERMS OF AN
28 EXECUTIVE ORDER ISSUED BY THE CHIEF EXECUTIVE OFFICER OF A MUNICIPALITY;

29 (IX) THE ADOPTION OR REJECTION OF ANY RULE, REGULATION, OR RESOLUTION
30 HAVING THE FORCE AND EFFECT OF A LOCAL LAW, ORDINANCE, RESOLUTION, OR
31 REGULATION; OR

32 (X) THE OUTCOME OF ANY RATE MAKING PROCEEDING BY ANY MUNICIPALITY OR
33 SUBDIVISION THEREOF.

34 THE TERM "LOBBYING" SHALL NOT INCLUDE:

35 (A) PERSONS ENGAGED IN DRAFTING, ADVISING CLIENTS ON OR RENDERING
36 OPINIONS ON PROPOSED LEGISLATION, RULES, REGULATIONS OR RATES, MUNICIPAL
37 ORDINANCES AND RESOLUTIONS, EXECUTIVE ORDERS, PROCUREMENT CONTRACTS, OR
38 TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING, OR ANY OTHER TRIBAL-
39 STATE AGREEMENTS OR OTHER WRITTEN MATERIALS RELATED TO CLASS III GAMING
40 AS PROVIDED IN 25 U.S.C. S 2701, WHEN SUCH PROFESSIONAL SERVICES ARE NOT
41 OTHERWISE CONNECTED WITH STATE OR MUNICIPAL LEGISLATIVE OR EXECUTIVE
42 ACTION ON SUCH LEGISLATION, RULES, REGULATIONS OR RATES, MUNICIPAL ORDI-
43 NANCES AND RESOLUTIONS, EXECUTIVE ORDERS, PROCUREMENT CONTRACTS, OR
44 TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING, OR ANY OTHER TRIBAL-
45 STATE AGREEMENTS OR OTHER WRITTEN MATERIALS RELATED TO CLASS III GAMING
46 AS PROVIDED IN 25 U.S.C. S 2701;

47 (B) NEWSPAPERS AND OTHER PERIODICALS AND RADIO AND TELEVISION
48 STATIONS, AND OWNERS AND EMPLOYEES THEREOF, PROVIDED THAT THEIR ACTIV-
49 ITIES IN CONNECTION WITH PROPOSED LEGISLATION, RULES, REGULATIONS OR
50 RATES, MUNICIPAL ORDINANCES AND RESOLUTIONS, EXECUTIVE ORDERS,
51 TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING OR OTHER TRIBAL-STATE
52 AGREEMENTS RELATED TO CLASS III GAMING AS PROVIDED IN 25 U.S.C. S 2701,
53 OR PROCUREMENT CONTRACTS BY A STATE AGENCY, MUNICIPAL AGENCY, LOCAL
54 LEGISLATIVE BODY, THE STATE LEGISLATURE, OR THE UNIFIED COURT SYSTEM,
55 ARE LIMITED TO THE PUBLICATION OR BROADCAST OF NEWS ITEMS, EDITORIALS OR
56 OTHER COMMENTS, OR PAID ADVERTISEMENTS;

1 (C) PERSONS WHO PARTICIPATE AS WITNESSES, ATTORNEYS OR OTHER REPRESENTATIVES IN PUBLIC PROCEEDINGS OF A STATE OR MUNICIPAL AGENCY WITH
2 RESPECT TO ALL PARTICIPATION BY SUCH PERSONS WHICH IS PART OF THE PUBLIC
3 RECORD THEREOF AND ALL PREPARATION BY SUCH PERSONS FOR SUCH PARTICIPATION;
4

5
6 (D) PERSONS WHO ATTEMPT TO INFLUENCE A STATE OR MUNICIPAL AGENCY IN AN
7 ADJUDICATORY PROCEEDING, AS "ADJUDICATORY PROCEEDING" IS DEFINED BY
8 SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT;

9 (E) PERSONS WHO PREPARE OR SUBMIT A RESPONSE TO A REQUEST FOR INFORMATION OR COMMENTS BY THE STATE LEGISLATURE, THE GOVERNOR, OR A STATE
10 AGENCY OR A COMMITTEE OR OFFICER OF THE LEGISLATURE OR A STATE AGENCY,
11 OR BY THE UNIFIED COURT SYSTEM, OR BY A LEGISLATIVE OR EXECUTIVE BODY OR
12 OFFICER OF A MUNICIPALITY OR A COMMISSION, COMMITTEE OR OFFICER OF A
13 MUNICIPAL LEGISLATIVE OR EXECUTIVE BODY;
14

15 (F) ANY ATTEMPT BY A CHURCH, ITS INTEGRATED AUXILIARY, OR A CONVENTION
16 OR ASSOCIATION OF CHURCHES THAT IS EXEMPT FROM FILING A FEDERAL INCOME
17 TAX RETURN UNDER PARAGRAPH (A)(I) OF SECTION 6033(A) OF TITLE 26 OF THE
18 UNITED STATES CODE OR A RELIGIOUS ORDER THAT IS EXEMPT FROM FILING A
19 FEDERAL INCOME TAX RETURN UNDER PARAGRAPH (2)(A)(III) OF SUCH SECTION
20 6033(A) TO INFLUENCE PASSAGE OR DEFEAT OF A LOCAL LAW, ORDINANCE, RESOLUTION OR REGULATION OR ANY RULE OR REGULATION HAVING THE FORCE AND
21 EFFECT OF A LOCAL LAW, ORDINANCE OR REGULATION;
22

23 (G) ANY ACTIVITY RELATING TO GOVERNMENTAL PROCUREMENTS MADE UNDER
24 SECTION ONE HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW UNDERTAKEN BY (I)
25 THE NON-PROFIT-MAKING AGENCIES APPOINTED PURSUANT TO PARAGRAPH E OF
26 SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-TWO OF THE STATE FINANCE
27 LAW BY THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES,
28 THE COMMISSION FOR THE BLIND AND VISUALLY HANDICAPPED, OR THE COMMISSIONER OF EDUCATION, AND (II) THE QUALIFIED CHARITABLE NON-PROFIT-MAKING
29 AGENCIES FOR THE BLIND, AND QUALIFIED CHARITABLE NON-PROFIT-MAKING AGENCIES FOR OTHER SEVERELY DISABLED PERSONS AS IDENTIFIED IN SUBDIVISION
30 TWO OF SECTION ONE HUNDRED SIXTY-TWO OF THE STATE FINANCE LAW; PROVIDED,
31 HOWEVER, THAT ANY ATTEMPT TO INFLUENCE THE ISSUANCE OR TERMS OF THE
32 SPECIFICATIONS THAT SERVE AS THE BASIS FOR BID DOCUMENTS, REQUESTS FOR
33 PROPOSALS, INVITATIONS FOR BIDS, OR SOLICITATIONS OF PROPOSALS, OR ANY
34 OTHER METHOD FOR SOLICITING A RESPONSE FROM OFFERERS INTENDING TO RESULT
35 IN A PROCUREMENT CONTRACT WITH A STATE AGENCY, THE STATE LEGISLATURE,
36 THE UNIFIED COURT SYSTEM, A MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY
37 SHALL NOT BE EXEMPT FROM THE DEFINITION OF "LOBBYING" OR "LOBBYING
38 ACTIVITIES" UNDER THIS CLAUSE;
39

40
41 (H) PARTICIPANTS, INCLUDING THOSE APPEARING ON BEHALF OF A CLIENT, IN
42 A CONFERENCE PROVIDED FOR IN A REQUEST FOR PROPOSALS, INVITATION FOR
43 BIDS, OR ANY OTHER METHOD FOR SOLICITING A RESPONSE FROM OFFERERS
44 INTENDING TO RESULT IN A PROCUREMENT CONTRACT;

45 (I) OFFERERS WHO HAVE BEEN TENTATIVELY AWARDED A CONTRACT AND ARE
46 ENGAGED IN COMMUNICATIONS WITH A STATE AGENCY, EITHER HOUSE OF THE STATE
47 LEGISLATURE, THE UNIFIED COURT SYSTEM, A MUNICIPAL AGENCY OR LOCAL
48 LEGISLATIVE BODY SOLELY FOR THE PURPOSE OF NEGOTIATING THE TERMS OF THE
49 PROCUREMENT CONTRACT AFTER BEING NOTIFIED OF SUCH AWARD OR, WHEN A STATE
50 AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT SYSTEM,
51 A MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY IS PURCHASING AN ARTICLE OF
52 PROCUREMENT PURSUANT TO AN EXISTING STATE PROCUREMENT CONTRACT, OFFERERS
53 WHO ARE ENGAGED IN COMMUNICATIONS WITH THE PROCURING ENTITY SOLELY FOR
54 THE PURPOSE OF NEGOTIATING TERMS APPLICABLE TO THAT PURCHASE; OR PERSONS
55 WHO CURRENTLY HOLD A FRANCHISE AND WHO ARE ENGAGED IN NEGOTIATING THE
56 TERMS OF A TENTATIVE FRANCHISE RENEWAL CONTRACT WITH A MUNICIPALITY, BUT

1 SUCH NEGOTIATIONS, WHICH DO NOT CONSTITUTE LOBBYING, DO NOT INCLUDE
2 COMMUNICATIONS TO THE LOCAL LEGISLATIVE BODY THAT MUST APPROVE THE
3 CONTRACT; PROVIDED, HOWEVER, THAT ANY ATTEMPT TO INFLUENCE THE FINAL
4 ISSUANCE OR TERMS OF THE SPECIFICATIONS THAT SERVE AS THE BASIS FOR BID
5 DOCUMENTS, REQUESTS FOR PROPOSALS, INVITATIONS FOR BIDS, OR SOLICITA-
6 TIONS OF PROPOSALS, OR ANY OTHER METHOD FOR SOLICITING A RESPONSE FROM
7 OFFERERS INTENDING TO RESULT IN A PROCUREMENT CONTRACT WITH A STATE
8 AGENCY, THE STATE LEGISLATURE, THE UNIFIED COURT SYSTEM, A MUNICIPAL
9 AGENCY OR LOCAL LEGISLATIVE BODY SHALL NOT BE EXEMPT FROM THE DEFINITION
10 OF "LOBBYING" OR "LOBBYING ACTIVITIES" UNDER THIS SUBPARAGRAPH;

11 (J) (I) OFFERERS OR OTHER PERSONS WHO ARE A PARTY TO A PROTEST, APPEAL
12 OR OTHER REVIEW PROCEEDING (INCLUDING THE APPARENT SUCCESSFUL BIDDER OR
13 PROPOSER AND HIS OR HER REPRESENTATIVES) BEFORE THE GOVERNMENTAL ENTITY
14 CONDUCTING THE PROCUREMENT SEEKING A FINAL ADMINISTRATIVE DETERMINATION,
15 OR IN A SUBSEQUENT JUDICIAL PROCEEDING; OR

16 (II) OFFERERS OR OTHER PERSONS WHO BRING COMPLAINTS OF ALLEGED IMPROP-
17 ER CONDUCT IN A GOVERNMENTAL PROCUREMENT TO THE ATTORNEY GENERAL,
18 INSPECTOR GENERAL, DISTRICT ATTORNEY, OR COURT OF COMPETENT JURISDIC-
19 TION; OR

20 (III) OFFERERS OR OTHER PERSONS WHO SUBMIT WRITTEN PROTESTS, APPEALS
21 OR COMPLAINTS TO THE STATE COMPTROLLER'S OFFICE DURING THE PROCESS OF
22 CONTRACT APPROVAL, WHERE THE STATE COMPTROLLER'S APPROVAL IS REQUIRED BY
23 LAW, AND WHERE SUCH COMMUNICATIONS AND ANY RESPONSES THERETO ARE MADE IN
24 WRITING AND SHALL BE ENTERED IN THE PROCUREMENT RECORD PURSUANT TO
25 SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW; OR

26 (IV) OFFERERS OR OTHER PERSONS WHO BRING COMPLAINTS OF ALLEGED IMPROP-
27 ER CONDUCT IN A GOVERNMENTAL PROCUREMENT CONDUCTED BY A MUNICIPAL AGENCY
28 OR LOCAL LEGISLATIVE BODY TO THE STATE COMPTROLLER'S OFFICE; PROVIDED,
29 HOWEVER, THAT NOTHING IN THIS SUBPARAGRAPH SHALL BE CONSTRUED AS RECOG-
30 NIZING OR CREATING ANY NEW RIGHTS, DUTIES OR RESPONSIBILITIES OR ABRO-
31 GATING ANY EXISTING RIGHTS, DUTIES OR RESPONSIBILITIES OF ANY GOVERN-
32 MENTAL ENTITY AS IT PERTAINS TO IMPLEMENTATION AND ENFORCEMENT OF
33 ARTICLE ELEVEN OF THE STATE FINANCE LAW OR ANY OTHER PROVISION OF LAW
34 DEALING WITH THE GOVERNMENTAL PROCUREMENT PROCESS;

35 (K) THE SUBMISSION OF A BID OR PROPOSAL (WHETHER SUBMITTED ORALLY, IN
36 WRITING OR ELECTRONICALLY) IN RESPONSE TO A REQUEST FOR PROPOSALS, INVI-
37 TATION FOR BIDS OR ANY OTHER METHOD FOR SOLICITING A RESPONSE FROM
38 OFFERERS INTENDING TO RESULT IN A PROCUREMENT CONTRACT;

39 (L) OFFERERS SUBMITTING WRITTEN QUESTIONS TO A DESIGNATED CONTACT OF A
40 STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT
41 SYSTEM, A MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY SET FORTH IN A
42 REQUEST FOR PROPOSALS, OR INVITATION FOR BIDS OR ANY OTHER METHOD FOR
43 SOLICITING A RESPONSE FROM OFFERERS INTENDING TO RESULT IN A PROCUREMENT
44 CONTRACT, WHEN ALL WRITTEN QUESTIONS AND RESPONSES ARE TO BE DISSEM-
45 INATED TO ALL OFFERERS WHO HAVE EXPRESSED AN INTEREST IN THE REQUEST FOR
46 PROPOSALS, OR INVITATION FOR BIDS, OR ANY OTHER METHOD FOR SOLICITING A
47 RESPONSE FROM OFFERERS INTENDING TO RESULT IN A PROCUREMENT CONTRACT;

48 (M) CONTACTS DURING GOVERNMENTAL PROCUREMENTS BETWEEN DESIGNATED STAFF
49 OF A STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED
50 COURT SYSTEM, A MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY INVOLVED IN
51 GOVERNMENTAL PROCUREMENTS AND OFFICERS OR EMPLOYEES OF BIDDERS OR POTEN-
52 TIAL BIDDERS, OR OFFICERS OR EMPLOYEES OF SUBCONTRACTORS OF BIDDERS OR
53 POTENTIAL BIDDERS, WHO ARE CHARGED WITH THE PERFORMANCE OF FUNCTIONS
54 RELATING TO CONTRACTS AND WHO ARE QUALIFIED BY EDUCATION, TRAINING OR
55 EXPERIENCE TO PROVIDE TECHNICAL SERVICES TO EXPLAIN, CLARIFY OR DEMON-
56 STRATE THE QUALITIES, CHARACTERISTICS OR ADVANTAGES OF AN ARTICLE OF

1 PROCUREMENT. SUCH AUTHORIZED CONTACTS SHALL: (I) BE LIMITED TO PROVIDING
2 INFORMATION TO THE STAFF OF A STATE AGENCY, EITHER HOUSE OF THE STATE
3 LEGISLATURE, THE UNIFIED COURT SYSTEM, A MUNICIPAL AGENCY AND LOCAL
4 LEGISLATIVE BODY TO ASSIST THEM IN UNDERSTANDING AND ASSESSING THE QUAL-
5 ITIES, CHARACTERISTICS OR ANTICIPATED PERFORMANCE OF AN ARTICLE OF
6 PROCUREMENT; (II) NOT INCLUDE ANY RECOMMENDATIONS OR ADVOCATE ANY
7 CONTRACT PROVISIONS; AND (III) OCCUR ONLY AT SUCH TIMES AND IN SUCH
8 MANNER AS AUTHORIZED UNDER THE PROCURING ENTITY'S SOLICITATION OR GUIDE-
9 LINES AND PROCEDURES. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE TERM
10 "TECHNICAL SERVICES" SHALL BE LIMITED TO ANALYSIS DIRECTLY APPLYING ANY
11 ACCOUNTING, ENGINEERING, SCIENTIFIC, OR OTHER SIMILAR TECHNICAL DISCI-
12 PLINES;

13 (N) APPLICATIONS FOR LICENSES, CERTIFICATES, AND PERMITS AUTHORIZED BY
14 STATUTES OR LOCAL LAWS OR ORDINANCES;

15 (O) THE ACTIVITIES OF PERSONS WHO ARE COMMISSION SALESPERSONS WITH
16 RESPECT TO GOVERNMENTAL PROCUREMENTS;

17 (P) COMMUNICATIONS MADE BY AN OFFICER OR EMPLOYEE OF THE OFFERER AFTER
18 THE AWARD OF THE PROCUREMENT CONTRACT WHEN SUCH COMMUNICATIONS ARE IN
19 THE ORDINARY COURSE OF PROVIDING THE ARTICLE OF PROCUREMENT PROVIDED BY
20 THE PROCUREMENT CONTRACT AND IN THE ORDINARY COURSE OF THE ASSIGNED
21 DUTIES OF THE OFFICER OR EMPLOYEE; PROVIDED, HOWEVER, THAT NOTHING HERE-
22 IN SHALL EXEMPT: (I) AN OFFICER OR EMPLOYEE WHOSE PRIMARY PURPOSE OF
23 EMPLOYMENT IS TO ENGAGE IN LOBBYING ACTIVITIES WITH REGARD TO GOVERN-
24 MENTAL PROCUREMENTS, OR (II) AN AGENT OR INDEPENDENT CONTRACTOR HIRED BY
25 AN OFFERER AND WHOSE PRIMARY DUTY IS TO ENGAGE IN LOBBYING ACTIVITIES
26 WITH REGARD TO GOVERNMENTAL PROCUREMENTS; AND

27 (Q) PERSONS WHO COMMUNICATE WITH PUBLIC OFFICIALS WHERE SUCH COMMUNI-
28 CATIONS ARE LIMITED TO OBTAINING FACTUAL INFORMATION RELATED TO BENEFITS
29 OR INCENTIVES OFFERED BY A STATE OR MUNICIPAL AGENCY AND WHERE SUCH
30 COMMUNICATIONS DO NOT INCLUDE ANY RECOMMENDATIONS OR ADVOCATE GOVERN-
31 MENTAL ACTION OR CONTRACT PROVISIONS, AND FURTHER WHERE SUCH COMMUNI-
32 CATIONS ARE NOT OTHERWISE CONNECTED WITH PENDING LEGISLATIVE OR EXECU-
33 TIVE ACTION OR DETERMINATIONS; PROVIDED, HOWEVER, THAT ANY PERSON WHO IS
34 OTHERWISE REQUIRED TO FILE A STATEMENT OR REPORT PURSUANT TO THIS
35 SECTION BY VIRTUE OF ENGAGING IN LOBBYING ACTIVITIES AS DEFINED IN THIS
36 PARAGRAPH SHALL NOT BE DEEMED TO FALL WITHIN THE EXCEPTION PROVIDED FOR
37 UNDER THIS SUBPARAGRAPH.

38 (D) THE TERM "ORGANIZATION" SHALL MEAN ANY CORPORATION, COMPANY, FOUN-
39 DATION, ASSOCIATION, COLLEGE AS DEFINED BY SECTION TWO OF THE EDUCATION
40 LAW, LABOR ORGANIZATION, FIRM, PARTNERSHIP, SOCIETY, JOINT STOCK COMPA-
41 NY, STATE AGENCY OR PUBLIC CORPORATION.

42 (E) THE TERM "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BOARD, BUREAU,
43 COMMISSION, DIVISION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF THE
44 STATE, WHETHER PERMANENT OR TEMPORARY, OR A PUBLIC BENEFIT CORPORATION
45 OR PUBLIC AUTHORITY AT LEAST ONE OF WHOSE MEMBERS IS APPOINTED BY THE
46 GOVERNOR, AUTHORIZED BY LAW TO MAKE RULES OR TO MAKE FINAL DECISIONS IN
47 ADJUDICATORY PROCEEDINGS BUT SHALL NOT INCLUDE THE JUDICIAL BRANCH OR
48 AGENCIES CREATED BY INTERSTATE COMPACT OR INTERNATIONAL AGREEMENT.

49 (F) THE TERM "COMMISSION" SHALL MEAN THE STATE GOVERNMENT ETHICS
50 COMMISSION CREATED BY SECTION SEVENTY-THREE-C OF THIS ARTICLE.

51 (G) THE TERM "EXPENSE" OR "EXPENSES" SHALL MEAN ANY EXPENDITURES
52 INCURRED BY OR REIMBURSED TO THE LOBBYIST FOR LOBBYING BUT SHALL NOT
53 INCLUDE CONTRIBUTIONS REPORTABLE PURSUANT TO ARTICLE FOURTEEN OF THE
54 ELECTION LAW.

55 (H) THE TERM "COMPENSATION" SHALL MEAN ANY SALARY, FEE, GIFT, PAYMENT,
56 BENEFIT, LOAN, ADVANCE OR ANY OTHER THING OF VALUE PAID, OWED, GIVEN OR

PROMISED TO THE LOBBYIST BY THE CLIENT FOR LOBBYING BUT SHALL NOT INCLUDE CONTRIBUTIONS REPORTABLE PURSUANT TO ARTICLE FOURTEEN OF THE ELECTION LAW.

(I) THE TERM "PUBLIC CORPORATION" SHALL MEAN A MUNICIPAL CORPORATION, A DISTRICT CORPORATION, OR A PUBLIC BENEFIT CORPORATION AS DEFINED IN SECTION SIXTY-SIX OF THE GENERAL CONSTRUCTION LAW.

(J) THE TERM "GIFT" SHALL MEAN ANYTHING OVER TEN DOLLARS IN VALUE GIVEN TO A PUBLIC OFFICIAL IN ANY FORM INCLUDING, BUT NOT LIMITED TO MONEY, SERVICE, LOAN, TRAVEL, LODGING, MEALS, REFRESHMENTS, ENTERTAINMENT, DISCOUNT, FORBEARANCE, OR PROMISE, HAVING A MONETARY VALUE. THE FOLLOWING ARE EXCLUDED FROM THE DEFINITION OF A GIFT:

(I) COMPLIMENTARY ATTENDANCE, INCLUDING FOOD AND BEVERAGE, AT BONA FIDE CHARITABLE OR POLITICAL EVENTS, AND FOOD AND BEVERAGE OF A NOMINAL VALUE GREATER THAN TEN DOLLARS OFFERED OTHER THAN AS PART OF A MEAL;

(II) COMPLIMENTARY ATTENDANCE, FOOD AND BEVERAGE OFFERED BY THE SPONSOR OF AN EVENT THAT IS WIDELY ATTENDED OR WAS IN GOOD FAITH INTENDED TO BE WIDELY ATTENDED, WHEN ATTENDANCE AT THE EVENT IS RELATED TO THE ATTENDEE'S DUTIES OR RESPONSIBILITIES AS A PUBLIC OFFICIAL OR ALLOWS THE PUBLIC OFFICIAL TO PERFORM A CEREMONIAL FUNCTION APPROPRIATE TO HIS OR HER POSITION. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE TERM WIDELY ATTENDED SHALL MEAN THAT THE INTENT OF THE EVENT SPONSOR IS TO INVITE MORE THAN TWENTY-FIVE STATE OFFICERS WHO REPRESENT DIVERSE VIEWS AND TO ENCOURAGE DIALOGUE AMONG THE PARTICIPANTS;

(III) AWARDS, PLAQUES, AND OTHER CEREMONIAL ITEMS WHICH ARE PUBLICLY PRESENTED, OR INTENDED TO BE PUBLICLY PRESENTED, IN RECOGNITION OF PUBLIC SERVICE, PROVIDED THAT THE ITEM OR ITEMS ARE OF THE TYPE CUSTOMARILY BESTOWED AT SUCH OR SIMILAR CEREMONIES AND ARE OTHERWISE REASONABLE UNDER THE CIRCUMSTANCES, AND FURTHER PROVIDED THAT THE FUNCTIONALITY OF SUCH ITEMS SHALL NOT DETERMINE WHETHER SUCH ITEMS ARE PERMITTED UNDER THIS PARAGRAPH;

(IV) AN HONORARY DEGREE BESTOWED UPON A PUBLIC OFFICIAL BY A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY;

(V) PROMOTIONAL ITEMS HAVING NO SUBSTANTIAL RESALE VALUE SUCH AS PENS, MUGS, CALENDARS, HATS, AND T-SHIRTS WHICH BEAR AN ORGANIZATION'S NAME, LOGO, OR MESSAGE IN A MANNER WHICH PROMOTES THE ORGANIZATION'S CAUSE;

(VI) GOODS AND SERVICES, OR DISCOUNTS FOR GOODS AND SERVICES, OFFERED TO THE GENERAL PUBLIC OR A SEGMENT OF THE GENERAL PUBLIC DEFINED ON A BASIS OTHER THAN STATUS AS A PUBLIC OFFICIAL AND OFFERED ON THE SAME TERMS AND CONDITIONS AS THE GOODS OR SERVICES ARE OFFERED TO THE GENERAL PUBLIC OR SEGMENT THEREOF;

(VII) GIFTS FROM A FAMILY MEMBER, MEMBER OF THE SAME HOUSEHOLD, OR PERSON WITH A PERSONAL RELATIONSHIP WITH THE PUBLIC OFFICIAL, INCLUDING INVITATIONS TO ATTEND PERSONAL OR FAMILY SOCIAL EVENTS, WHEN THE CIRCUMSTANCES ESTABLISH THAT IT IS THE FAMILY, HOUSEHOLD, OR PERSONAL RELATIONSHIP THAT IS THE PRIMARY MOTIVATING FACTOR; IN DETERMINING MOTIVATION, THE FOLLOWING FACTORS SHALL BE AMONG THOSE CONSIDERED: (A) THE HISTORY AND NATURE OF THE RELATIONSHIP BETWEEN THE DONOR AND THE RECIPIENT, INCLUDING WHETHER OR NOT ITEMS HAVE PREVIOUSLY BEEN EXCHANGED; (B) WHETHER THE ITEM WAS PURCHASED BY THE DONOR; AND (C) WHETHER OR NOT THE DONOR AT THE SAME TIME GAVE SIMILAR ITEMS TO OTHER PUBLIC OFFICIALS; THE TRANSFER SHALL NOT BE CONSIDERED TO BE MOTIVATED BY A FAMILY, HOUSEHOLD, OR PERSONAL RELATIONSHIP IF THE DONOR SEEKS TO CHARGE OR DEDUCT THE VALUE OF SUCH ITEM AS A BUSINESS EXPENSE OR SEEKS REIMBURSEMENT FROM A CLIENT;

(VIII) CONTRIBUTIONS REPORTABLE UNDER ARTICLE FOURTEEN OF THE ELECTION LAW;

1 (IX) TRAVEL REIMBURSEMENT OR PAYMENT FOR TRANSPORTATION, MEALS AND
2 ACCOMMODATIONS FOR AN ATTENDEE, PANELIST OR SPEAKER AT AN INFORMATIONAL
3 EVENT WHEN SUCH REIMBURSEMENT OR PAYMENT IS MADE BY A GOVERNMENTAL ENTI-
4 TY OR BY AN IN-STATE ACCREDITED PUBLIC OR PRIVATE INSTITUTION OF HIGHER
5 EDUCATION THAT HOSTS THE EVENT ON ITS CAMPUS, PROVIDED, HOWEVER, THAT
6 THE PUBLIC OFFICIAL MAY ONLY ACCEPT LODGING FROM AN INSTITUTION OF HIGH-
7 ER EDUCATION: (A) AT A LOCATION ON OR WITHIN CLOSE PROXIMITY TO THE HOST
8 CAMPUS; AND (B) FOR THE NIGHT PRECEDING AND THE NIGHTS OF THE DAYS ON
9 WHICH THE ATTENDEE, PANELIST OR SPEAKER ACTUALLY ATTENDS THE EVENT;
10 (X) PROVISION OF LOCAL TRANSPORTATION TO INSPECT OR TOUR FACILITIES,
11 OPERATIONS OR PROPERTY OWNED OR OPERATED BY THE ENTITY PROVIDING SUCH
12 TRANSPORTATION, PROVIDED, HOWEVER, THAT PAYMENT OR REIMBURSEMENT OF
13 LODGING, MEALS OR TRAVEL EXPENSES TO AND FROM THE LOCALITY WHERE SUCH
14 FACILITIES, OPERATIONS OR PROPERTY ARE LOCATED SHALL BE CONSIDERED TO BE
15 GIFTS UNLESS OTHERWISE PERMITTED UNDER THIS SUBDIVISION; AND
16 (XI) MEALS OR REFRESHMENTS WHEN PARTICIPATING IN A PROFESSIONAL OR
17 EDUCATIONAL PROGRAM AND THE MEALS OR REFRESHMENTS ARE PROVIDED TO ALL
18 PARTICIPANTS.
19 (K) THE TERM "MUNICIPALITY" SHALL MEAN ANY JURISDICTIONAL SUBDIVISION
20 OF THE STATE, INCLUDING BUT NOT LIMITED TO COUNTIES, CITIES, TOWNS,
21 VILLAGES, IMPROVEMENT DISTRICTS AND SPECIAL DISTRICTS, WITH A POPULATION
22 OF MORE THAN FIFTY THOUSAND, AND INDUSTRIAL DEVELOPMENT AGENCIES IN
23 JURISDICTIONAL SUBDIVISIONS WITH A POPULATION OF MORE THAN FIFTY THOU-
24 SAND; AND PUBLIC AUTHORITIES, AND PUBLIC CORPORATIONS, BUT SHALL NOT
25 INCLUDE SCHOOL DISTRICTS.
26 (L) THE TERM "PUBLIC OFFICIAL" SHALL MEAN:
27 (I) THE GOVERNOR, LIEUTENANT GOVERNOR, COMPTROLLER OR ATTORNEY GENER-
28 AL;
29 (II) MEMBERS OF THE STATE LEGISLATURE;
30 (III) STATE OFFICERS AND EMPLOYEES INCLUDING:
31 (A) HEADS OF STATE DEPARTMENTS AND THEIR DEPUTIES AND ASSISTANTS OTHER
32 THAN MEMBERS OF THE BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF
33 NEW YORK WHO RECEIVE NO COMPENSATION OR ARE COMPENSATED ON A PER DIEM
34 BASIS,
35 (B) OFFICERS AND EMPLOYEES OF STATE ELECTED OFFICIALS,
36 (C) OFFICERS AND EMPLOYEES OF STATE DEPARTMENTS, BOARDS, BUREAUS,
37 DIVISIONS, COMMISSIONS, COUNCILS OR OTHER STATE AGENCIES,
38 (D) MEMBERS OR DIRECTORS OF PUBLIC AUTHORITIES, OTHER THAN MULTI-STATE
39 AUTHORITIES, PUBLIC BENEFIT CORPORATIONS AND COMMISSIONS AT LEAST ONE OF
40 WHOSE MEMBERS IS APPOINTED BY THE GOVERNOR, AND EMPLOYEES OF SUCH
41 AUTHORITIES, CORPORATIONS AND COMMISSIONS;
42 (IV) OFFICERS AND EMPLOYEES OF THE LEGISLATURE; AND
43 (V) MUNICIPAL OFFICERS AND EMPLOYEES INCLUDING AN OFFICER OR EMPLOYEE
44 OF A MUNICIPAL ENTITY, WHETHER PAID OR UNPAID, INCLUDING MEMBERS OF ANY
45 ADMINISTRATIVE BOARD, COMMISSION OR OTHER AGENCY THEREOF AND IN THE CASE
46 OF A COUNTY, SHALL BE DEEMED TO ALSO INCLUDE ANY OFFICER OR EMPLOYEE
47 PAID FROM COUNTY FUNDS. NO PERSON SHALL BE DEEMED TO BE A MUNICIPAL
48 OFFICER OR EMPLOYEE SOLELY BY REASON OF BEING A VOLUNTEER FIREMAN OR
49 CIVIL DEFENSE VOLUNTEER, EXCEPT A FIRE CHIEF OR ASSISTANT FIRE CHIEF.
50 (M) THE TERM "RESTRICTED PERIOD" SHALL MEAN THE PERIOD OF TIME
51 COMMENCING WITH THE EARLIEST WRITTEN NOTICE, ADVERTISEMENT OR SOLICITA-
52 TION OF A REQUEST FOR PROPOSAL, INVITATION FOR BIDS, OR SOLICITATION OF
53 PROPOSALS, OR ANY OTHER METHOD FOR SOLICITING A RESPONSE FROM OFFERERS
54 INTENDING TO RESULT IN A PROCUREMENT CONTRACT WITH A STATE AGENCY,
55 EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT SYSTEM, OR A
56 MUNICIPAL AGENCY, AS THAT TERM IS DEFINED BY SUBPARAGRAPH (II) OF PARA-

1 GRAPH (S) OF THIS SUBDIVISION, AND ENDING WITH THE FINAL CONTRACT AWARD
2 AND APPROVAL BY THE STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE,
3 THE UNIFIED COURT SYSTEM, OR A MUNICIPAL AGENCY, AS THAT TERM IS DEFINED
4 BY SUBPARAGRAPH (II) OF PARAGRAPH (S) OF THIS SUBDIVISION, AND, WHERE
5 APPLICABLE, THE STATE COMPTROLLER.

6 (N) THE TERM "REVENUE CONTRACT" SHALL MEAN ANY WRITTEN AGREEMENT
7 BETWEEN A STATE OR MUNICIPAL AGENCY OR A LOCAL LEGISLATIVE BODY AND AN
8 OFFERER WHEREBY THE STATE OR MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY
9 GIVES OR GRANTS A CONCESSION OR A FRANCHISE.

10 (O) THE TERM "ARTICLE OF PROCUREMENT" SHALL MEAN A COMMODITY, SERVICE,
11 TECHNOLOGY, PUBLIC WORK, CONSTRUCTION, REVENUE CONTRACT, THE PURCHASE,
12 SALE OR LEASE OF PERSONAL OR REAL PROPERTY OR AN ACQUISITION OR GRANTING
13 OF OTHER INTEREST IN REAL PROPERTY, THAT IS THE SUBJECT OF A GOVERN-
14 MENTAL PROCUREMENT.

15 (P) THE TERM "GOVERNMENTAL PROCUREMENT" SHALL MEAN: (I) THE PREPARA-
16 TION OR TERMS OF THE SPECIFICATIONS, BID DOCUMENTS, REQUEST FOR
17 PROPOSALS, OR EVALUATION CRITERIA FOR A PROCUREMENT CONTRACT, (II)
18 SOLICITATION FOR A PROCUREMENT CONTRACT, (III) EVALUATION OF A PROCURE-
19 MENT CONTRACT, (IV) AWARD, APPROVAL, DENIAL OR DISAPPROVAL OF A PROCURE-
20 MENT CONTRACT, OR (V) APPROVAL OR DENIAL OF AN ASSIGNMENT, AMENDMENT
21 (OTHER THAN AMENDMENTS THAT ARE AUTHORIZED AND PAYABLE UNDER THE TERMS
22 OF THE PROCUREMENT CONTRACT AS IT WAS FINALLY AWARDED OR APPROVED BY THE
23 COMPTROLLER, AS APPLICABLE), RENEWAL OR EXTENSION OF A PROCUREMENT
24 CONTRACT, OR ANY OTHER MATERIAL CHANGE IN THE PROCUREMENT CONTRACT
25 RESULTING IN A FINANCIAL BENEFIT TO THE OFFERER.

26 (Q) THE TERM "OFFERER" SHALL MEAN THE INDIVIDUAL OR ENTITY, OR ANY
27 EMPLOYEE, AGENT, LOBBYIST OR CONSULTANT OF SUCH INDIVIDUAL OR ENTITY,
28 THAT CONTACTS A STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE
29 UNIFIED COURT SYSTEM, A MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY ABOUT
30 A GOVERNMENTAL PROCUREMENT.

31 (R) THE TERM "PROCUREMENT CONTRACT" SHALL MEAN ANY CONTRACT OR OTHER
32 AGREEMENT FOR AN ARTICLE OF PROCUREMENT INVOLVING AN ESTIMATED ANNUAL-
33 IZED EXPENDITURE IN EXCESS OF FIFTEEN THOUSAND DOLLARS. GRANTS, ARTICLE
34 ELEVEN-B STATE FINANCE LAW CONTRACTS, PROGRAM CONTRACTS BETWEEN
35 NOT-FOR-PROFIT ORGANIZATIONS, AS DEFINED IN ARTICLE ELEVEN-B OF THE
36 STATE FINANCE LAW, AND THE UNIFIED COURT SYSTEM, INTERGOVERNMENTAL
37 AGREEMENTS, RAILROAD AND UTILITY FORCE ACCOUNTS, UTILITY RELOCATION
38 PROJECT AGREEMENTS OR ORDERS AND EMINENT DOMAIN TRANSACTIONS SHALL NOT
39 BE DEEMED PROCUREMENT CONTRACTS.

40 (S) THE TERM "MUNICIPAL AGENCY" SHALL MEAN: (I) ANY DEPARTMENT, BOARD,
41 BUREAU, COMMISSION, DIVISION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF A
42 MUNICIPALITY, WHETHER PERMANENT OR TEMPORARY; OR (II) AN INDUSTRIAL
43 DEVELOPMENT AGENCY, LOCATED IN A JURISDICTIONAL SUBDIVISION OF THE STATE
44 WITH A POPULATION OF MORE THAN FIFTY THOUSAND, OR LOCAL PUBLIC BENEFIT
45 CORPORATION, AS THAT TERM IS DEFINED IN SECTION SIXTY-SIX OF THE GENERAL
46 CONSTRUCTION LAW.

47 (T) THE TERM "LOCAL LEGISLATIVE BODY" SHALL MEAN THE BOARD OF SUPERVI-
48 SORS, BOARD OF ALDERMEN, COMMON COUNCIL, COUNCIL, COMMISSION, TOWN
49 BOARD, BOARD OF TRUSTEES OR OTHER ELECTIVE GOVERNING BOARD OR BODY OF A
50 MUNICIPALITY NOW OR HEREAFTER VESTED BY STATE STATUTE, CHARTER OR OTHER
51 LAW WITH JURISDICTION TO INITIATE AND ADOPT LOCAL LAWS AND ORDINANCES,
52 WHETHER OR NOT SUCH LOCAL LAWS OR ORDINANCES REQUIRE APPROVAL OF THE
53 ELECTIVE CHIEF EXECUTIVE OFFICER OR OTHER OFFICIAL OR BODY TO BECOME
54 EFFECTIVE.

55 (U) THE TERM "COMMISSION SALESPERSON" SHALL MEAN ANY PERSON THE PRIMA-
56 RY PURPOSE OF WHOSE EMPLOYMENT IS TO CAUSE OR PROMOTE THE SALE OF, OR TO

1 INFLUENCE OR INDUCE ANOTHER TO MAKE A PURCHASE OF AN ARTICLE OF PROCURE-
2 MENT, WHETHER SUCH PERSON IS AN EMPLOYEE (AS THAT TERM IS DEFINED FOR
3 TAX PURPOSES) OF OR AN INDEPENDENT CONTRACTOR FOR A VENDOR, PROVIDED
4 THAT AN INDEPENDENT CONTRACTOR SHALL HAVE A WRITTEN CONTRACT FOR A TERM
5 OF NOT LESS THAN SIX MONTHS OR FOR AN INDEFINITE TERM, AND WHICH PERSON
6 SHALL BE COMPENSATED, IN WHOLE OR IN PART, BY THE PAYMENT OF A PERCENT-
7 AGE AMOUNT OF ALL OR A SUBSTANTIAL PART OF THE SALES WHICH SUCH PERSON
8 HAS CAUSED, PROMOTED, INFLUENCED OR INDUCED, PROVIDED, HOWEVER, THAT NO
9 PERSON SHALL BE CONSIDERED A COMMISSION SALESPERSON WITH RESPECT TO ANY
10 SALE TO OR PURCHASE BY A STATE AGENCY, EITHER HOUSE OF THE STATE LEGIS-
11 LATURE, THE UNIFIED COURT SYSTEM, A MUNICIPAL AGENCY OR LOCAL LEGISLA-
12 TIVE BODY IF THE PERCENTAGE AMOUNT OF ANY COMMISSION PAYABLE WITH
13 RESPECT TO SUCH SALE OR PURCHASE IS SUBSTANTIALLY IN EXCESS OF ANY
14 COMMISSION PAYABLE WITH RESPECT TO ANY COMPARABLE SALE TO A PURCHASER
15 THAT IS NOT A STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE
16 UNIFIED COURT SYSTEM, A MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY;
17 FURTHER, PROVIDED, HOWEVER, THAT ANY PERSON THAT IS REQUIRED TO FILE A
18 STATEMENT OR REPORT PURSUANT TO THIS SECTION BY VIRTUE OF ENGAGING IN
19 LOBBYING ACTIVITIES AS DEFINED IN SUBPARAGRAPHS (I) THROUGH (IV) AND
20 (VI) THROUGH (X) OF PARAGRAPH (C) OF THIS SUBDIVISION SHALL NOT BE
21 DEEMED TO BE A "COMMISSION SALESPERSON" FOR PURPOSES OF THIS SECTION.

22 (V) THE TERM "UNIFIED COURT SYSTEM", FOR THE PURPOSES OF THIS CHAPTER,
23 SHALL MEAN THE UNIFIED COURT SYSTEM OF THE STATE OF NEW YORK, OR THE
24 OFFICE OF COURT ADMINISTRATION, WHERE APPROPRIATE, OTHER THAN TOWN AND
25 VILLAGE JUSTICE COURTS IN JURISDICTIONS WITH A POPULATION UNDER FIFTY
26 THOUSAND, WHEN IT ACTS SOLELY IN AN ADMINISTRATIVE CAPACITY TO ENGAGE IN
27 GOVERNMENTAL PROCUREMENTS AND SHALL NOT INCLUDE THE UNIFIED COURT SYSTEM
28 OR ANY COURT OF THE STATE JUDICIARY WHEN IT ACTS TO HEAR AND DECIDE
29 CASES OF ORIGINAL OR APPELLATE JURISDICTION OR OTHERWISE ACTS IN ITS
30 JUDICIAL, AS OPPOSED TO ADMINISTRATIVE, CAPACITY.

31 (W) "DOMESTIC PARTNER" MEANS A PERSON AT LEAST EIGHTEEN YEARS OF AGE
32 WHO:

33 (A) IS DEPENDENT UPON THE EMPLOYEE FOR SUPPORT AS SHOWN BY EITHER
34 UNILATERAL DEPENDENCE OR MUTUAL INTERDEPENDENCE, AS EVIDENCED BY A NEXUS
35 OF FACTORS INCLUDING, BUT NOT LIMITED TO, COMMON OWNERSHIP OF REAL OR
36 PERSONAL PROPERTY, COMMON HOUSEHOLDING, CHILDREN IN COMMON, SIGNS OF
37 INTENT TO MARRY, SHARED BUDGETING, AND THE LENGTH OF THE PERSONAL
38 RELATIONSHIP WITH THE EMPLOYEE; OR

39 (B) HAS REGISTERED AS THE DOMESTIC PARTNER OF THE EMPLOYEE WITH ANY
40 REGISTRY OF DOMESTIC PARTNERSHIPS MAINTAINED BY THE EMPLOYER OF EITHER
41 PARTY, THE STATE, OR ANY COUNTY, CITY, TOWN, OR VILLAGE.

42 (C) FOR THE PURPOSES OF THIS SECTION, THE DEFINITION OF DOMESTIC PART-
43 NER MADE BY THIS SUBDIVISION SHALL SUPPLEMENT OR SUPERSEDE ANY INCON-
44 SISTENT DEFINITION OF SUCH TERM BY ANY OTHER GENERAL, SPECIAL, OR LOCAL
45 LAW, ORDINANCE, CODE, OR CHARTER SO THAT NO PERSON QUALIFYING AS A
46 DOMESTIC PARTNER, AS DEFINED IN THIS SUBDIVISION, WHETHER REGISTERED OR
47 UNREGISTERED, SHALL, FOR THE PURPOSES OF THIS SECTION, BE DEEMED NOT TO
48 BE A DOMESTIC PARTNER.

49 (D) FOR THE PURPOSES OF THIS SECTION, THE TERM "DOMESTIC PARTNER"
50 SHALL NOT INCLUDE ANY PERSON WHO IS RELATED BY BLOOD TO THE EMPLOYEE IN
51 A MANNER THAT WOULD BAR MARRIAGE TO THE EMPLOYEE IN NEW YORK STATE.

52 3. LOBBY-RELATED POWERS OF THE COMMISSION. IN ADDITION TO ANY OTHER
53 POWERS AND DUTIES PROVIDED BY SECTION SEVENTY-THREE-C OF THIS ARTICLE,
54 THE COMMISSION SHALL, WITH RESPECT TO ITS LOBBYING-RELATED FUNCTIONS
55 ONLY, HAVE THE POWER AND DUTY TO:

56 (A) ADMINISTER AND ENFORCE ALL THE PROVISIONS OF THIS SECTION;

1 (B) CONDUCT ANY INVESTIGATION NECESSARY TO CARRY OUT THE PROVISIONS OF
2 THIS ARTICLE AT ANY PLACE WITHIN THE STATE. PURSUANT TO THIS POWER AND
3 DUTY, THE COMMISSION MAY ADMINISTER OATHS OR AFFIRMATIONS, SUBPOENA
4 WITNESSES, COMPEL THEIR ATTENDANCE AND REQUIRE THE PRODUCTION OF ANY
5 BOOKS OR RECORDS WHICH IT MAY DEEM RELEVANT OR MATERIAL;

6 (C) CONDUCT A PROGRAM OF REGULAR AS WELL AS RANDOM AUDITS SUBJECT TO
7 THE TERMS AND CONDITIONS OF THIS SUBDIVISION. ANY SUCH PROGRAM SHALL BE
8 CARRIED OUT IN THE FOLLOWING MANNER:

9 (I) THE COMMISSION MAY REGULARLY AND RANDOMLY SELECT REPORTS OR REGIS-
10 TRATION STATEMENTS REQUIRED TO BE FILED BY LOBBYISTS OR CLIENTS PURSUANT
11 TO THIS SECTION FOR AUDIT. ANY SUCH SELECTION SHALL BE DONE IN A MANNER
12 PURSUANT TO WHICH THE IDENTITY OF ANY PARTICULAR LOBBYIST OR CLIENT
13 WHOSE STATEMENT OR REPORT IS SELECTED FOR AUDIT IS UNKNOWN TO THE
14 COMMISSION, ITS STAFF OR ANY OF THEIR AGENTS PRIOR TO SELECTION.

15 (II) THE COMMISSION SHALL DEVELOP PROTOCOLS FOR THE CONDUCT OF SUCH
16 REGULAR AND RANDOM AUDITS. SUCH REGULAR AND RANDOM AUDITS MAY REQUIRE
17 THE PRODUCTION OF BOOKS, PAPERS, RECORDS OR MEMORANDA RELEVANT AND MATE-
18 RIAL TO THE PREPARATION OF THE SELECTED STATEMENTS OR REPORTS, FOR EXAM-
19 INATION BY THE COMMISSION. ANY SUCH PROTOCOLS SHALL ENSURE THAT SIMILAR-
20 LY SITUATED STATEMENTS OR REPORTS ARE AUDITED IN A UNIFORM MANNER.

21 (III) THE COMMISSION MAY CONTRACT WITH AN OUTSIDE ACCOUNTING ENTITY,
22 WHICH SHALL MONITOR THE PROCESS PURSUANT TO WHICH THE COMMISSION SELECTS
23 STATEMENTS OR REPORTS FOR AUDIT AND CARRIES OUT THE PROVISIONS OF
24 SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH AND CERTIFIES THAT SUCH
25 PROCESS COMPLIES WITH THE PROVISIONS OF SUCH SUBPARAGRAPHS.

26 (IV) UPON COMPLETION OF A REGULAR OR RANDOM AUDIT CONDUCTED IN ACCORD-
27 ANCE WITH THE PROVISIONS OF SUBPARAGRAPHS (I), (II) AND (III) OF THIS
28 PARAGRAPH, THE COMMISSION SHALL DETERMINE WHETHER THERE IS REASONABLE
29 CAUSE TO BELIEVE THAT ANY SUCH STATEMENT OR REPORT IS INACCURATE OR
30 INCOMPLETE. UPON A DETERMINATION THAT SUCH REASONABLE CAUSE EXISTS, THE
31 COMMISSION MAY REQUIRE THE PRODUCTION OF FURTHER BOOKS, RECORDS OR MEMO-
32 RANDA, SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE AND TESTIMONY AND
33 ADMINISTER OATHS OR AFFIRMATIONS, TO THE EXTENT THE COMMISSION DETER-
34 MINES SUCH ACTIONS ARE NECESSARY TO OBTAIN INFORMATION RELEVANT AND
35 MATERIAL TO INVESTIGATING SUCH INACCURACIES OR OMISSIONS;

36 (D) CONDUCT HEARINGS PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS
37 LAW. ANY HEARING MAY BE CONDUCTED AS A VIDEO CONFERENCE IN ACCORDANCE
38 WITH THE PROVISIONS OF SUBDIVISION FOUR OF SECTION ONE HUNDRED FOUR OF
39 THE PUBLIC OFFICERS LAW;

40 (E) PREPARE UNIFORM FORMS FOR THE LOBBYING-RELATED STATEMENTS AND
41 REPORTS REQUIRED BY THIS SUBDIVISION;

42 (F) MEET AT LEAST ONCE DURING EACH BI-MONTHLY REPORTING PERIOD OF THE
43 YEAR AS ESTABLISHED BY PARAGRAPH (A) OF SUBDIVISION SEVEN OF THIS
44 SECTION AND MAY MEET AT SUCH OTHER TIMES AS THE COMMISSION, OR THE CHAIR
45 AND VICE-CHAIR JOINTLY, SHALL DETERMINE; AND

46 (G) SUBMIT BY THE FIRST DAY OF MARCH NEXT FOLLOWING THE YEAR FOR WHICH
47 SUCH REPORT IS MADE TO THE GOVERNOR AND THE MEMBERS OF THE LEGISLATURE
48 AN ANNUAL REPORT SUMMARIZING THE COMMISSION'S WORK, LISTING THE LOBBY-
49 ISTS AND CLIENTS REQUIRED TO REGISTER PURSUANT TO THIS SECTION AND THE
50 EXPENSES AND COMPENSATION REPORTED PURSUANT TO THIS SECTION AND MAKING
51 RECOMMENDATIONS WITH RESPECT TO THIS SECTION. THE COMMISSION SHALL MAKE
52 THIS REPORT AVAILABLE FREE OF CHARGE TO THE PUBLIC.

53 4. STATEMENT OF REGISTRATION. (A) (I) EVERY LOBBYIST SHALL ANNUALLY
54 FILE WITH THE COMMISSION, ON FORMS PROVIDED BY THE COMMISSION, A STATE-
55 MENT OF REGISTRATION FOR EACH CALENDAR YEAR; PROVIDED, HOWEVER, THAT THE
56 FILING OF SUCH STATEMENT OF REGISTRATION SHALL NOT BE REQUIRED OF ANY

1 LOBBYIST WHO (1) IN ANY YEAR DOES NOT EXPEND, INCUR OR RECEIVE AN AMOUNT
2 IN EXCESS OF FIVE THOUSAND DOLLARS OF REPORTABLE COMPENSATION AND
3 EXPENSES, AS PROVIDED IN SUBPARAGRAPH (V) OF PARAGRAPH (B) OF SUBDIVI-
4 SION SEVEN OF THIS SECTION, FOR THE PURPOSES OF LOBBYING OR (2) IS AN
5 OFFICER, DIRECTOR, TRUSTEE OR EMPLOYEE OF ANY PUBLIC CORPORATION, WHEN
6 ACTING IN SUCH OFFICIAL CAPACITY; PROVIDED HOWEVER, THAT NOTHING IN THIS
7 SUBDIVISION SHALL BE CONSTRUED TO RELIEVE ANY PUBLIC CORPORATION OF THE
8 OBLIGATION TO FILE SUCH STATEMENTS AND REPORTS AS REQUIRED BY THIS
9 SECTION. THE AMOUNTS EXPENDED, INCURRED, OR RECEIVED OF REPORTABLE
10 COMPENSATION AND EXPENSES FOR LOBBYING ACTIVITIES SHALL BE COMPUTED
11 CUMULATIVELY FOR ALL LOBBYING ACTIVITIES WHEN DETERMINING WHETHER THE
12 THRESHOLDS SET FORTH IN THIS SUBDIVISION HAVE BEEN MET.

13 (II) EVERY LOBBYIST SHALL BIENNIALLY FILE WITH THE COMMISSION, ON
14 FORMS PROVIDED BY THE COMMISSION, A STATEMENT OF REGISTRATION FOR EACH
15 BIENNIAL PERIOD BEGINNING WITH THE FIRST YEAR OF THE BIENNIAL CYCLE
16 COMMENCING CALENDAR YEAR TWO THOUSAND FIVE AND THEREAFTER; PROVIDED,
17 HOWEVER, THAT THE BIENNIAL FILING OF SUCH STATEMENT OF REGISTRATION
18 SHALL NOT BE REQUIRED OF ANY LOBBYIST WHO (1) IN ANY YEAR DOES NOT
19 EXPEND, INCUR OR RECEIVE AN AMOUNT IN EXCESS OF FIVE THOUSAND DOLLARS OF
20 REPORTABLE COMPENSATION, AS PROVIDED IN SUBPARAGRAPH (V) OF PARAGRAPH
21 (B) OF SUBDIVISION SEVEN OF THIS SECTION FOR THE PURPOSES OF LOBBYING OR
22 (2) IS AN OFFICER, DIRECTOR, TRUSTEE OR EMPLOYEE OF ANY PUBLIC CORPO-
23 RATION, WHEN ACTING IN SUCH OFFICIAL CAPACITY; PROVIDED HOWEVER, THAT
24 NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO RELIEVE ANY PUBLIC
25 CORPORATION OF THE OBLIGATION TO FILE SUCH STATEMENTS AND REPORTS AS
26 REQUIRED BY THIS SECTION.

27 (III) SUCH BIENNIAL FILINGS SHALL BE COMPLETED ON OR BEFORE JANUARY
28 FIRST OF THE FIRST YEAR OF A BIENNIAL CYCLE COMMENCING IN CALENDAR YEAR
29 TWO THOUSAND FIVE AND THEREAFTER, BY THOSE PERSONS WHO HAVE BEEN
30 RETAINED, EMPLOYED OR DESIGNATED AS LOBBYIST ON OR BEFORE DECEMBER
31 FIFTEENTH OF THE PREVIOUS CALENDAR YEAR AND WHO REASONABLY ANTICIPATE
32 THAT IN THE COMING YEAR THEY WILL EXPEND, INCUR OR RECEIVE COMBINED
33 REPORTABLE COMPENSATION AND EXPENSES IN AN AMOUNT IN EXCESS OF FIVE
34 THOUSAND DOLLARS COMMENCING IN TWO THOUSAND TEN; FOR THOSE LOBBYISTS
35 RETAINED, EMPLOYED OR DESIGNATED AFTER THE PREVIOUS DECEMBER FIFTEENTH,
36 AND FOR THOSE LOBBYISTS WHO SUBSEQUENT TO THEIR RETAINER, EMPLOYMENT OR
37 DESIGNATION REASONABLY ANTICIPATE COMBINED REPORTABLE COMPENSATION AND
38 EXPENSES IN EXCESS OF SUCH AMOUNT, SUCH FILING MUST BE COMPLETED WITHIN
39 FIFTEEN DAYS THEREAFTER, BUT IN NO EVENT LATER THAN TEN DAYS AFTER THE
40 ACTUAL INCURRING OR RECEIVING OF SUCH REPORTABLE COMPENSATION AND
41 EXPENSES.

42 (B) (I) SUCH STATEMENTS OF REGISTRATION SHALL BE KEPT ON FILE FOR A
43 PERIOD OF THREE YEARS FOR THOSE FILING PERIODS WHERE ANNUAL STATEMENTS
44 ARE REQUIRED, AND SHALL BE OPEN TO PUBLIC INSPECTION DURING SUCH PERIOD;
45 (II) BIENNIAL STATEMENTS OF REGISTRATION SHALL BE KEPT ON FILE FOR A
46 PERIOD OF THREE BIENNIAL FILING PERIODS WHERE BIENNIAL STATEMENTS ARE
47 REQUIRED, AND SHALL BE OPEN TO PUBLIC INSPECTION DURING SUCH PERIOD.

48 (C) SUCH STATEMENT OF REGISTRATION SHALL CONTAIN: (I) THE NAME,
49 ADDRESS AND TELEPHONE NUMBER OF THE LOBBYIST AND THE SPOUSE, DOMESTIC
50 PARTNER AND UNEMANCIPATED CHILDREN OF THE LOBBYIST, AND IF THE LOBBYIST
51 IS AN ORGANIZATION THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF ANY
52 OFFICER OR EMPLOYEE OF SUCH LOBBYIST WHO ENGAGES IN ANY LOBBYING ACTIV-
53 ITIES OR WHO IS EMPLOYED IN AN ORGANIZATION'S DIVISION THAT ENGAGES IN
54 LOBBYING ACTIVITIES OF THE ORGANIZATION AND THE SPOUSE AND UNEMANCIPATED
55 CHILDREN OF SUCH OFFICERS OR EMPLOYEES, PROVIDED THAT THE ADDRESSES AND
56 TELEPHONE NUMBERS OF SPOUSES AND UNEMANCIPATED CHILDREN SHALL BE NOT BE

1 MADE AVAILABLE TO THE PUBLIC; (II) THE NAME, ADDRESS AND TELEPHONE
2 NUMBER OF THE CLIENT BY WHOM OR ON WHOSE BEHALF THE LOBBYIST IS
3 RETAINED, EMPLOYED OR DESIGNATED; (III) IF SUCH LOBBYIST IS RETAINED OR
4 EMPLOYED PURSUANT TO A WRITTEN AGREEMENT OF RETAINER OR EMPLOYMENT, A
5 COPY OF SUCH SHALL ALSO BE ATTACHED AND IF SUCH RETAINER OR EMPLOYMENT
6 IS ORAL, A STATEMENT OF THE SUBSTANCE THEREOF; SUCH WRITTEN RETAINER, OR
7 IF IT IS ORAL, A STATEMENT OF THE SUBSTANCE THEREOF, AND ANY AMENDMENT
8 THERETO, SHALL BE RETAINED FOR A PERIOD OF THREE YEARS; (IV) A WRITTEN
9 AUTHORIZATION FROM THE CLIENT BY WHOM THE LOBBYIST IS AUTHORIZED TO
10 LOBBY, UNLESS SUCH LOBBYIST HAS FILED A WRITTEN AGREEMENT OF RETAINER OR
11 EMPLOYMENT PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH; (V) THE
12 FOLLOWING INFORMATION ON WHICH THE LOBBYIST EXPECTS TO LOBBY: (1) A
13 DESCRIPTION OF THE GENERAL SUBJECT OR SUBJECTS, (2) THE LEGISLATIVE BILL
14 NUMBERS OF ANY BILLS, (3) THE NUMBERS OR SUBJECT MATTER (IF THERE ARE NO
15 NUMBERS) OF GUBERNATORIAL EXECUTIVE ORDERS OR EXECUTIVE ORDERS ISSUED BY
16 THE CHIEF EXECUTIVE OFFICER OF A MUNICIPALITY, (4) THE SUBJECT MATTER OF
17 AND TRIBES INVOLVED IN TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTAND-
18 ING, OR ANY OTHER STATE-TRIBAL AGREEMENTS AND ANY STATE ACTIONS RELATED
19 TO CLASS III GAMING AS PROVIDED IN 25 U.S.C. S 2701, (5) THE RULE, REGU-
20 LATION, AND RATEMAKING NUMBERS OF ANY RULES, REGULATIONS, RATES, OR
21 MUNICIPAL ORDINANCES AND RESOLUTIONS, OR PROPOSED RULES, REGULATIONS, OR
22 RATES, OR MUNICIPAL ORDINANCES AND RESOLUTIONS, (6) THE TITLES AND ANY
23 IDENTIFYING NUMBERS OF ANY STATE LOANS, STATE GRANTS, PROCUREMENT
24 CONTRACTS AND OTHER DISBURSEMENTS OR DOCUMENTS DISSEMINATED BY A STATE
25 AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT SYSTEM,
26 MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY IN CONNECTION WITH A GOVERN-
27 MENTAL PROCUREMENT, AND THE IDENTITY OF ANY INVESTMENT FOR PUBLIC
28 PENSION FUNDS; (VI) THE NAME OF THE PERSON, ORGANIZATION, OR LEGISLATIVE
29 BODY BEFORE WHICH THE LOBBYIST IS LOBBYING OR EXPECTS TO LOBBY; AND
30 (VII) IF THE LOBBYIST IS RETAINED, EMPLOYED OR DESIGNATED BY MORE THAN
31 ONE CLIENT, A SEPARATE STATEMENT OF REGISTRATION SHALL BE REQUIRED FOR
32 EACH SUCH CLIENT.

33 (D) ANY AMENDMENT TO THE INFORMATION FILED BY THE LOBBYIST IN THE
34 ORIGINAL STATEMENT OF REGISTRATION SHALL BE SUBMITTED TO THE COMMISSION
35 ON FORMS SUPPLIED BY THE COMMISSION WITHIN TEN DAYS AFTER SUCH AMEND-
36 MENT, HOWEVER, THIS SHALL NOT REQUIRE THE LOBBYIST TO AMEND THE ENTIRE
37 REGISTRATION FORM.

38 (E) (I) THE FIRST STATEMENT OF REGISTRATION FILED ANNUALLY BY EACH
39 LOBBYIST SHALL BE ACCOMPANIED BY A REGISTRATION FEE OF TWO HUNDRED
40 DOLLARS EXCEPT THAT NO REGISTRATION FEE SHALL BE REQUIRED FROM ANY
41 LOBBYIST WHO IN ANY YEAR DOES NOT EXPEND, INCUR OR RECEIVE AN AMOUNT IN
42 EXCESS OF FIVE THOUSAND DOLLARS OF REPORTABLE COMPENSATION AND EXPENSES,
43 AS PROVIDED IN SUBPARAGRAPH (V) OF PARAGRAPH (B) OF SUBDIVISION SEVEN OF
44 THIS SECTION, FOR THE PURPOSES OF LOBBYING OR OF A PUBLIC CORPORATION. A
45 FEE OF TWO HUNDRED DOLLARS SHALL BE REQUIRED FOR ANY SUBSEQUENT STATE-
46 MENT OF REGISTRATION FILED BY A LOBBYIST DURING THE SAME BIENNIAL PERI-
47 OD; (II) THE STATEMENT OF REGISTRATION FILED AFTER THE DUE DATE OF A
48 BIENNIAL REGISTRATION SHALL BE ACCOMPANIED BY A REGISTRATION FEE THAT IS
49 PRORATED TO ONE HUNDRED DOLLARS FOR ANY REGISTRATION FILED AFTER JANUARY
50 FIRST OF THE SECOND CALENDAR YEAR COVERED BY THE BIENNIAL REPORTING
51 REQUIREMENT. IN ADDITION TO THE FEES AUTHORIZED BY THIS SUBDIVISION, THE
52 COMMISSION MAY IMPOSE A FEE FOR LATE FILING OF A REGISTRATION STATEMENT
53 REQUIRED BY THIS SUBDIVISION NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH
54 DAY THAT THE STATEMENT REQUIRED TO BE FILED IS LATE, EXCEPT THAT IF THE
55 LOBBYIST MAKING A LATE FILING HAS NOT PREVIOUSLY BEEN REQUIRED BY STAT-
56 UTE TO FILE SUCH A STATEMENT, THE FEE FOR LATE FILING SHALL NOT EXCEED

1 TEN DOLLARS FOR EACH DAY THAT THE STATEMENT REQUIRED TO BE FILED IS
2 LATE.

3 4-A. EVERY LOBBYIST SHALL PROVIDE ON THE REGISTRATION STATEMENT FORMS
4 PROVIDED BY THE COMMISSION A STATEMENT LISTING ANY BUSINESS RELATION-
5 SHIPS WITH STATE OFFICERS, MEMBERS OF THE LEGISLATURE, AND LEGISLATIVE
6 EMPLOYEES REGARDLESS OF WHETHER OR NOT FOR COMPENSATION. FOR THE
7 PURPOSES OF THIS SUBDIVISION, BUSINESS RELATIONSHIPS SHALL INCLUDE, BUT
8 NOT BE LIMITED TO, REFERRALS, ORAL AGREEMENTS, OR FORMAL WRITTEN
9 CONTRACTUAL AGREEMENTS.

10 4-B. BEYOND THE ITEMS REQUIRED TO BE LISTED PURSUANT TO THIS SECTION,
11 EVERY LOBBYIST SHALL PROVIDE ON THE REGISTRATION STATEMENT FORMS
12 PROVIDED BY THE COMMISSION A STATEMENT LISTING ALL LOBBYIST OR CLIENT
13 SOLICITATIONS OF PUBLIC OFFICERS WITHIN ANY DEPARTMENT, AGENCY, OR
14 EITHER HOUSE OF THE LEGISLATURE.

15 5. MONTHLY REGISTRATION DOCKET. IT SHALL BE THE DUTY OF THE COMMISSION
16 TO COMPILE A MONTHLY DOCKET OF STATEMENTS OF REGISTRATION CONTAINING ALL
17 INFORMATION REQUIRED BY SUBDIVISION FOUR OF THIS SECTION. EACH SUCH
18 MONTHLY DOCKET SHALL CONTAIN ALL STATEMENTS OF REGISTRATION FILED DURING
19 SUCH MONTH AND ALL AMENDMENTS TO PREVIOUSLY FILED STATEMENTS OF REGIS-
20 TRATION. COPIES SHALL BE MADE AVAILABLE FOR PUBLIC INSPECTION.

21 6. TERMINATION OF RETAINER, EMPLOYMENT OR DESIGNATION. UPON THE TERMI-
22 NATION OF A LOBBYIST'S RETAINER, EMPLOYMENT OR DESIGNATION, SUCH LOBBY-
23 IST AND THE CLIENT ON WHOSE BEHALF SUCH SERVICE HAS BEEN RENDERED SHALL
24 BOTH GIVE WRITTEN NOTICE TO THE COMMISSION WITHIN THIRTY DAYS AFTER THE
25 LOBBYIST CEASES THE ACTIVITY THAT REQUIRED SUCH LOBBYIST TO FILE A
26 STATEMENT OF REGISTRATION; HOWEVER, SUCH LOBBYIST SHALL NEVERTHELESS
27 COMPLY WITH THE BI-MONTHLY REPORTING REQUIREMENTS UP TO THE DATE SUCH
28 ACTIVITY HAS CEASED AS REQUIRED BY THIS SECTION AND BOTH SUCH PARTIES
29 SHALL EACH FILE THE SEMI-ANNUAL REPORT REQUIRED BY SUBDIVISION NINE OF
30 THIS SECTION. THE COMMISSION SHALL ENTER NOTICE OF SUCH TERMINATION IN
31 THE APPROPRIATE MONTHLY REGISTRATION DOCKET REQUIRED BY SUBDIVISION FIVE
32 OF THIS SECTION.

33 7. BI-MONTHLY REPORTS OF CERTAIN LOBBYISTS. (A) ANY LOBBYIST REQUIRED
34 TO FILE A STATEMENT OF REGISTRATION PURSUANT TO SUBDIVISION FOUR OF THIS
35 SECTION WHO IN ANY LOBBYING YEAR REASONABLY ANTICIPATES THAT DURING THE
36 YEAR THEY WILL EXPEND, INCUR OR RECEIVE COMBINED REPORTABLE COMPENSATION
37 AND EXPENSES IN AN AMOUNT IN EXCESS OF FIVE THOUSAND DOLLARS, AS
38 PROVIDED IN SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION, FOR
39 THE PURPOSE OF LOBBYING, SHALL FILE WITH THE COMMISSION A BI-MONTHLY
40 WRITTEN REPORT, ON FORMS SUPPLIED BY THE COMMISSION, BY THE FIFTEENTH
41 DAY NEXT SUCCEEDING THE END OF THE REPORTING PERIOD IN WHICH THE LOBBY-
42 IST WAS FIRST REQUIRED TO FILE A STATEMENT OF REGISTRATION. SUCH REPORT-
43 ING PERIODS SHALL BE THE PERIOD OF JANUARY FIRST TO THE LAST DAY OF
44 FEBRUARY, MARCH FIRST TO APRIL THIRTIETH, MAY FIRST TO JUNE THIRTIETH,
45 JULY FIRST TO AUGUST THIRTY-FIRST, SEPTEMBER FIRST TO OCTOBER
46 THIRTY-FIRST AND NOVEMBER FIRST TO DECEMBER THIRTY-FIRST.

47 (B) SUCH BI-MONTHLY REPORT SHALL CONTAIN:

48 (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE LOBBYIST;

49 (II) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CLIENT BY WHOM OR
50 ON WHOSE BEHALF THE LOBBYIST IS RETAINED, EMPLOYED OR DESIGNATED;

51 (III) THE FOLLOWING INFORMATION ON WHICH THE LOBBYIST HAS LOBBIED,
52 SOLICITED, OR ENTERED A BUSINESS RELATIONSHIP WITH: (1) A DESCRIPTION
53 OF THE GENERAL SUBJECT OR SUBJECTS, (2) THE LEGISLATIVE BILL NUMBERS OF
54 ANY BILLS, (3) THE NUMBERS OR SUBJECT MATTER (IF THERE ARE NO NUMBERS)
55 OF GUBERNATORIAL EXECUTIVE ORDERS OR EXECUTIVE ORDERS ISSUED BY THE
56 CHIEF EXECUTIVE OFFICER OF A MUNICIPALITY, (4) THE SUBJECT MATTER OF AND

1 TRIBES INVOLVED IN TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING, OR
2 ANY OTHER STATE-TRIBAL AGREEMENTS AND ANY STATE ACTIONS RELATED TO CLASS
3 III GAMING AS PROVIDED IN 25 U.S.C. S 2701, (5) THE RULE, REGULATION,
4 AND RATEMAKING OR MUNICIPAL ORDINANCE OR RESOLUTION NUMBERS OF ANY
5 RULES, REGULATIONS, OR RATES OR ORDINANCE OR PROPOSED RULES, REGU-
6 LATIONS, OR RATES OR MUNICIPAL ORDINANCES OR RESOLUTIONS, (6) TITLES AND
7 ANY IDENTIFYING NUMBERS OF ANY PROCUREMENT CONTRACTS AND OTHER DOCUMENTS
8 DISSEMINATED BY A STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE,
9 THE UNIFIED COURT SYSTEM, MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY IN
10 CONNECTION WITH A GOVERNMENTAL PROCUREMENT, AND (7) THE IDENTITY OF ANY
11 INVESTMENT FOR PUBLIC PENSION FUNDS;

12 (IV) THE NAME OF THE PERSON, ORGANIZATION, OR LEGISLATIVE BODY BEFORE
13 WHICH THE LOBBYIST HAS LOBBIED;

14 (V) (1) THE COMPENSATION PAID OR OWED TO THE LOBBYIST, AND ANY
15 EXPENSES EXPENDED, RECEIVED OR INCURRED BY THE LOBBYIST FOR THE PURPOSE
16 OF LOBBYING.

17 (2) EXPENSES REQUIRED TO BE REPORTED PURSUANT TO SUBPARAGRAPH (I) OF
18 THIS PARAGRAPH SHALL BE LISTED IN THE AGGREGATE IF SEVENTY-FIVE DOLLARS
19 OR LESS AND IF MORE THAN SEVENTY-FIVE DOLLARS SUCH EXPENSES SHALL BE
20 DETAILED AS TO AMOUNT, TO WHOM PAID, AND FOR WHAT PURPOSE; AND WHERE
21 SUCH EXPENSE IS MORE THAN SEVENTY-FIVE DOLLARS ON BEHALF OF ANY ONE
22 PERSON, THE NAME OF SUCH PERSON SHALL BE LISTED.

23 (3) FOR THE PURPOSES OF THIS PARAGRAPH, EXPENSES SHALL NOT INCLUDE:

24 (A) PERSONAL SUSTENANCE, LODGING AND TRAVEL DISBURSEMENTS OF SUCH
25 LOBBYIST;

26 (B) EXPENSES, NOT IN EXCESS OF FIVE HUNDRED DOLLARS IN ANY ONE CALEN-
27 DAR YEAR, DIRECTLY INCURRED FOR THE PRINTING OR OTHER MEANS OF REPROD-
28 UCTION OR MAILING OF LETTERS, MEMORANDA OR OTHER WRITTEN COMMUNICATIONS.

29 (4) EXPENSES PAID OR INCURRED FOR SALARIES OTHER THAN THAT OF THE
30 LOBBYIST SHALL BE LISTED IN THE AGGREGATE.

31 (5) EXPENSES OF MORE THAN FIFTY DOLLARS SHALL BE PAID BY CHECK OR
32 SUBSTANTIATED BY RECEIPTS AND SUCH CHECKS AND RECEIPTS SHALL BE KEPT ON
33 FILE BY THE LOBBYIST FOR A PERIOD OF THREE YEARS.

34 (C) (I) ALL SUCH BI-MONTHLY REPORTS SHALL BE SUBJECT TO REVIEW BY THE
35 COMMISSION.

36 (II) SUCH BI-MONTHLY REPORTS SHALL BE KEPT ON FILE FOR THREE YEARS AND
37 SHALL BE OPEN TO PUBLIC INSPECTION DURING SUCH TIME.

38 (III) IN ADDITION TO THE FILING FEES AUTHORIZED BY THIS SECTION, THE
39 COMMISSION MAY IMPOSE A FEE FOR LATE FILING OF A BI-MONTHLY REPORT
40 REQUIRED BY THIS SUBDIVISION NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH
41 DAY THAT THE REPORT REQUIRED TO BE FILED IS LATE, EXCEPT THAT IF THE
42 LOBBYIST MAKING A LATE FILING HAS NOT PREVIOUSLY BEEN REQUIRED BY STAT-
43 UTE TO FILE SUCH A REPORT, THE FEE FOR LATE FILING SHALL NOT EXCEED TEN
44 DOLLARS FOR EACH DAY THAT THE REPORT REQUIRED TO BE FILED IS LATE.

45 8. BI-MONTHLY REPORTS OF PUBLIC CORPORATIONS. (A) EVERY PUBLIC CORPO-
46 RATION REQUIRED TO FILE A STATEMENT OF REGISTRATION PURSUANT TO SUBDIVI-
47 SION FOUR OF THIS SECTION WHICH IN ANY LOBBYING YEAR REASONABLY ANTIC-
48 IPATES THAT DURING THE YEAR THEY WILL EXPEND OR INCUR EXPENSES IN AN
49 AMOUNT IN EXCESS OF FIVE THOUSAND DOLLARS, AS PROVIDED IN SUBPARAGRAPH
50 (VI) OF PARAGRAPH (B) OF THIS SUBDIVISION, FOR THE PURPOSE OF LOBBYING
51 SHALL FILE WITH THE COMMISSION A BI-MONTHLY WRITTEN REPORT, ON FORMS
52 SUPPLIED BY THE COMMISSION, BY THE FIFTEENTH DAY NEXT SUCCEEDING THE END
53 OF THE REPORTING PERIOD IN WHICH THE PUBLIC CORPORATION WAS FIRST
54 REQUIRED TO FILE A STATEMENT OF REGISTRATION. SUCH REPORTING PERIODS
55 SHALL BE THE PERIOD OF JANUARY FIRST TO THE LAST DAY OF FEBRUARY, MARCH
56 FIRST TO APRIL THIRTIETH, MAY FIRST TO JUNE THIRTIETH, JULY FIRST TO

1 AUGUST THIRTY-FIRST, SEPTEMBER FIRST TO OCTOBER THIRTY-FIRST AND NOVEM-
2 BER FIRST TO DECEMBER THIRTY-FIRST.

3 (B) SUCH BI-MONTHLY REPORT SHALL CONTAIN:

4 (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF SUCH PUBLIC CORPORATION;

5 (II) THE NAME, ADDRESS AND TELEPHONE NUMBER OF EACH LOBBYIST RETAINED,
6 EMPLOYED OR DESIGNATED BY SUCH PUBLIC CORPORATION;

7 (III) COPIES OF ANY AMENDMENTS RELATING TO A RETAINER, EMPLOYMENT OR
8 DESIGNATION, AS FILED IN THE ORIGINAL STATEMENT OF REGISTRATION PURSUANT
9 TO SUBDIVISION FOUR OF THIS SECTION;

10 (IV) A DESCRIPTION OF THE GENERAL SUBJECT OR SUBJECTS, THE LEGISLATIVE
11 BILL NUMBERS OF ANY BILLS AND THE RULE, REGULATION, AND RATEMAKING
12 NUMBERS OF ANY RULES, REGULATIONS, OR RATES OR PROPOSED RULES, REGU-
13 LATIONS, RATES, ARTICLE OF PROCUREMENT OR PROCUREMENT CONTRACTS OR
14 PENSION FUND INVESTMENTS ON WHICH THE LOBBYIST HAS LOBBIED, AND ON WHICH
15 SUCH PUBLIC CORPORATION HAS LOBBIED;

16 (V) THE NAME OF THE PERSON, ORGANIZATION OR LEGISLATIVE BODY BEFORE
17 WHICH THE PUBLIC CORPORATION, OR ITS LOBBYISTS, HAS LOBBIED;

18 (VI) (1) THE COMPENSATION PAID OR OWED TO THE LOBBYIST AND ANY
19 EXPENSES EXPENDED, RECEIVED OR INCURRED BY THE LOBBYIST FOR THE PURPOSE
20 OF LOBBYING; PROVIDED, HOWEVER, ANY SUCH EXPENSES PAID BY SUCH PUBLIC
21 CORPORATION TO A LOBBYIST FOR THE PURPOSE OF LOBBYING ON BEHALF OF SUCH
22 PUBLIC CORPORATION SHALL BE ITEMIZED IN THE SAME MANNER AS IF SUCH
23 PUBLIC CORPORATION HAD DIRECTLY PAID OR INCURRED SUCH EXPENSES.

24 (2) ANY EXPENSES REQUIRED TO BE REPORTED PURSUANT TO CLAUSE ONE OF
25 THIS SUBPARAGRAPH SHALL BE LISTED IN THE AGGREGATE IF SEVENTY-FIVE
26 DOLLARS OR LESS AND IF MORE THAN SEVENTY-FIVE DOLLARS SUCH EXPENSES
27 SHALL BE DETAILED AS TO AMOUNT, TO WHOM PAID, AND FOR WHAT PURPOSE; AND
28 WHERE SUCH EXPENSES ARE MORE THAN SEVENTY-FIVE DOLLARS ON BEHALF OF ANY
29 ONE PERSON, THE NAME OF SUCH PERSON SHALL BE LISTED.

30 (3) FOR THE PURPOSES OF THIS SUBPARAGRAPH, EXPENSES SHALL NOT INCLUDE:

31 (A) PERSONAL SUSTENANCE, LODGING AND TRAVEL DISBURSEMENTS OF EACH SUCH
32 LOBBYIST;

33 (B) EXPENSES, NOT IN EXCESS OF FIVE HUNDRED DOLLARS IN ANY ONE CALEN-
34 DAR YEAR, DIRECTLY INCURRED FOR THE PRINTING OR OTHER MEANS OF REPROD-
35 UCTION OR MAILING OF LETTERS, MEMORANDA OR OTHER WRITTEN COMMUNICATIONS.

36 (4) EXPENSES PAID OR INCURRED FOR COMPENSATION OTHER THAN THAT OF EACH
37 LOBBYIST SHALL BE LISTED IN THE AGGREGATE.

38 (5) EXPENSES OF MORE THAN FIFTY DOLLARS MUST BE PAID BY CHECK OR
39 SUBSTANTIATED BY RECEIPTS AND SUCH CHECKS AND RECEIPTS SHALL BE KEPT ON
40 FILE BY SUCH PUBLIC CORPORATION FOR A PERIOD OF THREE YEARS.

41 (C) (I) ALL SUCH BI-MONTHLY REPORTS SHALL BE SUBJECT TO REVIEW BY THE
42 COMMISSION.

43 (II) SUCH BI-MONTHLY REPORTS SHALL BE KEPT ON FILE FOR A PERIOD OF
44 THREE YEARS AND SHALL BE OPEN TO PUBLIC INSPECTION DURING SUCH PERIOD.

45 (III) IN ADDITION TO THE FILING FEES AUTHORIZED BY THIS SECTION, THE
46 COMMISSION MAY IMPOSE A FEE FOR LATE FILING OF A BI-MONTHLY REPORT
47 REQUIRED BY THIS SUBDIVISION NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH
48 DAY THAT THE REPORT REQUIRED TO BE FILED IS LATE, EXCEPT THAT IF THE
49 PUBLIC CORPORATION MAKING A LATE FILING HAS NOT PREVIOUSLY BEEN REQUIRED
50 BY STATUTE TO FILE SUCH A REPORT, THE FEE FOR LATE FILING SHALL NOT
51 EXCEED TEN DOLLARS FOR EACH DAY THAT THE REPORT REQUIRED TO BE FILED IS
52 LATE.

53 9. SEMI-ANNUAL REPORTS. (A) SEMI-ANNUAL REPORTS SHALL BE FILED BY ANY
54 CLIENT RETAINING, EMPLOYING OR DESIGNATING A LOBBYIST OR LOBBYISTS,
55 WHETHER OR NOT ANY SUCH LOBBYIST WAS REQUIRED TO FILE A BI-MONTHLY
56 REPORT, IF SUCH CLIENT REASONABLY ANTICIPATES THAT DURING THE YEAR THEY

1 WILL EXPEND OR INCUR AN AMOUNT IN EXCESS OF FIVE THOUSAND DOLLARS OF
2 COMBINED REPORTABLE COMPENSATION AND EXPENSES, AS PROVIDED IN SUBPARA-
3 GRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION, FOR THE PURPOSES OF
4 LOBBYING.

5 (B) SUCH REPORT SHALL BE FILED WITH THE COMMISSION, ON FORMS SUPPLIED
6 BY THE COMMISSION, BY THE FIFTEENTH DAY OF JULY OF THE YEAR AND BY THE
7 FIFTEENTH DAY OF JANUARY NEXT FOLLOWING THE YEAR FOR WHICH SUCH REPORT
8 IS MADE AND SHALL CONTAIN:

9 (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CLIENT;

10 (II) THE NAME, ADDRESS AND TELEPHONE NUMBER OF EACH LOBBYIST RETAINED,
11 EMPLOYED OR DESIGNATED BY SUCH CLIENT;

12 (III) THE FOLLOWING INFORMATION ON WHICH EACH LOBBYIST RETAINED,
13 EMPLOYED OR DESIGNATED BY SUCH CLIENT HAS LOBBIED, AND ON WHICH SUCH
14 CLIENT HAS LOBBIED: (1) A DESCRIPTION OF THE GENERAL SUBJECT OR
15 SUBJECTS, (2) THE LEGISLATIVE BILL NUMBERS OF ANY BILLS, (3) THE NUMBERS
16 OR SUBJECT MATTER (IF THERE ARE NO NUMBERS) OF GUBERNATORIAL EXECUTIVE
17 ORDERS OR EXECUTIVE ORDERS ISSUED BY THE CHIEF EXECUTIVE OFFICER OF A
18 MUNICIPALITY, (4) THE SUBJECT MATTER OF AND TRIBES INVOLVED IN
19 TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING, OR ANY OTHER
20 STATE-TRIBAL AGREEMENTS AND ANY STATE ACTIONS RELATED TO CLASS III
21 GAMING AS PROVIDED IN 25 U.S.C. 2701, (5) THE RULE, REGULATION, AND
22 RATEMAKING OR MUNICIPAL RESOLUTION OR ORDINANCE NUMBERS OF ANY RULES,
23 REGULATIONS, OR RATES, OR MUNICIPAL RESOLUTIONS OR ORDINANCES OR
24 PROPOSED RULES, REGULATIONS, OR RATES, OR MUNICIPAL ORDINANCES OR RESOL-
25 UTIONS AND (6) THE TITLES AND ANY IDENTIFYING NUMBERS OF ANY PROCUREMENT
26 CONTRACTS AND OTHER DOCUMENTS DISSEMINATED BY A STATE AGENCY, EITHER
27 HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT SYSTEM, MUNICIPAL
28 AGENCY OR LOCAL LEGISLATIVE BODY IN CONNECTION WITH A GOVERNMENTAL
29 PROCUREMENT;

30 (IV) THE NAME OF THE PERSON, ORGANIZATION, OR LEGISLATIVE BODY BEFORE
31 WHICH SUCH CLIENT HAS LOBBIED;

32 (V) (1) THE COMPENSATION PAID OR OWED TO EACH SUCH LOBBYIST, AND ANY
33 OTHER EXPENSES PAID OR INCURRED BY SUCH CLIENT FOR THE PURPOSE OF LOBBY-
34 ING.

35 (2) ANY EXPENSES REQUIRED TO BE REPORTED PURSUANT TO CLAUSE ONE OF
36 THIS SUBPARAGRAPH SHALL BE LISTED IN THE AGGREGATE IF SEVENTY-FIVE
37 DOLLARS OR LESS AND IF MORE THAN SEVENTY-FIVE DOLLARS SUCH EXPENSES
38 SHALL BE DETAILED AS TO AMOUNT, TO WHOM PAID, AND FOR WHAT PURPOSE; AND
39 WHERE SUCH EXPENSES ARE MORE THAN SEVENTY-FIVE DOLLARS ON BEHALF OF ANY
40 ONE PERSON, THE NAME OF SUCH PERSON SHALL BE LISTED.

41 (3) FOR THE PURPOSES OF THIS SUBPARAGRAPH, EXPENSES SHALL NOT INCLUDE:

42 (A) PERSONAL SUSTENANCE, LODGING AND TRAVEL DISBURSEMENTS OF SUCH
43 LOBBYIST AND CLIENT;

44 (B) EXPENSES, NOT IN EXCESS OF FIVE HUNDRED DOLLARS, DIRECTLY INCURRED
45 FOR THE PRINTING OR OTHER MEANS OF REPRODUCTION OR MAILING OF LETTERS,
46 MEMORANDA OR OTHER WRITTEN COMMUNICATIONS.

47 (4) EXPENSES PAID OR INCURRED FOR SALARIES OTHER THAN THAT OF THE
48 LOBBYIST SHALL BE LISTED IN THE AGGREGATE.

49 (5) EXPENSES OF MORE THAN FIFTY DOLLARS MUST BE PAID BY CHECK OR
50 SUBSTANTIATED BY RECEIPTS AND SUCH CHECKS AND RECEIPTS SHALL BE KEPT ON
51 FILE BY SUCH CLIENT FOR A PERIOD OF THREE YEARS.

52 (C) (I) ALL SUCH SEMI-ANNUAL REPORTS SHALL BE SUBJECT TO REVIEW BY THE
53 COMMISSION.

54 (II) SUCH SEMI-ANNUAL REPORTS SHALL BE KEPT ON FILE FOR A PERIOD OF
55 THREE YEARS AND SHALL BE OPEN TO PUBLIC INSPECTION DURING SUCH PERIOD.

1 (III) EACH SEMI-ANNUAL REPORT FILED BY A CLIENT PURSUANT TO THIS
2 SUBDIVISION SHALL BE ACCOMPANIED BY A FILING FEE OF FIFTY DOLLARS. IN
3 ADDITION TO THE FILING FEES AUTHORIZED BY THIS SECTION, THE COMMISSION
4 MAY IMPOSE A FEE FOR LATE FILING OF A SEMI-ANNUAL REPORT REQUIRED BY
5 THIS SUBDIVISION NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH DAY THAT THE
6 REPORT REQUIRED TO BE FILED IS LATE, EXCEPT THAT IF THE CLIENT MAKING A
7 LATE FILING HAS NOT PREVIOUSLY BEEN REQUIRED BY STATUTE TO FILE AN ANNU-
8 AL OR SEMI-ANNUAL REPORT, THE FEE FOR LATE FILING SHALL NOT EXCEED TEN
9 DOLLARS FOR EACH DAY THAT THE REPORT REQUIRED TO BE FILED IS LATE.

10 10. CONTINGENT RETAINER. (A) NO CLIENT SHALL RETAIN OR EMPLOY ANY
11 LOBBYIST FOR COMPENSATION, INCLUDING, BUT NOT LIMITED TO, ANY BONUS,
12 SUCCESS FEE, OR OTHER INDUCEMENT TO AN INDIVIDUAL THAT INCREASES HIS OR
13 HER PERSONAL INCOME OR WEALTH, THE RATE OR AMOUNT OF WHICH COMPENSATION
14 IN WHOLE OR PART IS CONTINGENT OR DEPENDENT UPON:

15 (I) (1) THE PASSAGE OR DEFEAT OF ANY LEGISLATIVE BILL OR THE APPROVAL
16 OR VETO OF ANY LEGISLATION BY THE GOVERNOR, (2) THE TERMS, ISSUANCE,
17 MODIFICATION OR RESCISSION OF A GUBERNATORIAL EXECUTIVE ORDER, (3) THE
18 TERMS, APPROVAL OR DISAPPROVAL, OR THE IMPLEMENTATION AND ADMINISTRATION
19 OF TRIBAL-STATE COMPACTS, MEMORANDA OF UNDERSTANDING, OR ANY OTHER
20 TRIBAL-STATE AGREEMENTS AND ANY STATE ACTIONS RELATED TO CLASS III
21 GAMING AS PROVIDED IN 25 U.S.C. 2701, OR (4) THE ADOPTION OR REJECTION
22 OF ANY CODE, RULE OR REGULATION HAVING THE FORCE AND EFFECT OF LAW OR
23 THE OUTCOME OF ANY RATE MAKING PROCEEDING BY A STATE AGENCY; (II)(1) THE
24 PASSAGE OR DEFEAT OF ANY LOCAL LAW, ORDINANCE, REGULATION OR RESOLUTION
25 BY ANY MUNICIPALITY OR SUBDIVISION THEREOF, (2) THE TERMS, ISSUANCE,
26 MODIFICATION OR RESCISSION OF AN EXECUTIVE ORDER ISSUED BY THE CHIEF
27 EXECUTIVE OFFICER OF A MUNICIPALITY, OR (3) THE ADOPTION, REJECTION OR
28 IMPLEMENTATION OF ANY RULE, RESOLUTION OR REGULATION HAVING THE FORCE
29 AND EFFECT OF A LOCAL LAW, ORDINANCE OR REGULATION OR ANY RATE MAKING
30 PROCEEDING BY ANY MUNICIPALITY OR SUBDIVISION THEREOF; (4) ANY DETERMI-
31 NATION BY THE OFFICE OF THE STATE OR CITY OF NEW YORK COMPTROLLER, A
32 STATE AGENCY, INCLUDING, BUT NOT LIMITED TO, PUBLIC AUTHORITIES AND
33 PUBLIC BENEFIT CORPORATIONS, EITHER HOUSE OF THE STATE LEGISLATURE, THE
34 UNIFIED COURT SYSTEM, MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY WITH
35 RESPECT TO A GOVERNMENTAL PROCUREMENT, ARTICLE OF PROCUREMENT OR A
36 GRANT, LOAN, PURCHASE OR LEASE OF REAL OR PERSONAL PROPERTY, AGREEMENT
37 OR INVESTMENT INVOLVING THE DISBURSEMENT OF PUBLIC MONIES.

38 (B) NO PERSON SHALL ACCEPT SUCH A RETAINER OR EMPLOYMENT. A VIOLATION
39 OF THIS SUBDIVISION SHALL BE A CLASS A MISDEMEANOR.

40 11. REPORTS OF LOBBYING INVOLVING DISBURSEMENT OF PUBLIC MONIES. (A)
41 ANY LOBBYIST REQUIRED TO FILE A STATEMENT OF REGISTRATION PURSUANT TO
42 SUBDIVISION FOUR OF THIS SECTION WHO IN ANY LOBBYING YEAR REASONABLY
43 ANTICIPATES THAT DURING THE YEAR THEY WILL EXPEND, INCUR OR RECEIVE
44 COMBINED REPORTABLE COMPENSATION AND EXPENSES IN AN AMOUNT IN EXCESS OF
45 FIVE THOUSAND DOLLARS SHALL FILE WITH THE COMMISSION, ON FORMS SUPPLIED
46 BY THE COMMISSION, A REPORT OF ANY ATTEMPTS TO INFLUENCE A DETERMINATION
47 BY A PUBLIC OFFICIAL, OR BY A PERSON OR ENTITY WORKING IN COOPERATION
48 WITH A PUBLIC OFFICIAL, WITH RESPECT TO THE SOLICITATION, AWARD OR
49 ADMINISTRATION OF A GRANT, LOAN, OR AGREEMENT INVOLVING THE DISBURSEMENT
50 OF PUBLIC MONIES IN EXCESS OF FIFTEEN THOUSAND DOLLARS OTHER THAN A
51 GOVERNMENTAL PROCUREMENT AS DEFINED IN SUBDIVISION TWO OF THIS SECTION.

52 (B) SUCH PUBLIC MONIES LOBBYING REPORTS SHALL CONTAIN:

53 (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE LOBBYIST AND THE
54 INDIVIDUALS EMPLOYED BY THE LOBBYIST ENGAGED IN SUCH PUBLIC MONIES
55 LOBBYING ACTIVITIES;

1 (II) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CLIENT BY WHOM OR
2 ON WHOSE BEHALF THE LOBBYIST IS RETAINED, EMPLOYED OR DESIGNATED ON
3 WHOSE BEHALF THE LOBBYIST ENGAGED IN LOBBYING REPORTABLE UNDER THIS
4 PARAGRAPH;

5 (III) A DESCRIPTION OF THE GRANT, LOAN, OR AGREEMENT INVOLVING THE
6 DISBURSEMENT OF PUBLIC MONIES ON WHICH THE LOBBYIST HAS LOBBIED;

7 (IV) THE NAME OF THE PERSON, ORGANIZATION, OR LEGISLATIVE BODY BEFORE
8 WHICH THE LOBBYIST HAS ENGAGED IN LOBBYING REPORTABLE UNDER THIS PARA-
9 GRAPH; AND

10 (V) THE COMPENSATION PAID OR OWED TO THE LOBBYIST, AND ANY EXPENSES
11 EXPENDED, RECEIVED OR INCURRED BY THE LOBBYIST FOR THE PURPOSE OF LOBBY-
12 ING REPORTABLE UNDER THIS PARAGRAPH.

13 (C) PUBLIC MONIES LOBBYING REPORTS REQUIRED PURSUANT TO THIS PARAGRAPH
14 SHALL BE FILED IN ACCORDANCE WITH THE SCHEDULE APPLICABLE TO THE FILING
15 OF BI-MONTHLY REPORTS PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION AND
16 SHALL BE FILED NOT LATER THAN THE FIFTEENTH DAY NEXT SUCCEEDING THE END
17 OF SUCH REPORTING PERIOD.

18 (D) IN ADDITION TO ANY OTHER FEES AUTHORIZED BY THIS SECTION, THE
19 COMMISSION MAY IMPOSE A FEE FOR LATE FILING OF A REPORT REQUIRED BY THIS
20 SUBDIVISION NOT TO EXCEED FIFTY DOLLARS FOR EACH DAY THAT THE REPORT
21 REQUIRED TO BE FILED IS LATE, EXCEPT THAT IF THE LOBBYIST MAKING A LATE
22 FILING HAS NOT PREVIOUSLY BEEN REQUIRED BY STATUTE TO FILE SUCH A
23 REPORT, THE FEE FOR LATE FILING SHALL NOT EXCEED TWENTY-FIVE DOLLARS FOR
24 EACH DAY THAT THE REPORT REQUIRED TO BE FILED IS LATE.

25 (E) ALL REPORTS FILED PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT TO
26 REVIEW BY THE COMMISSION. SUCH REPORTS SHALL BE KEPT IN ELECTRONIC FORM
27 BY THE COMMISSION AND SHALL BE AVAILABLE FOR PUBLIC INSPECTION.

28 12. PROHIBITION OF GIFTS. NO INDIVIDUAL OR ENTITY REQUIRED TO BE
29 LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO THIS SECTION SHALL
30 OFFER OR GIVE A GIFT TO ANY PUBLIC OFFICIAL AS DEFINED WITHIN THIS
31 SECTION, UNLESS UNDER THE CIRCUMSTANCES IT IS NOT REASONABLE TO INFER
32 THAT THE GIFT WAS INTENDED TO INFLUENCE SUCH PUBLIC OFFICIAL. NO INDI-
33 VIDUAL OR ENTITY REQUIRED TO BE LISTED ON A STATEMENT OF REGISTRATION
34 PURSUANT TO THIS SECTION SHALL OFFER OR GIVE A GIFT TO THE SPOUSE OR
35 UNEMANCIPATED CHILD OF ANY PUBLIC OFFICIAL AS DEFINED WITHIN THIS
36 SECTION UNDER CIRCUMSTANCES WHERE IT IS REASONABLE TO INFER THAT THE
37 GIFT WAS INTENDED TO INFLUENCE SUCH PUBLIC OFFICIAL. NO SPOUSE OR
38 UNEMANCIPATED CHILD OF AN INDIVIDUAL REQUIRED TO BE LISTED ON A STATE-
39 MENT OF REGISTRATION PURSUANT TO THIS SECTION SHALL OFFER OR GIVE A GIFT
40 TO A PUBLIC OFFICIAL UNDER CIRCUMSTANCES WHERE IT IS REASONABLE TO INFER
41 THAT THE GIFT WAS INTENDED TO INFLUENCE SUCH PUBLIC OFFICIAL. THIS
42 SECTION SHALL NOT APPLY TO GIFTS TO OFFICERS, MEMBERS OR DIRECTORS OF
43 BOARDS, COMMISSIONS, COUNCILS, PUBLIC AUTHORITIES OR PUBLIC BENEFIT
44 CORPORATIONS WHO RECEIVE NO COMPENSATION OR ARE COMPENSATED ON A PER
45 DIEM BASIS, UNLESS THE PERSON LISTED ON THE STATEMENT OF REGISTRATION
46 APPEARS OR HAS MATTERS PENDING BEFORE THE BOARD, COMMISSION OR COUNCIL
47 ON WHICH THE RECIPIENT SITS.

48 13. RESTRICTED CONTACTS. (A) DURING THE RESTRICTED PERIOD, NO PERSON
49 OR ORGANIZATION REQUIRED TO FILE A STATEMENT OR REPORT PURSUANT TO THIS
50 SECTION SHALL ENGAGE IN LOBBYING ACTIVITIES CONCERNING A GOVERNMENTAL
51 PROCUREMENT BY A STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE,
52 THE UNIFIED COURT SYSTEM, OR A MUNICIPAL AGENCY, AS THAT TERM IS DEFINED
53 BY SUBPARAGRAPH (II) OF PARAGRAPH (S) OF SUBDIVISION TWO OF THIS
54 SECTION, BY CONTACTING A PERSON WITHIN THE PROCURING ENTITY WHO HAS NOT
55 BEEN DESIGNATED PURSUANT TO SECTION ONE HUNDRED THIRTY-NINE-J OF THE
56 STATE FINANCE LAW TO RECEIVE COMMUNICATIONS RELATIVE TO THE GOVERNMENTAL

1 PROCUREMENT. FURTHER, DURING THE RESTRICTED PERIOD, NO PERSON OR ORGAN-
2 IZATION REQUIRED TO FILE A LOBBYING REGISTRATION STATEMENT OR REPORT
3 PURSUANT TO THIS SECTION SHALL ENGAGE IN LOBBYING ACTIVITIES CONCERNING
4 A GOVERNMENTAL PROCUREMENT BY CONTACTING ANY PERSON IN A STATE AGENCY
5 OTHER THAN THE STATE AGENCY CONDUCTING THE GOVERNMENTAL PROCUREMENT
6 ABOUT THAT GOVERNMENTAL PROCUREMENT. THE PROHIBITIONS SET FORTH IN THIS
7 PARAGRAPH SHALL NOT APPLY TO ANY CONTACTS DESCRIBED IN PARAGRAPH (B) OR
8 (C) OF THIS SUBDIVISION.

9 (B) A COMPLAINT BY AN OFFERER REGARDING THE FAILURE OF THE PERSON OR
10 PERSONS DESIGNATED BY THE PROCURING ENTITY PURSUANT TO SECTION ONE
11 HUNDRED THIRTY-NINE-J OF THE STATE FINANCE LAW TO RESPOND IN A TIMELY
12 MANNER TO AUTHORIZED OFFERER CONTACTS SHALL NOT BE DEEMED TO BE "LOBBY-
13 ING" OR "LOBBYING ACTIVITIES" AND SHALL BE EXEMPT FROM THE PROVISIONS OF
14 PARAGRAPH ONE OF THIS SUBDIVISION AND SHALL BE MADE IN WRITING TO THE
15 OFFICE OF GENERAL COUNSEL OF THE STATE AGENCY, EITHER HOUSE OF THE STATE
16 LEGISLATURE OR THE UNIFIED COURT SYSTEM THAT IS CONDUCTING THE PROCURE-
17 MENT. FURTHER, THE FOLLOWING CONTACTS SHALL NOT BE DEEMED TO BE "LOBBY-
18 ING" OR "LOBBYING ACTIVITIES" AND SHALL BE EXEMPT FROM THE PROVISIONS OF
19 PARAGRAPH (A) OF THIS SUBDIVISION:

20 (I) CONTACTS BY OFFERERS IN PROTESTS, APPEALS OR OTHER REVIEW
21 PROCEEDINGS (INCLUDING THE APPARENT SUCCESSFUL BIDDER OR PROPOSER AND
22 HIS OR HER REPRESENTATIVES) BEFORE THE GOVERNMENTAL ENTITY CONDUCTING
23 THE PROCUREMENT SEEKING A FINAL ADMINISTRATIVE DETERMINATION, OR IN A
24 SUBSEQUENT JUDICIAL PROCEEDING; OR

25 (II) COMPLAINTS OF ALLEGED IMPROPER CONDUCT IN A GOVERNMENTAL PROCURE-
26 MENT TO THE ATTORNEY GENERAL, INSPECTOR GENERAL, DISTRICT ATTORNEY, OR
27 COURT OF COMPETENT JURISDICTION; OR

28 (III) WRITTEN PROTESTS, APPEALS OR COMPLAINTS TO THE STATE COMP-
29 TROLLER'S OFFICE DURING THE PROCESS OF CONTRACT APPROVAL, WHERE THE
30 STATE COMPTROLLER'S APPROVAL IS REQUIRED BY LAW, AND WHERE SUCH COMMUNI-
31 CATIONS AND ANY RESPONSES THERETO ARE MADE IN WRITING AND SHALL BE
32 ENTERED IN THE PROCUREMENT RECORD PURSUANT TO SECTION ONE HUNDRED
33 SIXTY-THREE OF THE STATE FINANCE LAW; OR

34 (IV) COMPLAINTS OF ALLEGED IMPROPER CONDUCT IN A GOVERNMENTAL PROCURE-
35 MENT CONDUCTED BY A MUNICIPAL AGENCY OR LOCAL LEGISLATIVE BODY TO THE
36 STATE COMPTROLLER'S OFFICE; PROVIDED, HOWEVER, THAT NOTHING IN THIS
37 PARAGRAPH SHALL BE CONSTRUED AS RECOGNIZING OR CREATING ANY NEW RIGHTS,
38 DUTIES OR RESPONSIBILITIES OR ABROGATING ANY EXISTING RIGHTS, DUTIES OR
39 RESPONSIBILITIES OF ANY GOVERNMENTAL ENTITY AS IT PERTAINS TO IMPLEMEN-
40 TATION AND ENFORCEMENT OF ARTICLE ELEVEN OF THE STATE FINANCE LAW OR ANY
41 OTHER PROVISION OF LAW DEALING WITH THE GOVERNMENTAL PROCUREMENT PROC-
42 ESS.

43 (C) NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO PROHIBIT A PERSON
44 OR ORGANIZATION REQUIRED TO FILE A STATEMENT OR REPORT PURSUANT TO THIS
45 SECTION FROM CONTACTING A MEMBER OF THE STATE LEGISLATURE CONCERNING A
46 GOVERNMENTAL PROCUREMENT IN A STATE AGENCY, THE UNIFIED COURT SYSTEM, OR
47 A MUNICIPAL AGENCY, AS THAT TERM IS DEFINED BY SUBPARAGRAPH (II) OF
48 PARAGRAPH (S) OF SUBDIVISION TWO OF THIS SECTION.

49 14. PENALTIES. (A) (I) ANY LOBBYIST, PUBLIC CORPORATION, OR CLIENT
50 WHO KNOWINGLY AND WILFULLY FAILS TO FILE TIMELY A REPORT OR STATEMENT
51 REQUIRED BY THIS SECTION OR KNOWINGLY AND WILFULLY FILES FALSE INFORMA-
52 TION OR KNOWINGLY AND WILFULLY VIOLATES SUBDIVISION TWELVE OF THIS
53 SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR; AND (II) ANY LOBBYIST,
54 PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND WILFULLY FAILS TO FILE
55 TIMELY A REPORT OR STATEMENT REQUIRED BY THIS SECTION OR KNOWINGLY AND
56 WILFULLY FILES FALSE INFORMATION OR KNOWINGLY AND WILFULLY VIOLATES

1 SUBDIVISION TWELVE OF THIS SECTION, AFTER HAVING PREVIOUSLY BEEN
2 CONVICTED IN THE PRECEDING FIVE YEARS OF THE CRIME DESCRIBED IN SUBPARA-
3 GRAPH (I) OF THIS PARAGRAPH, SHALL BE GUILTY OF A CLASS E FELONY. ANY
4 LOBBYIST CONVICTED OF OR PLEADING GUILTY TO A MISDEMEANOR UNDER THE
5 PROVISIONS OF THIS SECTION SHALL BE BARRED FROM ACTING AS A LOBBYIST FOR
6 A PERIOD OF ONE YEAR FROM THE DATE OF THE CONVICTION. ANY LOBBYIST
7 CONVICTED OF OR PLEADING GUILTY TO A FELONY UNDER THE PROVISIONS OF THIS
8 SECTION SHALL BE BARRED FROM ACTING AS A LOBBYIST FOR A PERIOD OF FOUR
9 YEARS FROM THE DATE OF THE CONVICTION. FOR THE PURPOSES OF THIS PARA-
10 GRAPH, THE CHIEF ADMINISTRATIVE OFFICER OF ANY ORGANIZATION REQUIRED TO
11 FILE A STATEMENT OR REPORT SHALL BE THE PERSON RESPONSIBLE FOR MAKING
12 AND FILING SUCH STATEMENT OR REPORT UNLESS SOME OTHER PERSON PRIOR TO
13 THE DUE DATE THEREOF HAS BEEN DULY DESIGNATED TO MAKE AND FILE SUCH
14 STATEMENT OR REPORT.

15 (B) (I) A LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND
16 WILFULLY FAILS TO FILE A STATEMENT OR REPORT WITHIN THE TIME REQUIRED
17 FOR THE FILING OF SUCH REPORT OR KNOWINGLY AND WILFULLY VIOLATES SUBDI-
18 VISION TWELVE OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY FOR
19 EACH SUCH FAILURE OR VIOLATION, IN AN AMOUNT NOT TO EXCEED THE GREATER
20 OF TWENTY-FIVE THOUSAND DOLLARS OR THREE TIMES THE AMOUNT THE PERSON
21 FAILED TO REPORT PROPERLY OR UNLAWFULLY CONTRIBUTED, EXPENDED, GAVE OR
22 RECEIVED, TO BE ASSESSED BY THE COMMISSION.

23 (II) A LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND
24 WILFULLY FILES A FALSE STATEMENT OR REPORT SHALL BE SUBJECT TO A CIVIL
25 PENALTY, IN AN AMOUNT NOT TO EXCEED THE GREATER OF FIFTY THOUSAND
26 DOLLARS OR FIVE TIMES THE AMOUNT THE PERSON FAILED TO REPORT PROPERLY,
27 TO BE ASSESSED BY THE COMMISSION.

28 (III) (1) A LOBBYIST OR CLIENT WHO KNOWINGLY AND WILFULLY VIOLATES THE
29 PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION THIRTEEN OF THIS SECTION
30 SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS
31 FOR AN INITIAL VIOLATION.

32 (2) IF, AFTER A LOBBYIST OR CLIENT HAS BEEN FOUND TO HAVE VIOLATED
33 PARAGRAPH (A) OF SUBDIVISION THIRTEEN OF THIS SECTION, A LOBBYIST OR
34 CLIENT KNOWINGLY AND WILFULLY VIOLATES THE PROVISIONS OF PARAGRAPH (A)
35 OF SUBDIVISION THIRTEEN OF THIS SECTION WITHIN FOUR YEARS OF SUCH FIND-
36 ING, THE LOBBYIST OR CLIENT SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO
37 EXCEED TWENTY-FIVE THOUSAND DOLLARS.

38 (IV) ANY LOBBYIST OR CLIENT THAT KNOWINGLY AND WILFULLY FAILS TO FILE
39 A STATEMENT OR REPORT WITHIN THE TIME REQUIRED FOR THE FILING OF SUCH
40 REPORT, KNOWINGLY AND WILFULLY FILES A FALSE STATEMENT OR REPORT, OR
41 KNOWINGLY AND WILFULLY VIOLATES SUBDIVISION TWELVE OR SUBDIVISION THIR-
42 TEEN OF THIS SECTION SHALL BE SUBJECT TO A DETERMINATION THAT THE LOBBY-
43 IST OR CLIENT IS PROHIBITED FROM ENGAGING IN LOBBYING ACTIVITIES, AS
44 THAT TERM IS DEFINED IN SUBPARAGRAPH (V) OF PARAGRAPH (C) OF SUBDIVISION
45 TWO OF THIS SECTION, FOR A PERIOD OF UP TO ONE YEAR.

46 (V) ANY LOBBYIST OR CLIENT THAT KNOWINGLY AND WILFULLY ENGAGES IN
47 LOBBYING ACTIVITIES, AS THAT TERM IS DEFINED IN SUBPARAGRAPH (V) OF
48 PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION, DURING THE PERIOD IN
49 WHICH THEY ARE PROHIBITED FROM ENGAGING IN LOBBYING ACTIVITIES, AS THAT
50 TERM IS DEFINED IN SUBPARAGRAPH (V) OF PARAGRAPH (C) OF SUBDIVISION TWO
51 OF THIS SECTION PURSUANT TO THIS PARAGRAPH, MAY BE SUBJECT TO A DETERMI-
52 NATION THAT THE LOBBYIST OR CLIENT IS PROHIBITED FROM ENGAGING IN LOBBY-
53 ING ACTIVITIES, AS THAT TERM IS DEFINED IN SUBPARAGRAPH (V) OF PARAGRAPH
54 (C) OF SUBDIVISION TWO OF THIS SECTION, FOR A PERIOD OF UP TO FOUR
55 YEARS, AND SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIFTY THOU-

1 SAND DOLLARS, PLUS A CIVIL PENALTY IN AN AMOUNT EQUAL TO THE VALUE OF
2 ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF THE VIOLATION.
3 (VI) A LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND
4 WILFULLY FAILS TO RETAIN THEIR RECORDS PURSUANT TO SUBPARAGRAPH (III) OF
5 PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION, CLAUSE FIVE OF
6 SUBPARAGRAPH (V) OF PARAGRAPH (B) OF SUBDIVISION SEVEN OF THIS SECTION,
7 OR SUBPARAGRAPH (V) OF PARAGRAPH (B) OF SUBDIVISION NINE OF THIS SECTION
8 SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT OF TWO THOUSAND DOLLARS
9 PER VIOLATION TO BE ASSESSED BY THE COMMISSION.

10 (C)(I) ANY ASSESSMENT OR ORDER TO DEBAR SHALL BE DETERMINED ONLY AFTER
11 A HEARING AT WHICH THE PARTY SHALL BE ENTITLED TO APPEAR, PRESENT
12 EVIDENCE AND BE HEARD. ANY ASSESSMENT OR ORDER TO DEBAR PURSUANT TO THIS
13 PARAGRAPH MAY ONLY BE IMPOSED AFTER THE COMMISSION SENDS BY CERTIFIED
14 AND FIRST-CLASS MAIL WRITTEN NOTICE OF INTENT TO ASSESS A PENALTY OR
15 ORDER TO DEBAR AND THE BASIS FOR THE PENALTY OR ORDER TO DEBAR. ANY
16 ASSESSMENT MAY BE RECOVERED IN AN ACTION BROUGHT BY THE ATTORNEY GENER-
17 AL.

18 (II) IN ASSESSING ANY FINE OR PENALTY PURSUANT TO THIS SUBDIVISION,
19 THE COMMISSION SHALL CONSIDER: (1) AS A MITIGATING FACTOR THAT THE
20 LOBBYIST, PUBLIC CORPORATION OR CLIENT HAS NOT PREVIOUSLY BEEN REQUIRED
21 TO REGISTER, AND (2) AS AN AGGRAVATING FACTOR THAT THE LOBBYIST, PUBLIC
22 CORPORATION OR CLIENT HAS HAD FINES OR PENALTIES ASSESSED AGAINST IT IN
23 THE PAST. THE AMOUNT OF COMPENSATION EXPENDED, INCURRED OR RECEIVED
24 SHALL BE A FACTOR TO CONSIDER IN DETERMINING A PROPORTIONATE PENALTY.

25 (III) ANY LOBBYIST, PUBLIC CORPORATION OR CLIENT WHO RECEIVES A NOTICE
26 OF INTENT TO ASSESS A PENALTY FOR KNOWINGLY AND WILLFULLY FAILING TO
27 FILE A REPORT OR STATEMENT PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION
28 AND WHO HAS NEVER PREVIOUSLY REGISTERED WITH OR REPORTED TO THE COMMIS-
29 SION SHALL BE GRANTED FIFTEEN DAYS WITHIN WHICH TO FILE THE STATEMENT OF
30 REGISTRATION OR REPORT WITHOUT BEING SUBJECT TO THE FINE OR PENALTY SET
31 FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION. UPON THE FAILURE OF SUCH
32 LOBBYIST, PUBLIC CORPORATION OR CLIENT, TO FILE WITHIN SUCH FIFTEEN DAY
33 PERIOD, SUCH LOBBYIST, PUBLIC CORPORATION OR CLIENT, SHALL BE SUBJECT TO
34 THE FINE OR PENALTY PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION.

35 (D) ALL MONEYS RECOVERED BY THE ATTORNEY GENERAL OR RECEIVED BY THE
36 COMMISSION FROM THE ASSESSMENT OF CIVIL PENALTIES AUTHORIZED BY THIS
37 SECTION SHALL BE DEPOSITED TO THE GENERAL FUND.

38 15. ENFORCEMENT. (A) ALL STATEMENTS AND REPORTS REQUIRED UNDER THIS
39 SECTION SHALL BE SUBJECT TO A DECLARATION BY THE PERSON MAKING AND
40 FILING SUCH STATEMENT AND REPORT THAT THE INFORMATION IS TRUE, CORRECT
41 AND COMPLETE TO THE BEST KNOWLEDGE AND BELIEF OF THE SIGNER UNDER THE
42 PENALTIES OF PERJURY.

43 (B) THE COMMISSION SHALL BE CHARGED WITH THE DUTY OF REVIEWING ALL
44 STATEMENTS AND REPORTS REQUIRED UNDER THIS SECTION FOR VIOLATIONS, AND
45 IT SHALL BE ITS DUTY, IF IT DEEMS SUCH TO BE WILFUL, TO REPORT SUCH
46 DETERMINATION TO THE ATTORNEY GENERAL OR OTHER APPROPRIATE AUTHORITY.

47 (C) UPON RECEIPT OF NOTICE OF SUCH FAILURE FROM THE COMMISSION, THE
48 ATTORNEY GENERAL OR OTHER APPROPRIATE AUTHORITY SHALL TAKE SUCH ACTION
49 AS HE OR SHE DEEMS APPROPRIATE TO SECURE COMPLIANCE WITH THE PROVISIONS
50 OF THIS SECTION.

51 16. RECORD OF APPEARANCES. THE COMMISSION SHALL PROMULGATE ALL RULES
52 OR REGULATIONS AND ANY PROCEDURES, FORMS, OR INSTRUCTIONS NECESSARY TO
53 IMPLEMENT THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-SIX OF THE EXECU-
54 TIVE LAW RELATING TO THE QUARTERLY FILING OF THE RECORD OF APPEARANCES
55 BEFORE REGULATORY AGENCIES.

1 17. PUBLICATION OF STATEMENT ON LOBBYING REGULATIONS. THE COMMISSION
2 SHALL PUBLISH A STATEMENT ON LOBBYING REGULATIONS SETTING FORTH THE
3 REQUIREMENTS OF THIS SECTION IN A CLEAR AND BRIEF MANNER. SUCH STATE-
4 MENT SHALL CONTAIN AN EXPLANATION OF THE REGISTRATION AND FILING
5 REQUIREMENTS AND THE PENALTIES FOR VIOLATION THEREOF, TOGETHER WITH SUCH
6 OTHER INFORMATION AS THE COMMISSION SHALL DETERMINE, AND COPIES THEREOF
7 SHALL BE MADE AVAILABLE TO THE PUBLIC AT CONVENIENT LOCATIONS THROUGHOUT
8 THE STATE.

9 18. PUBLIC ACCESS TO RECORDS; FORMAT OF RECORDS AND REPORTS. THE
10 COMMISSION SHALL MAKE INFORMATION FURNISHED BY LOBBYISTS AND CLIENTS
11 AVAILABLE TO THE PUBLIC FOR INSPECTION AND COPYING IN ELECTRONIC AND
12 PAPER FORMATS. ACCESS TO SUCH INFORMATION SHALL ALSO BE MADE AVAILABLE
13 FOR REMOTE COMPUTER USERS THROUGH THE INTERNET NETWORK.

14 19. ANNUAL REPORT. THE COMMISSION SHALL ANNUALLY REPORT TO THE GOVER-
15 NOR, THE OFFICE OF COURT ADMINISTRATION, THE COMPTROLLER AND THE LEGIS-
16 LATURE ANY PROBLEMS IN THE IMPLEMENTATION OF SUCH PROVISIONS THAT
17 PERTAIN TO PROCUREMENT LOBBYING. THE COMMISSION SHALL INCLUDE IN THE
18 REPORT ANY RECOMMENDED CHANGES TO INCREASE THE EFFECTIVENESS OF THAT
19 IMPLEMENTATION.

20 19-A. REVIEW OF COMPLAINTS. THE COMMISSION SHALL REVIEW ANY
21 COMPLAINTS MADE PURSUANT TO SECTION ONE HUNDRED THIRTY-NINE-J OF THE
22 STATE FINANCE LAW, INCLUDING:

23 (A) CONTACTS DURING THE RESTRICTED PERIOD BETWEEN DESIGNATED STAFF OF
24 A STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT
25 SYSTEM, OR A MUNICIPAL AGENCY, AS THAT TERM IS DEFINED IN SUBPARAGRAPH
26 (II) OF PARAGRAPH (S) OF SUBDIVISION TWO OF THIS SECTION, INVOLVED IN
27 GOVERNMENTAL PROCUREMENTS AND OFFICERS OR EMPLOYEES OF OFFERERS, OR
28 OFFICERS OR EMPLOYEES OF SUBCONTRACTORS OF OFFERERS, WHO ARE CHARGED
29 WITH THE PERFORMANCE OF FUNCTIONS RELATING TO CONTRACTS AND WHO ARE
30 QUALIFIED BY EDUCATION, TRAINING OR EXPERIENCE TO PROVIDE TECHNICAL
31 SERVICES TO EXPLAIN, CLARIFY OR DEMONSTRATE THE QUALITIES, CHARACTER-
32 ISTICS OR ADVANTAGES OF AN ARTICLE OF PROCUREMENT. SUCH AUTHORIZED
33 CONTACTS SHALL: (I) BE LIMITED TO PROVIDING INFORMATION TO STAFF OF A
34 STATE AGENCY, EITHER HOUSE OF THE STATE LEGISLATURE, THE UNIFIED COURT
35 SYSTEM, OR A MUNICIPAL AGENCY, AS THAT TERM IS DEFINED IN SUBPARAGRAPH
36 (II) OF PARAGRAPH (S) OF SUBDIVISION TWO OF THIS SECTION, TO ASSIST THEM
37 IN UNDERSTANDING AND ASSESSING THE QUALITIES, CHARACTERISTICS OR ANTIC-
38 IPATED PERFORMANCE OF AN ARTICLE OF PROCUREMENT, (II) NOT INCLUDE ANY
39 RECOMMENDATIONS OR ADVOCATE ANY CONTRACT PROVISIONS, AND (III) OCCUR
40 ONLY AT SUCH TIMES AND IN SUCH MANNER AS AUTHORIZED UNDER THE PROCURING
41 ENTITY'S SOLICITATION OR GUIDELINES AND PROCEDURES. FOR THE PURPOSES OF
42 THIS SUBPARAGRAPH, THE TERM "TECHNICAL SERVICES" SHALL BE LIMITED TO
43 ANALYSIS DIRECTLY APPLYING ANY ACCOUNTING, ENGINEERING, SCIENTIFIC, OR
44 OTHER SIMILAR TECHNICAL DISCIPLINES;

45 (B) CONTACTS BETWEEN OFFERERS AND PUBLIC OFFICIALS AND OFFICERS OR
46 EMPLOYEES OF THE UNIFIED COURT SYSTEM DURING THE PREPARATION OF SPECIFI-
47 CATIONS, BID DOCUMENTS OR REQUEST FOR PROPOSALS, INVITATION FOR BIDS, OR
48 ANY OTHER METHOD FOR SOLICITING A RESPONSE FROM OFFERERS FOR A PROCURE-
49 MENT CONTRACT PRIOR TO THE RESTRICTED PERIOD.

50 20. RESTRICTIONS ON POLITICAL CONTRIBUTIONS BY LOBBYISTS. A LOBBYIST
51 SHALL NOT SOLICIT, MAKE OR TRANSMIT A CONTRIBUTION OR A REQUEST FOR A
52 CONTRIBUTION FROM OR TO ANY PERSON, INCLUDING A POLITICAL COMMITTEE FOR
53 THE BENEFIT OF A PUBLIC OFFICIAL OR PARTY COMMITTEE, FOR ELECTION OR
54 NOMINATION TO ANY STATE OR MUNICIPAL CORPORATION OFFICE; EXCEPT THAT A
55 LOBBYIST MAY MAKE A POLITICAL CONTRIBUTION UP TO TWO HUNDRED FIFTY
56 DOLLARS PER CANDIDATE PER ELECTION OR NOMINATION. SUCH CONTRIBUTIONS

1 SHALL NOT BE SUBJECT TO MATCHABLE CONTRIBUTIONS UNDER TITLE TWO OF ARTI-
2 CLE FOURTEEN OF THE ELECTION LAW.

3 21. RESTRICTIONS ON ACCEPTANCE OF POLITICAL CONTRIBUTIONS BY PUBLIC
4 OFFICIALS. A PUBLIC OFFICIAL SHALL NOT KNOWINGLY ACCEPT, SOLICIT, OR
5 TRANSMIT A CONTRIBUTION OR A REQUEST FOR A CONTRIBUTION FOR HIMSELF OR
6 HERSELF OR ANY PUBLIC OFFICIAL, POLITICAL COMMITTEE, OR CANDIDATE FROM
7 OR ON BEHALF OF ANY LOBBYIST REGULATED BY THIS ARTICLE, EXCEPT THAT A
8 PUBLIC OFFICIAL MAY ACCEPT POLITICAL CONTRIBUTIONS FROM A LOBBYIST, UP
9 TO TWO HUNDRED FIFTY DOLLARS PER ELECTION.

10 22. APPLICABILITY OF CERTAIN LAWS. THE PROVISIONS OF THIS SECTION
11 INCLUDING, BUT NOT LIMITED TO, ANY PROCEEDING OR HEARING CONDUCTED
12 PURSUANT HERETO, SHALL BE SUBJECT TO THE APPLICABLE PROVISIONS OF THE
13 STATE ADMINISTRATIVE PROCEDURE ACT AND SECTION SEVENTY-THREE OF THE
14 CIVIL RIGHTS LAW.

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

17 J. AN OFFICER OR EMPLOYEE OF A STATE AGENCY OR MEMBER OF THE LEGISLA-
18 TURE SHALL ABIDE BY THE TERMS OF ARTICLE SEVEN OF THIS CHAPTER.

19 S 7. Section 94 of the executive law is REPEALED.

20 S 7-a. Paragraphs (c) and (d) of subdivision 1 of section 73-a of the
21 public officers law, paragraph (c) as added by chapter 813 of the laws
22 of 1987, and subparagraphs (ii) and (iii) of paragraph (c) and paragraph
23 (d) as amended by chapter 242 of the laws of 1989, are amended to read
24 as follows:

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

26 (i) heads of state departments and their deputies and assistants;

27 (ii) officers and employees of statewide elected officials, officers
28 and employees of state departments, boards, bureaus, divisions, commis-
29 sions, councils or other state agencies, who receive annual compensation
30 in excess of the filing rate established by paragraph (1) of this subdivi-
31 sion or who hold policy-making positions, as annually determined by
32 the appointing authority and set forth in a written instrument which
33 shall be filed with the state GOVERNMENT ethics commission established
34 by section [ninety-four of the executive law] SEVENTY-THREE-C OF THIS
35 ARTICLE during the month of February, provided, however, that the
36 appointing authority shall amend such written instrument after such date
37 within thirty days after the undertaking of policy-making responsibil-
38 ities by a new employee or any other employee whose name did not appear
39 on the most recent written instrument; and

40 (iii) members or directors of public authorities, other than multi-
41 state authorities, public benefit corporations and commissions at least
42 one of whose members is appointed by the governor, and employees of such
43 authorities, corporations and commissions who receive annual compen-
44 sation in excess of the filing rate established by paragraph (1) of this
45 subdivision or who hold policy-making positions, as determined annually
46 by the appointing authority and set forth in a written instrument which
47 shall be filed with the state GOVERNMENT ethics commission established
48 by section [ninety-four of the executive law] SEVENTY-THREE-C OF THIS
49 ARTICLE during the month of February, provided, however, that the
50 appointing authority shall amend such written instrument after such date
51 within thirty days after the undertaking of policy-making responsibil-
52 ities by a new employee or any other employee whose name did not appear
53 on the most recent written instrument.

54 (d) The term "legislative employee" shall mean any officer or employee
55 of the legislature who receives annual compensation in excess of the
56 filing rate established by paragraph (1) [below] OF THIS SUBDIVISION or

1 who is determined to hold a policy-making position by the appointing
2 authority as set forth in a written instrument which shall be filed with
3 the [legislative] STATE GOVERNMENT ethics [committee established by
4 section eighty of the legislative law] COMMISSION.

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

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

17 (i) a person who is subject to the reporting requirements of this
18 subdivision and who timely filed with the internal revenue service an
19 application for automatic extension of time in which to file his or her
20 individual income tax return for the immediately preceding calendar or
21 fiscal year shall be required to file such financial disclosure state-
22 ment on or before May fifteenth but may, without being subjected to any
23 civil penalty on account of a deficient statement, indicate with respect
24 to any item of the disclosure statement that information with respect
25 thereto is lacking but will be supplied in a supplementary statement of
26 financial disclosure, which shall be filed on or before the seventh day
27 after the expiration of the period of such automatic extension of time
28 within which to file such individual income tax return, provided that
29 failure to file or to timely file such supplementary statement of finan-
30 cial disclosure or the filing of an incomplete or deficient supplementa-
31 ry statement of financial disclosure shall be subject to the notice and
32 penalty provisions of this section respecting annual statements of
33 financial disclosure as if such supplementary statement were an annual
34 statement;

35 (ii) a person who is required to file an annual financial disclosure
36 statement with the state GOVERNMENT ethics commission [or with the
37 legislative ethics committee], and who is granted an additional period
38 of time within which to file such statement due to justifiable cause or
39 undue hardship, in accordance with required rules and regulations on the
40 subject adopted pursuant to paragraph c of subdivision nine of section
41 ninety-four of the executive law or pursuant to [paragraph c of subdivi-
42 sion eight of section eighty of the legislative law] SECTION
43 SEVENTY-THREE-C OF THIS ARTICLE, shall file such statement within the
44 additional period of time granted;

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

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

1 (v) candidates for statewide office and candidates for member of the
2 legislature who file party designating petitions for nomination at a
3 primary election shall file such statement within seven days after the
4 last day allowed by law for the filing of party designating petitions
5 naming them as candidates for the next succeeding primary election;
6 (vi) candidates for independent nomination who have not been desig-
7 nated by a party to receive a nomination shall file such statement with-
8 in seven days after the last day allowed by law for the filing of inde-
9 pendent nominating petitions naming them as candidates in the next
10 succeeding general or special election;
11 (vii) candidates who receive the nomination of a party for a special
12 election shall file such statement within seven days after the date of
13 the meeting of the party committee at which they are nominated; and
14 (viii) a candidate substituted for another candidate, who fills a
15 vacancy in a party designation or in an independent nomination, caused
16 by declination, shall file such statement within seven days after the
17 last day allowed by law to file a certificate to fill a vacancy in such
18 party designation or independent nomination.
19 (b) As used in this subdivision, the terms "party", "committee" (when
20 used in conjunction with the term "party"), "designation", "primary",
21 "primary election", "nomination", "independent nomination" and "ballot"
22 shall have the same meanings as those contained in section 1-104 of the
23 election law.
24 (c) [If the reporting individual is a senator or member of assembly,
25 candidate for the senate or member of assembly or a legislative employ-
26 ee, such statement shall be filed with the legislative ethics committee
27 established by section eighty of the legislative law.] If the reporting
28 individual is a statewide elected official, SENATOR OR MEMBER OF THE
29 ASSEMBLY, candidate for statewide elected office, a state officer or
30 employee or a political party chairman, such statement shall be filed
31 with the state GOVERNMENT ethics commission [established by section
32 ninety-four of the executive law].
33 (d) The [legislative ethics committee and the] state GOVERNMENT ethics
34 commission shall obtain from the state board of elections a list of all
35 candidates for statewide office and for member of the legislature, and
36 from such list, shall determine and publish a list of those candidates
37 who have not, within ten days after the required date for filing such
38 statement, filed the statement required by this subdivision.
39 (e) Any person required to file such statement who commences employ-
40 ment after May fifteenth of any year and political party chairman shall
41 file such statement within thirty days after commencing employment or of
42 taking the position of political party chairman, as the case may be.
43 [(f) A person who may otherwise be required to file more than one
44 annual financial disclosure statement with both the state ethics commis-
45 sion and the legislative ethics committee in any one calendar year may
46 satisfy such requirement by filing one such statement with either body
47 and by notifying the other body of such compliance.]
48 (g) A person who is employed in more than one employment capacity for
49 one or more employers certain of whose officers and employees are
50 subject to filing a financial disclosure statement with the [same] STATE
51 GOVERNMENT ethics commission [or ethics committee, as the case may be],
52 and who receives distinctly separate payments of compensation for such
53 employment shall be subject to the filing requirements of this section
54 if the aggregate annual compensation for all such employment capacities
55 is in excess of the filing rate notwithstanding that such person would
56 not otherwise be required to file with respect to any one particular

1 employment capacity. [A person not otherwise required to file a finan-
2 cial disclosure statement hereunder who is employed by an employer
3 certain of whose officers or employees are subject to filing a financial
4 disclosure statement with the state ethics commission and who is also
5 employed by an employer certain of whose officers or employees are
6 subject to filing a financial disclosure statement with the legislative
7 ethics committee shall not be subject to filing such statement with
8 either such commission or such committee on the basis that his aggregate
9 annual compensation from all such employers is in excess of the filing
10 rate.]

11 (h) A statewide elected official or member of the legislature, who is
12 simultaneously a candidate for statewide elected office or member of the
13 legislature, shall satisfy the filing deadline requirements of this
14 subdivision by complying only with the deadline applicable to one who
15 holds a statewide elected office or who holds the office of member of
16 the legislature.

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

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

26 S 7-c. Subdivision 4 of section 73-a of the public officers law, as
27 amended by chapter 242 of the laws of 1989, is amended to read as
28 follows:

29 4. A reporting individual who knowingly and wilfully fails to file an
30 annual statement of financial disclosure or who knowingly and wilfully
31 with intent to deceive makes a false statement or gives information
32 which such individual knows to be false on such statement of financial
33 disclosure filed pursuant to this section shall be subject to a civil
34 penalty in an amount not to exceed [ten] TWENTY-FIVE thousand dollars OR
35 THREE TIMES THE AMOUNT THAT WAS IMPROPERLY REPORTED, CONTRIBUTED OR
36 EXPENDED. Assessment of a civil penalty hereunder shall be made by the
37 state GOVERNMENT ethics commission [or by the legislative ethics commit-
38 tee, as the case may be, with respect to persons subject to their
39 respective jurisdictions]. The state GOVERNMENT ethics commission
40 [acting pursuant to subdivision thirteen of section ninety-four of the
41 executive law or the legislative ethics committee acting pursuant to
42 subdivision twelve of section eighty of the legislative law, as the case
43 may be,] may, in lieu of a civil penalty, refer a violation to the
44 appropriate prosecutor OR TO THE STATE ATTORNEY GENERAL and upon such
45 conviction, but only after such referral, such violation shall be
46 punishable as a class A misdemeanor AND EACH SUBSEQUENT OFFENSE WITHIN
47 FIVE YEARS SHALL BE PUNISHABLE AS A CLASS E FELONY. A civil penalty for
48 false filing may not be imposed hereunder in the event a category of
49 "value" or "amount" reported hereunder is incorrect unless such reported
50 information is falsely understated. Notwithstanding any other provision
51 of law to the contrary, no other penalty, civil or criminal may be
52 imposed for a failure to file, or for a false filing, of such statement,
53 except that the appointing authority may impose disciplinary action as
54 otherwise provided by law. The state ethics commission and the legisla-
55 tive ethics committee shall each be deemed to be an agency within the
56 meaning of article three of the state administrative procedure act and

1 shall adopt rules governing the conduct of adjudicatory proceedings and
2 appeals relating to the assessment of the civil penalties herein author-
3 ized. Such rules, which shall not be subject to the approval require-
4 ments of the state administrative procedure act, shall provide for due
5 process procedural mechanisms substantially similar to those set forth
6 in such article three but such mechanisms need not be identical in terms
7 or scope. Assessment of a civil penalty shall be final unless modified,
8 suspended or vacated within thirty days of imposition and upon becoming
9 final shall be subject to review at the instance of the affected report-
10 ing individual in a proceeding commenced against the state GOVERNMENT
11 ethics commission [or legislative ethics committee,] pursuant to article
12 seventy-eight of the civil practice law and rules.

13 S 8. The public officers law is amended by adding a new section 73-e
14 to read as follows:

15 S 73-E. DESIGNATING COMMISSION FOR THE STATE GOVERNMENT ETHICS COMMIS-
16 SION. 1. DEFINITIONS. FOR THE PURPOSE OF THIS ARTICLE, THE FOLLOWING
17 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

18 A. "DESIGNATING COMMISSION" MEANS THE DESIGNATING COMMISSION FOR THE
19 STATE GOVERNMENT ETHICS COMMISSION.

20 B. "DESIGNATING MEMBERS" MEANS THE MEMBERS OF THE DESIGNATING COMMIS-
21 SION FOR THE STATE GOVERNMENT ETHICS COMMISSION.

22 C. "COMMISSIONER" MEANS A MEMBER OF THE STATE GOVERNMENT ETHICS
23 COMMISSION.

24 D. "CANDIDATE" MEANS ANY INDIVIDUAL UNDER CONSIDERATION FOR COMMIS-
25 SIONER BY THE DESIGNATING COMMISSION.

26 E. "APPOINTING OFFICER" MEANS THE STATE ELECTED OFFICIAL RESPONSIBLE
27 FOR APPOINTING THE DESIGNATING MEMBERS.

28 2. ORGANIZATION OF THE DESIGNATING COMMISSION. A. A DESIGNATING
29 COMMISSION FOR THE STATE GOVERNMENT ETHICS COMMISSION IS HEREBY ESTAB-
30 LISHED. THE DESIGNATING COMMISSION SHALL CONSIST OF TEN MEMBERS OF WHOM
31 FOUR SHALL BE APPOINTED BY THE GOVERNOR, AND ONE EACH BY THE ATTORNEY
32 GENERAL, THE STATE COMPTROLLER, THE SPEAKER OF THE ASSEMBLY, THE TEMPO-
33 RARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, AND THE
34 MINORITY LEADER OF THE ASSEMBLY. OF THE FOUR MEMBERS APPOINTED BY THE
35 GOVERNOR, NO MORE THAN TWO SHALL BE ENROLLED IN THE SAME POLITICAL
36 PARTY. THE GOVERNOR SHALL APPOINT AT LEAST ONE FORMER JUDGE OR JUSTICE
37 OF THE UNIFIED COURT SYSTEM TO SUCH DESIGNATING COMMISSION. NO MEMBER OF
38 THE DESIGNATING COMMISSION SHALL BE A MEMBER OF THE LEGISLATURE, AN
39 EMPLOYEE OF STATE GOVERNMENT, HOLD ANY OFFICE IN ANY POLITICAL PARTY OR
40 BE A REGISTERED LOBBYIST IN THIS STATE OR IN ANY OTHER STATE. NO MEMBER
41 OF THE DESIGNATING COMMISSION SHALL BE A PARTNER, OF COUNSEL OR OTHER-
42 WISE EMPLOYED BY A LOBBYING FIRM OR ANY ENTITY RECEIVING A STATE
43 CONTRACT THAT SHARES IN ANY PART OF THE PROFIT DERIVED FROM LOBBYING. TO
44 THE EXTENT POSSIBLE, THE MEMBERS OF THE DESIGNATING COMMISSION SHALL BE
45 INDIVIDUALS WITH KNOWLEDGE OR EXPERIENCE IN THE FIELD OF GOVERNMENT
46 ETHICS.

47 B. THE MEMBERS FIRST APPOINTED BY THE GOVERNOR SHALL HAVE RESPECTIVELY
48 ONE, TWO, THREE AND FOUR-YEAR TERMS AS HE SHALL DESIGNATE. THE MEMBER
49 FIRST APPOINTED BY THE ATTORNEY GENERAL SHALL HAVE A TWO-YEAR TERM. THE
50 MEMBER FIRST APPOINTED BY THE STATE COMPTROLLER SHALL HAVE A TWO-YEAR
51 TERM. THE MEMBER FIRST APPOINTED BY THE TEMPORARY PRESIDENT OF THE
52 SENATE SHALL HAVE A ONE-YEAR TERM. THE MEMBER FIRST APPOINTED BY THE
53 MINORITY LEADER OF THE SENATE SHALL HAVE A TWO-YEAR TERM. THE MEMBER
54 FIRST APPOINTED BY THE SPEAKER OF THE ASSEMBLY SHALL HAVE A FOUR-YEAR
55 TERM. THE MEMBER FIRST APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY

1 SHALL HAVE A THREE-YEAR TERM. EACH SUBSEQUENT APPOINTMENT SHALL BE FOR
2 A TERM OF FOUR YEARS.

3 C. A VACANCY SHALL BE DEEMED TO OCCUR IMMEDIATELY UPON THE APPOINTMENT
4 OR ELECTION OF ANY MEMBER TO AN OFFICE THAT WOULD DISQUALIFY HIM FOR
5 APPOINTMENT TO, OR MEMBERSHIP ON, THE DESIGNATING COMMISSION. A VACANCY
6 OCCURRING FOR ANY REASON OTHER THAN BY EXPIRATION OF TERM SHALL BE
7 FILLED BY THE APPOINTING OFFICER FOR THE REMAINDER OF THE UNEXPIRED
8 TERM. NO MEMBER OF THE DESIGNATING COMMISSION SHALL HOLD OFFICE FOR
9 MORE THAN NINETY DAYS AFTER THE EXPIRATION OF HIS OR HER TERM. IF THE
10 APPOINTING OFFICER FAILS TO APPOINT A PERSON TO A VACANT OFFICE, BY A
11 MAJORITY VOTE WITHOUT VACANCY, THE DESIGNATING COMMISSION SHALL SELECT A
12 PERSON TO FILL THE VACANT OFFICE.

13 D. THE MEMBERS SHALL DESIGNATE ONE OF THEIR NUMBER TO SERVE AS CHAIR-
14 MAN FOR A PERIOD OF TWO YEARS OR UNTIL HIS OR HER TERM OF OFFICE
15 EXPIRES, WHICHEVER PERIOD IS SHORTER.

16 E. EACH MEMBER OF THE DESIGNATING COMMISSION SHALL NOT RECEIVE COMPEN-
17 SATION BUT BE ENTITLED TO RECEIVE HIS OR HER ACTUAL AND NECESSARY
18 EXPENSES INCURRED IN THE DISCHARGE OF HIS OR HER DUTIES.

19 F. EIGHT MEMBERS OF THE DESIGNATING COMMISSION SHALL CONSTITUTE A
20 QUORUM.

21 3. FUNCTIONS OF THE DESIGNATING COMMISSION. A. THE DESIGNATING COMMIS-
22 SION SHALL CONSIDER AND EVALUATE THE QUALIFICATIONS OF CANDIDATES FOR
23 APPOINTMENT TO THE OFFICE OF COMMISSIONER OF STATE GOVERNMENT ETHICS
24 AND, AS A VACANCY OCCURS IN ANY SUCH OFFICE, SHALL APPOINT PERSONS WHO
25 BY THEIR CHARACTER, TEMPERAMENT, PROFESSIONAL APTITUDE AND EXPERIENCE
26 ARE WELL QUALIFIED TO HOLD SUCH OFFICE. THE DESIGNATING COMMISSION
27 SHALL SELECT ONE SUCH PERSON TO SERVE AS CHAIR OF THE STATE GOVERNMENT
28 ETHICS COMMISSION.

29 B. AN APPOINTMENT TO COMMISSIONER OF THE STATE GOVERNMENT ETHICS
30 COMMISSION BY THE DESIGNATING COMMISSION SHALL REQUIRE THE CONCURRENCE
31 OF SEVEN MEMBERS OF THE DESIGNATING COMMISSION. THE APPOINTMENT SHALL BE
32 TRANSMITTED TO THE GOVERNOR, THE ATTORNEY GENERAL, THE STATE COMP-
33 TROLLER, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
34 ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF
35 THE ASSEMBLY IN A SINGLE WRITTEN REPORT, WHICH SHALL BE RELEASED TO THE
36 PUBLIC BY THE DESIGNATING COMMISSION AT THE TIME IT IS SUBMITTED. THE
37 REPORT SHALL BE IN WRITING, SIGNED ONLY BY THE CHAIRMAN, AND SHALL
38 INCLUDE THE DESIGNATING COMMISSION'S FINDINGS RELATING TO THE CHARACTER,
39 TEMPERAMENT, PROFESSIONAL APTITUDE, EXPERIENCE, QUALIFICATIONS AND
40 FITNESS FOR OFFICE OF EACH CANDIDATE WHO IS APPOINTED COMMISSIONER.

41 C. NO PERSON SHALL BE APPOINTED COMMISSIONER BY THE DESIGNATING
42 COMMISSION WHO HAS NOT CONSENTED TO BE A CANDIDATE, WHO HAS NOT BEEN
43 PERSONALLY INTERVIEWED BY A QUORUM OF THE MEMBERSHIP OF THE DESIGNATING
44 COMMISSION, AND WHO HAS NOT FILED A FINANCIAL STATEMENT WITH THE DESIG-
45 NATING COMMISSION, ON A FORM TO BE PRESCRIBED BY THE DESIGNATING COMMIS-
46 SION. THE FINANCIAL STATEMENT SHALL CONSIST OF A SWORN STATEMENT OF THE
47 PERSON'S ASSETS, LIABILITIES AND SOURCES OF INCOME, AND ANY OTHER RELE-
48 VANT FINANCIAL INFORMATION WHICH THE DESIGNATING COMMISSION MAY REQUIRE.
49 THE DESIGNATING COMMISSION SHALL TRANSMIT THE FINANCIAL STATEMENT FILED
50 BY EACH PERSON WHO IS APPOINTED TO THE GOVERNOR, THE ATTORNEY GENERAL,
51 THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAK-
52 ER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY
53 LEADER OF THE ASSEMBLY. THE DESIGNATING COMMISSION SHALL MAKE AVAILABLE
54 TO THE PUBLIC THE FINANCIAL STATEMENT FILED BY THE PERSON WHO IS
55 APPOINTED TO FILL A VACANCY. THE FINANCIAL STATEMENTS FILED BY ALL OTHER

1 PERSONS NOT APPOINTED BY THE DESIGNATING COMMISSION SHALL BE CONFIDEN-
2 TIAL.

3 4. ADDITIONAL FUNCTIONS OF THE DESIGNATING COMMISSION. THE DESIGNATING
4 COMMISSION SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

5 A. ESTABLISH DETAILED COMMUNICATION PROCEDURES TO ASSURE THAT PERSONS
6 WHO MAY BE QUALIFIED FOR APPOINTMENT TO COMMISSIONER, OTHER THAN THOSE
7 WHO HAVE REQUESTED CONSIDERATION OR WHO HAVE BEEN RECOMMENDED FOR
8 CONSIDERATION BY OTHERS, ARE ENCOURAGED TO AGREE TO BE CONSIDERED BY THE
9 DESIGNATING COMMISSION. THE TOTAL NUMBER OF REQUESTS FOR CONSIDERATION
10 SHALL BE DOCUMENTED FOR THE PUBLIC RECORD.

11 B. CONDUCT INVESTIGATIONS, ADMINISTER OATHS OR AFFIRMATIONS, INTERVIEW
12 WITNESSES AND COMPEL THEIR ATTENDANCE, EXAMINE THEM UNDER OATH OR AFFIR-
13 MATION AND REQUIRE THE PRODUCTION OF ANY BOOKS, RECORDS, DOCUMENTS OR
14 OTHER EVIDENCE THAT IT MAY DEEM RELEVANT OR MATERIAL TO ITS EVALUATION
15 OF CANDIDATES FOR COMMISSIONER.

16 C. REQUIRE FROM ANY COURT, DEPARTMENT, DIVISION, BOARD, BUREAU,
17 COMMISSION, OR OTHER AGENCY OF THE STATE OR POLITICAL SUBDIVISION THERE-
18 OF OR ANY PUBLIC AUTHORITY SUCH ASSISTANCE, INFORMATION AND DATA, AS
19 WILL ENABLE IT PROPERLY TO EVALUATE THE QUALIFICATIONS OF CANDIDATES,
20 SUBJECT TO ANY ABSOLUTE JUDICIAL OR EXECUTIVE PRIVILEGE, WHERE ONE
21 EXISTS.

22 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DESIGNATING COMMIS-
23 SION, WITH THE CONSENT OF THE APPLICANT, SHALL BE ENTITLED TO REQUIRE
24 FROM ANY FORMAL DELIBERATIVE BODY ANY FORMAL WRITTEN COMPLAINT AGAINST A
25 CANDIDATE, IN WHICH THE APPLICANT'S MISCONDUCT WAS ESTABLISHED, ANY
26 PENDING COMPLAINT AGAINST A CANDIDATE, AND THE RECORD TO DATE OF ANY
27 PENDING PROCEEDING PURSUANT TO A FORMAL WRITTEN COMPLAINT AGAINST SUCH
28 CANDIDATE. THE DELIBERATIVE BODY THAT HAS JURISDICTION OVER SUCH
29 COMPLAINT SHALL HAVE FIFTEEN DAYS WITHIN WHICH TO RESPOND TO A REQUEST
30 MADE PURSUANT TO THIS SUBDIVISION.

31 D. REQUIRE THE APPEARANCE OF ANY CANDIDATE BEFORE IT AND INTERVIEW ANY
32 PERSON CONCERNING THE QUALIFICATIONS OF ANY CANDIDATE.

33 E. ESTABLISH PROCEDURES TO COMMUNICATE WITH THE GOVERNOR, THE ATTORNEY
34 GENERAL, THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE,
35 THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE
36 MINORITY LEADER OF THE ASSEMBLY CONCERNING THE QUALIFICATIONS OF ANY
37 PERSON WHO IT HAS APPOINTED AS COMMISSIONER.

38 F. APPOINT, AND AT PLEASURE REMOVE, A COUNSEL AND SUCH OTHER STAFF AS
39 IT MAY REQUIRE FROM TIME TO TIME, AND PRESCRIBE THEIR POWERS AND DUTIES.
40 THE DESIGNATING COMMISSION SHALL FIX THE COMPENSATION OF ITS STAFF AND
41 PROVIDE FOR REIMBURSEMENT OF THEIR EXPENSES WITHIN THE AMOUNTS APPROPRI-
42 ATED BY LAW.

43 G. DO ALL OTHER THINGS NECESSARY AND CONVENIENT TO CARRY OUT ITS FUNC-
44 TIONS PURSUANT TO THIS ARTICLE.

45 5. RULES OF THE DESIGNATING COMMISSION. A. THE DESIGNATING COMMISSION
46 SHALL ADOPT, AND MAY AMEND, WRITTEN RULES OF PROCEDURE NOT INCONSISTENT
47 WITH LAW.

48 B. RULES OF THE DESIGNATING COMMISSION SHALL BE FILED WITH THE SECRE-
49 TARY OF STATE AND SHALL BE PUBLISHED IN THE OFFICIAL COMPILATION OF
50 CODES, RULES AND REGULATIONS OF THE STATE. UPON REQUEST OF ANY PERSON,
51 THE SECRETARY OF STATE SHALL FURNISH A COPY OF THE DESIGNATING COMMIS-
52 SION'S RULES WITHOUT CHARGE.

53 C. RULES OF THE DESIGNATING COMMISSION MAY PRESCRIBE FORMS AND QUES-
54 TIONNAIRES TO BE COMPLETED AND, IF REQUIRED BY THE DESIGNATING COMMIS-
55 SION, VERIFIED BY CANDIDATES.

1 D. RULES OF THE DESIGNATING COMMISSION SHALL PROVIDE THAT UPON THE
2 COMPLETION BY THE DESIGNATING COMMISSION OF ITS CONSIDERATION AND EVALU-
3 ATION OF THE QUALIFICATIONS OF A CANDIDATE, THERE SHALL BE NO RECONSID-
4 ERATION OF SUCH CANDIDATE FOR THE VACANCY FOR WHICH HE WAS CONSIDERED,
5 EXCEPT WITH THE CONCURRENCE OF EIGHT MEMBERS OF THE DESIGNATING COMMIS-
6 SION.

7 6. CONFIDENTIALITY OF PROCEEDINGS AND RECORDS. A. ALL COMMUNICATIONS
8 TO THE DESIGNATING COMMISSION, AND ITS PROCEEDINGS, AND ALL APPLICA-
9 TIONS, CORRESPONDENCE, INTERVIEWS, TRANSCRIPTS, REPORTS AND ALL OTHER
10 PAPERS, FILES AND RECORDS OF THE DESIGNATING COMMISSION SHALL BE CONFID-
11 DENTIAL AND PRIVILEGED AND, EXCEPT FOR THE PURPOSES OF ARTICLE TWO
12 HUNDRED TEN OF THE PENAL LAW, SHALL NOT BE MADE AVAILABLE TO ANY PERSON
13 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE.

14 B. NEITHER THE COMMISSIONERS OF THE STATE GOVERNMENT ETHICS COMMIS-
15 SION, MEMBERS OF THE DESIGNATING COMMISSION NOR ITS STAFF SHALL PUBLICLY
16 DIVULGE THE NAMES OF, OR ANY INFORMATION CONCERNING, ANY CANDIDATE
17 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE. ANY VIOLATION OF THIS
18 SUBDIVISION SHALL BE A CLASS A MISDEMEANOR.

19 7. PROCEDURES WHEN VACANCIES OCCUR. A. WHENEVER A VACANCY WILL OCCUR
20 IN THE OFFICE OF COMMISSIONER OF STATE GOVERNMENT ETHICS BY EXPIRATION
21 OF A TERM, THE COMMISSIONERS OF STATE GOVERNMENT ETHICS SHALL NOTIFY THE
22 DESIGNATING COMMISSION OF THE ANTICIPATED VACANCY NO LATER THAN SEVEN
23 MONTHS PRECEDING THE VACANCY. THE DESIGNATING COMMISSION SHALL MAKE ITS
24 APPOINTMENT TO THE STATE GOVERNMENT ETHICS COMMISSION ON OR BEFORE THE
25 DATE OF EXPIRATION, TO TAKE EFFECT ON THE DAY FOLLOWING SUCH EXPIRATION.

26 B. WHENEVER A VACANCY OCCURS OTHER THAN BY EXPIRATION OF TERM, THE
27 COMMISSIONERS OF STATE GOVERNMENT ETHICS SHALL IMMEDIATELY NOTIFY THE
28 DESIGNATING COMMISSION OF SUCH VACANCY. THE DESIGNATING COMMISSION SHALL
29 MAKE ITS APPOINTMENT NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER RECEIPT
30 OF SUCH NOTICE.

31 S 9. Paragraph (a) of subdivision 1 of section 73 of the public offi-
32 cers law, as amended by chapter 813 of the laws of 1987, is amended to
33 read as follows:

34 (a) The term "compensation" shall mean any money, thing of value or
35 financial benefit conferred in return for services rendered or to be
36 rendered. With regard to matters undertaken by a firm, corporation or
37 association, compensation shall mean net revenues, as defined in accord-
38 ance with generally accepted accounting principles as defined by the
39 state GOVERNMENT ethics commission [or legislative ethics committee in
40 relation to persons subject to their respective jurisdictions].

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

44 (b) solicit, accept or receive any gift[, as defined in section one-c
45 of the legislative law,] from any person who is prohibited from deliver-
46 ing such gift pursuant to SUBDIVISION FIVE-A OF THIS section [one-m of
47 the legislative law] unless under the circumstances it is not reasonable
48 to infer that the gift was intended to influence him OR HER; or

49 (c) permit the solicitation, acceptance, or receipt of any gift[, as
50 defined in section one-c of the legislative law,] from any person who is
51 prohibited from delivering such gift pursuant to SUBDIVISION FIVE-A OF
52 THIS section [one-m of the legislative law] to a third party including a
53 charitable organization, on such official's designation or recommenda-
54 tion or on his or her behalf, under circumstances where it is reasonable
55 to infer that the gift was intended to influence him OR HER.

1 S 11. Subdivision 5-a of section 73 of the public officers law is
2 renumbered subdivision 5-b and a new subdivision 5-a is added to read as
3 follows:

4 5-A. PROHIBITION OF GIFTS. NO INDIVIDUAL OR ENTITY REQUIRED TO BE
5 LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO SECTION
6 SEVENTY-THREE-C OF THIS ARTICLE SHALL OFFER OR GIVE A GIFT TO ANY STATE-
7 WIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE, INDIVIDUAL WHOSE NAME
8 HAS BEEN SUBMITTED TO THE SENATE FOR CONFIRMATION TO BECOME A STATE
9 OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE,
10 UNLESS UNDER THE CIRCUMSTANCES IT IS NOT REASONABLE TO INFER THAT THE
11 GIFT WAS INTENDED TO INFLUENCE HIM OR HER. NO INDIVIDUAL OR ENTITY
12 REQUIRED TO BE LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO SECTION
13 SEVENTY-THREE-C OF THIS ARTICLE SHALL OFFER OR GIVE A GIFT TO THE SPOUSE
14 OR UNEMANCIPATED CHILD OF ANY STATEWIDE ELECTED OFFICIAL, STATE OFFICER
15 OR EMPLOYEE, INDIVIDUAL WHOSE NAME HAS BEEN SUBMITTED TO THE SENATE FOR
16 CONFIRMATION TO BECOME A STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGIS-
17 LATURE OR LEGISLATIVE EMPLOYEE UNDER CIRCUMSTANCES WHERE IT IS REASON-
18 ABLE TO INFER THAT THE GIFT WAS INTENDED TO INFLUENCE HIM OR HER. NO
19 SPOUSE OR UNEMANCIPATED CHILD OF AN INDIVIDUAL REQUIRED TO BE LISTED ON
20 A STATEMENT OF REGISTRATION PURSUANT TO SECTION SEVENTY-THREE-C OF THIS
21 ARTICLE SHALL OFFER OR GIVE A GIFT TO A STATEWIDE ELECTED OFFICIAL,
22 STATE OFFICER OR EMPLOYEE, INDIVIDUAL WHOSE NAME HAS BEEN SUBMITTED TO
23 THE SENATE FOR CONFIRMATION TO BECOME A STATE OFFICER OR EMPLOYEE,
24 MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE UNDER CIRCUMSTANCES
25 WHERE IT IS REASONABLE TO INFER THAT THE GIFT WAS INTENDED TO INFLUENCE
26 HIM OR HER. THIS SUBDIVISION SHALL NOT APPLY TO GIFTS TO OFFICERS,
27 MEMBERS OR DIRECTORS OF BOARDS, COMMISSIONS, COUNCILS, PUBLIC AUTHORI-
28 TIES OR PUBLIC BENEFIT CORPORATIONS WHO RECEIVE NO COMPENSATION OR ARE
29 COMPENSATED ON A PER DIEM BASIS, UNLESS THE PERSON LISTED ON THE STATE-
30 MENT OF REGISTRATION APPEARS OR HAS MATTERS PENDING BEFORE THE BOARD,
31 COMMISSION OR COUNCIL ON WHICH THE RECIPIENT SITS.

32 S 12. Paragraph (a) of subdivision 6 of section 73 of the public offi-
33 cers law, as amended by chapter 813 of the laws of 1987, is amended to
34 read as follows:

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

40 (1) each financial interest, direct or indirect of himself, his
41 spouse, DOMESTIC PARTNER, and his unemancipated children under the age
42 of eighteen years in any activity which is subject to the jurisdiction
43 of a regulatory agency or name of the entity in which the interest is
44 had and whether such interest is over or under five thousand dollars in
45 value.

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

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

52 S 13. Paragraph (c) of subdivision 6 of section 73 of the public offi-
53 cers law, as amended by chapter 813 of the laws of 1987, is amended to
54 read as follows:

55 (c) Any such legislative employee who knowingly and wilfully with
56 intent to deceive makes a false statement or gives information which he

1 knows to be false in any written statement required to be filed pursuant
2 to this subdivision, shall be assessed a civil penalty in an amount not
3 to exceed [ten] TWENTY-FIVE thousand dollars. Assessment of a civil
4 penalty shall be made by the [legislative ethics committee in accordance
5 with the provisions of subdivision twelve of section eighty of the
6 legislative law] STATE GOVERNMENT ETHICS COMMISSION. For a violation of
7 this subdivision, the [committee] COMMISSION may, in lieu of a civil
8 penalty, refer a violation to the ATTORNEY GENERAL OR appropriate prose-
9 cutor and upon conviction, but only after such referral, such violation
10 shall be punishable as a class A misdemeanor.

11 S 14. Paragraph (h) of subdivision 8 of section 73 of the public offi-
12 cers law, as added by chapter 514 of the laws of 2002, is amended to
13 read as follows:

14 (h) Notwithstanding the provisions of subparagraphs (i) and (ii) of
15 paragraph (a) of this subdivision, a former state officer or employee
16 may contract individually, or as a member or employee of a firm, corpo-
17 ration or association, to render services to any state agency when the
18 agency head certifies in writing to the state GOVERNMENT ethics commis-
19 sion that the services of such former officer or employee are required
20 in connection with the agency's response to a disaster emergency
21 declared by the governor pursuant to section twenty-eight of the execu-
22 tive law.

23 S 15. The opening paragraph of subdivision 8-a of section 73 of the
24 public officers law, as amended by chapter 357 of the laws of 2001, is
25 amended to read as follows:

26 The provisions of subparagraphs (i) and (ii) of paragraph (a) of
27 subdivision eight of this section shall not apply to any such former
28 state officer or employee engaged in any of the specific permitted
29 activities defined in this subdivision that are related to any civil
30 action or proceeding in any state or federal court, provided that the
31 attorney general has certified in writing to the state GOVERNMENT ethics
32 commission, with a copy to such former state officer or employee, that
33 the services are rendered on behalf of the state, a state agency, state
34 officer or employee, or other person or entity represented by the attor-
35 ney general, and that such former state officer or employee has exper-
36 tise, knowledge or experience which is unique or outstanding in a field
37 or in a particular matter or which would otherwise be generally unavail-
38 able at a comparable cost to the state, a state agency, state officer or
39 employee, or other person or entity represented by the attorney general
40 in such civil action or proceeding. In those instances where a state
41 agency is not represented by the attorney general in a civil action or
42 proceeding in state or federal court, a former state officer or employee
43 may engage in permitted activities provided that the general counsel of
44 the state agency, after consultation with the state GOVERNMENT ethics
45 commission, provides to the state GOVERNMENT ethics commission a written
46 certification which meets the requirements of this subdivision. For
47 purposes of this subdivision the term "permitted activities" shall mean
48 generally any activity performed at the request of the attorney general
49 or the attorney general's designee, or in cases where the state agency
50 is not represented by the attorney general, the general counsel of such
51 state agency, including without limitation:

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

54 8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of
55 paragraph (a) of subdivision eight of this section, a former state offi-
56 cer or employee may contract individually, or as a member or employee of

1 a firm, corporation or association, to render services to any state
2 agency if, prior to engaging in such service, the agency head certifies
3 in writing to the state GOVERNMENT ethics commission that such former
4 officer or employee has expertise, knowledge or experience with respect
5 to a particular matter which meets the needs of the agency and is other-
6 wise unavailable at a comparable cost. Where approval of the contract is
7 required under section one hundred twelve of the state finance law, the
8 comptroller shall review and consider the reasons for such certifi-
9 cation. The state GOVERNMENT ethics commission must review and approve
10 all certifications made pursuant to this subdivision.

11 S 17. Subdivision 10 of section 73 of the public officers law, as
12 amended by chapter 813 of the laws of 1987, is amended to read as
13 follows:

14 10. Nothing contained in this section, the judiciary law, the educa-
15 tion law or any other law or disciplinary rule shall be construed or
16 applied to prohibit any firm, association or corporation, in which any
17 present or former statewide elected official, state officer or employee,
18 or political party chairman, member of the legislature or legislative
19 employee is a member, associate, retired member, of counsel or share-
20 holder, from appearing, practicing, communicating or otherwise rendering
21 services in relation to any matter before, or transacting business with
22 a state agency, or a city agency with respect to a political party
23 chairman in a county wholly included in a city with a population of more
24 than one million, otherwise proscribed by this section, the judiciary
25 law, the education law or any other law or disciplinary rule with
26 respect to such official, member of the legislature or officer or
27 employee, or political party chairman, where such statewide elected
28 official, state officer or employee, member of the legislature or legis-
29 lative employee, or political party chairman does not share in the net
30 revenues, as defined in accordance with generally accepted accounting
31 principles by the state GOVERNMENT ethics commission [or by the legisla-
32 tive ethics committee in relation to persons subject to their respective
33 jurisdictions], resulting therefrom, or, acting in good faith, reason-
34 ably believed that he or she would not share in the net revenues as so
35 defined; nor shall anything contained in this section, the judiciary
36 law, the education law or any other law or disciplinary rule be
37 construed to prohibit any firm, association or corporation in which any
38 present or former statewide elected official, member of the legislature,
39 legislative employee, full-time salaried state officer or employee or
40 state officer or employee who is subject to the provisions of section
41 seventy-three-a of this [chapter] ARTICLE is a member, associate,
42 retired member, of counsel or shareholder, from appearing, practicing,
43 communicating or otherwise rendering services in relation to any matter
44 before, or transacting business with, the court of claims, where such
45 statewide elected official, member of the legislature, legislative
46 employee, full-time salaried state officer or employee or state officer
47 or employee who is subject to the provisions of section seventy-three-a
48 of this [chapter] ARTICLE does not share in the net revenues, as defined
49 in accordance with generally accepted accounting principles by the state
50 GOVERNMENT ethics commission [or by the legislative ethics committee in
51 relation to persons subject to their respective jurisdictions], result-
52 ing therefrom, or, acting in good faith, reasonably believed that he or
53 she would not share in the net revenues as so defined.

54 S 18. The opening paragraph and the closing paragraph of subdivision 1
55 of section 107 of the public officers law, are designated paragraphs a
56 and b and a new paragraph c is added to read as follows:

1 C. THE STATE GOVERNMENT ETHICS COMMISSION SHALL ALSO HAVE JURISDICTION
2 TO RECEIVE COMPLAINTS BY ANY AGGRIEVED PERSON AGAINST A STATE PUBLIC
3 BODY AS DEFINED IN SECTION ONE HUNDRED TWO OF THIS ARTICLE.

4 S 19. Subparagraphs (iii) and (iv) of paragraph (i) of subdivision 1
5 of section 73 of the public officers law, as amended by chapter 242 of
6 the laws of 1989, are amended and a new subparagraph (v) is added to
7 read as follows:

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

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

17 (V) MEMBERS OF THE LEGISLATURE AND EMPLOYEES OF THE LEGISLATURE.

18 S 20. Subdivision 2 of section 73 of the public officers law, as
19 amended by chapter 813 of the laws of 1987, is amended to read as
20 follows:

21 2. (A) NO STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE,
22 MEMBER OF THE LEGISLATURE, LEGISLATIVE EMPLOYEE OR CANDIDATE FOR STATE
23 PUBLIC OFFICE SHALL RECEIVE, OR ENTER INTO ANY AGREEMENT EXPRESS OR
24 IMPLIED FOR, COMPENSATION FOR SERVICES TO BE RENDERED IN RELATION TO ANY
25 CASE, PROCEEDING, APPLICATION, STATE GOVERNMENTAL PROCUREMENT ARTICLE OR
26 PROCUREMENT OR OTHER MATTER BEFORE ANY STATE AGENCY.

27 (B) In addition to the prohibitions contained in subdivision seven
28 hereof, no statewide elected official, state officer or employee, member
29 of the legislature or legislative employee shall receive, or enter into
30 any agreement express or implied for, compensation for services to be
31 rendered in relation to any case, proceeding, application, ARTICLE OF
32 PROCUREMENT or other matter before any state agency, whereby his compen-
33 sation is to be dependent or contingent upon any action by such agency
34 with respect to any license, contract, certificate, ruling, decision,
35 opinion, rate schedule, franchise, or other benefit; provided, however,
36 that nothing in this subdivision shall be deemed to prohibit the fixing
37 at any time of fees based upon the reasonable value of the services
38 rendered.

39 S 21. Paragraph (a) of subdivision 5 of section 73 of the public offi-
40 cers law, as amended by chapter 14 of the laws of 2007, is amended to
41 read as follows:

42 (a) solicit, accept or receive any gift having [more than a nominal
43 value] A VALUE OF GREATER THAN TEN DOLLARS, whether in the form of
44 money, service, loan, travel, lodging, meals, refreshments, enter-
45 tainment, discount, forbearance or promise, or in any other form, under
46 circumstances in which it could reasonably be inferred that the gift was
47 intended to influence him, or could reasonably be expected to influence
48 him, in the performance of his official duties or was intended as a
49 reward for any official action on his part. No person shall, directly or
50 indirectly, offer or make any such gift to a statewide elected official,
51 or any state officer or employee, member of the legislature or legisla-
52 tive employee under such circumstances.

53 S 22. Subparagraphs (v) and (vi) of paragraph (a) of subdivision 7 of
54 section 73 of the public officers law, as amended by chapter 530 of the
55 laws of 2004, are amended and a new subparagraph (vii) is added to read
56 as follows:

1 (v) licensing; [or]

2 (vi) any proceeding relating to a franchise provided for in the public
3 service law[.]; OR

4 (VII) A REFERRAL BY A REGISTERED LOBBYIST TO SUCH STATE OFFICER FOR
5 THE REPRESENTATION OF AN INDIVIDUAL, BUSINESS, OR ENTITY FOR ANY COMPEN-
6 SATION.

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

9 8-C. NO STATEWIDE ELECTED OFFICIAL, OR STATE OFFICER OR EMPLOYEE, OR
10 MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, OR POLITICAL PARTY
11 CHAIRMAN THAT IS LICENSED TO PRACTICE LAW SHALL RECEIVE, DIRECTLY OR
12 INDIRECTLY, OR ENTER INTO ANY AGREEMENT EXPRESS OR IMPLIED FOR, ANY
13 COMPENSATION WITH A CLIENT, IN WHATEVER FORM, THAT IS ORIGINALLY A
14 REFERRAL BY A LOBBYIST REGISTERED IN THE STATE, UNLESS SUCH REFERRAL IS
15 PUBLICLY DISCLOSED ON A FINANCIAL DISCLOSURE FORM.

16 9-A. NO STATEWIDE ELECTED OFFICIAL, STATE OFFICER, MEMBER OF THE
17 LEGISLATURE OR LEGISLATIVE EMPLOYEE, SHALL BE ELIGIBLE TO SERVE AS A
18 TREASURER OF ANY CAMPAIGN COMMITTEE SUPPORTING A CANDIDATE FOR ANY STATE
19 OFFICE.

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

22 14-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOURTEEN OF THIS
23 SECTION, NO MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, AS
24 DEFINED BY PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE-A
25 OF THIS ARTICLE, SHALL PARTICIPATE IN ANY DECISION TO HIRE, PROMOTE,
26 PROCESS EMPLOYMENT PAPERWORK FOR OR HAVE KNOWLEDGE OF THE PROSPECTIVE
27 EMPLOYMENT OR CHANGE OF EMPLOYMENT STATUS OF ANY RELATIVE FOR ANY
28 COMPENSATED POSITION AT, FOR OR WITHIN THE SAME LEGISLATIVE CHAMBER
29 WHICH EMPLOYS SUCH MEMBER OR LEGISLATIVE EMPLOYEE. THE PROVISIONS OF
30 THIS SUBDIVISION SHALL NOT APPLY TO PERSONS TO WHICH PARAGRAPH (B) OF
31 SUBDIVISION FOURTEEN OF THIS SECTION APPLIES.

32 14-B. IN ADDITION TO THE INFORMATION INCLUDED IN THE ANNUAL FINANCIAL
33 STATEMENT OF FINANCIAL DISCLOSURE PROVIDED FOR IN SECTION
34 SEVENTY-THREE-A OF THIS ARTICLE, EVERY MEMBER OF THE LEGISLATURE AND
35 LEGISLATIVE EMPLOYEE SHALL DISCLOSE THE NAMES OF ALL RELATIVES WHO ARE
36 EMPLOYED BY THE LEGISLATURE AND THE DEGREE OF THEIR RELATIONSHIP.

37 S 25. Subdivision 18 of section 73 of the public officers law, as
38 amended by chapter 14 of the laws of 2007, is amended to read as
39 follows:

40 18. In addition to any penalty contained in any other provision of
41 law, any person who knowingly and intentionally violates the provisions
42 of subdivisions two through five, seven, eight, twelve or fourteen
43 through seventeen of this section shall be subject to a civil penalty in
44 an amount not to exceed forty thousand dollars and the value of any
45 gift, compensation or benefit received in connection with such
46 violation. Assessment of a civil penalty hereunder shall be made by the
47 state oversight body with jurisdiction over such person. A state over-
48 sight body acting pursuant to its jurisdiction, may, in lieu of a civil
49 penalty, with respect to a violation of subdivisions two through five,
50 seven or eight of this section, refer a violation of any such subdivi-
51 sion to the appropriate prosecutor OR TO THE STATE ATTORNEY GENERAL and
52 upon such conviction such violation shall be punishable as a class A
53 misdemeanor.

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

(E-1) THE TERM "DOMESTIC PARTNER" SHALL MEAN AN INDIVIDUAL LIVING IN THE SAME HOUSEHOLD AND SHARING FINANCIAL INTERDEPENDENCE WITH THE REPORTING INDIVIDUAL.

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

(f) The term "relative" shall mean such individual's spouse, DOMESTIC PARTNER, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.

S 28. Subdivision 3 of section 73-a of the public officers law, as added by chapter 813 of the laws of 1987, paragraphs 4, 6, 9, 11, 13, 14, 15, 16, 17, 18, and 19, subparagraph (a) of paragraph 5, and subparagraph (b) of paragraph 12 as amended and the fourth and fifth undesignated paragraphs of paragraph 3 as added by chapter 242 of the laws of 1989, is amended to read as follows:

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

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

1. Name _____
2. (a) Title of Position _____
(b) Department, Agency or other Governmental Entity _____
(c) Address of Present Office _____
(d) Office Telephone Number _____
3. (a) Marital Status _____. If married OR IN A DOMESTIC PARTNERSHIP, please give spouse's OR DOMESTIC PARTNER'S full name including maiden name where applicable.
_____ .

(b) List the names of all unemancipated children.

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

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

Whenever "income" is required to be reported herein, the term "income" shall mean the aggregate net income before taxes from the source identified.

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

1 4. (a) List any office, trusteeship, directorship, partnership, or
 2 position of any nature, whether compensated or not, held by the
 3 reporting individual with any firm, corporation, association, part-
 4 nership, or other organization other than the State of New York.
 5 Include compensated honorary positions; do NOT list membership or
 6 uncompensated honorary positions. If the listed entity was licensed
 7 by any state or local agency, was regulated by any state regulatory
 8 agency or local agency, or, as a regular and significant part of the
 9 business or activity of said entity, did business with, or had
 10 matters other than ministerial matters before, any state or local
 11 agency, list the name of any such agency.

12	13	14	15	16	17	18
	Position	Organization	State or	Local	Agency	

19 (b) List any office, trusteeship, directorship, partnership, or position
 20 of any nature, whether compensated or not, held by the spouse,
 21 DOMESTIC PARTNER, or unemancipated child of the reporting individ-
 22 ual, with any firm, corporation, association, partnership, or other
 23 organization other than the State of New York. Include compensated
 24 honorary positions; do NOT list membership or uncompensated honorary
 25 positions. If the listed entity was licensed by any state or local
 26 agency, was regulated by any state regulatory agency or local agen-
 27 cy, or, as a regular and significant part of the business or activ-
 28 ity of said entity, did business with, or had matters other than
 29 ministerial matters before, any state or local agency, list the name
 30 of any such agency.

31	32	33	34	35	36	37
	Position	Organization	State or	Local	Agency	

38 5. (a) List the name, address and description of any [occupation,]
 39 employment (other than the employment listed under Item 2 above),
 40 trade, business [or], profession OR OCCUPATION engaged in by the
 41 reporting individual. If such activity was licensed by any state or
 42 local agency[,] OR was regulated by any state regulatory agency or
 43 local agency, [or, as a regular and significant part of the business
 44 or activity of said entity, did business with, or had matters other
 45 than ministerial matters before, any state or local agency,] list
 46 the name of any such agency.

47	48	49	50	51	52
	Position	Name & Address of Organization	Description	State or Local Agency	

1	
2	
3	
4	
5	

6 (b) IF THE REPORTING INDIVIDUAL DID BUSINESS WITH OR HAD MATTERS OTHER
 7 THAN MINISTERIAL MATTERS BEFORE ANY STATE OR LOCAL AGENCY IN THE
 8 COURSE OF ANY EMPLOYMENT, TRADE, BUSINESS, PROFESSION OR OCCUPATION
 9 ENGAGED IN BY THE REPORTING INDIVIDUAL, LIST THE NAME AND ADDRESS OF
 10 THE ENTITY, A BRIEF DESCRIPTION OF THE ACTIVITY AND THE NAME OF ANY
 11 SUCH AGENCY.

12	13	14	15
	NAME & ADDRESS OF ORGANIZATION	DESCRIPTION	STATE OR LOCAL AGENCY
16			
17			
18			
19			

20 (C) If the spouse, DOMESTIC PARTNER or unemancipated child of the
 21 reporting individual was engaged in any occupation, employment,
 22 trade, business or profession which activity was licensed by any
 23 state or local agency, was regulated by any state regulatory agency
 24 or local agency, or, as a regular and significant part of the busi-
 25 ness or activity of said entity, did business with, or had matters
 26 other than ministerial matters before, any state or local agency,
 27 list the name, address and description of such occupation, employ-
 28 ment, trade, business or profession and the name of any such agency.

29	30	31	32
	Position	Name & Address of Organization	Description
			State or Local Agency
33			
34			
35			
36			

37 6. List any interest, in EXCESS of \$1,000, held by the reporting indi-
 38 vidual, such individual's spouse, DOMESTIC PARTNER or unemancipated
 39 child, or partnership of which any such person is a member, or
 40 corporation, 10% or more of the stock of which is owned or
 41 controlled by any such person, whether vested or contingent, in any
 42 contract made or executed by a state or local agency and include the
 43 name of the entity which holds such interest and the relationship of
 44 the reporting individual or such individual's spouse or such child
 45 to such entity and the interest in such contract. Do NOT include
 46 bonds and notes. Do NOT list any interest in any such contract on
 47 which final payment has been made and all obligations under the
 48 contract except for guarantees and warranties have been performed,
 49 provided, however, that such an interest must be listed if there has

1 been an ongoing dispute during the calendar year for which this
2 statement is filed with respect to any such guarantees or warran-
3 ties. Do NOT list any interest in a contract made or executed by a
4 local agency after public notice and pursuant to a process for
5 competitive bidding or a process for competitive requests for
6 proposals.

7	Entity	Relationship	Contracting	Category
8	Self, Which Held	to Entity	State or	of
9	Spouse or Interest in	and Interest	Local	Value of
10	Child Contract	in Contract	Agency	Contract

11 _____
12 _____
13 _____
14 _____
15 _____

16 7. List any position the reporting individual held as an officer of any
17 political party or political organization, as a member of any poli-
18 tical party committee, or as a political party district leader. The
19 term "party" shall have the same meaning as "party" in the election
20 law. The term "political organization" means any party or independ-
21 ent body as defined in the election law or any organization that is
22 affiliated with or a subsidiary of a party or independent body.

23 _____
24 _____
25 _____
26 _____
27 _____

28 8. (a) If the reporting individual practices law, is licensed by the
29 department of state as a real estate broker or agent or practices a
30 profession licensed by the department of education, give a LIST OF
31 ALL CLIENTS AND A general description of the principal subject areas
32 of matters undertaken by such individual. IF THE NATURE OF THE
33 REPORTING INDIVIDUAL'S PRACTICE OR ACTIVITIES WERE SUCH THAT NO
34 PRINCIPAL SUBJECT AREAS OR MATTERS WERE UNDERTAKEN, GIVE A GENERAL
35 DESCRIPTION OF THE PRACTICE OR ACTIVITIES UNDERTAKEN. Additionally,
36 if such an individual practices with a firm or corporation and is a
37 partner or shareholder of the firm or corporation, give a LIST OF
38 ALL CLIENTS AND A general description of THE principal subject areas
39 of matters undertaken by such firm or corporation. [Do not list the
40 name of the individual clients, customers or patients.] IF THE
41 MATTERS UNDERTAKEN BY SUCH FIRM OR CORPORATION WERE SUCH THAT NO
42 PRINCIPAL SUBJECT AREAS OR MATTERS WERE UNDERTAKEN, GIVE A GENERAL
43 DESCRIPTION OF THE PRACTICE OR ACTIVITIES UNDERTAKEN.

44	NATURE	CLIENT	STATE AGENCY OR COURT	CATEGORY OF VALUE
----	--------	--------	-----------------------	-------------------

45 _____
46 _____
47 _____
48 _____
49 _____

(b) IF THE REPORTING INDIVIDUAL RECEIVED COMPENSATION IN EXCESS OF \$1,000 FOR APPEARANCES BEFORE A STATE AGENCY OR WITH THE UNIFIED COURT SYSTEM WITH RESPECT TO MATTERS OTHER THAN MINISTERIAL MATTERS, INDICATE THE NATURE OF THE APPEARANCES, CLIENT NAME AND THE NAME OF ANY SUCH AGENCY.

NATURE	CLIENT	STATE AGENCY OR COURT	CATEGORY OF VALUE
--------	--------	-----------------------	-------------------

(C) List the name, principal address and general description or the nature of the business activity of any entity in which the reporting individual or such individual's spouse OR DOMESTIC PARTNER had an investment in excess of \$1,000 excluding investments in securities and interests in real property.

(D) IF THE REPORTING INDIVIDUAL RECEIVED INCOME IN EXCESS OF \$1,000 FROM CONSULTING SERVICES, NOT INCLUDING ANY SERVICES PERFORMED BY A LICENSED PROFESSIONAL LISTED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH, PROVIDE THE NAME AND ADDRESS OF THE INDIVIDUAL, BUSINESS OR ENTITY, THE COMPENSATION RECEIVED FROM SUCH ENTITY, AND PROVIDE A GENERAL DESCRIPTION OF THE SERVICES RENDERED OR CONSIDERATION GIVEN.

ENTITY	ADDRESS	SERVICES/CONSIDERATION	CATEGORY OF VALUE
--------	---------	------------------------	-------------------

(E) LIST EACH SOURCE OF REFERRAL FOR BUSINESS OR FOR CLIENTS BY THOSE WHO ARE REGISTERED TO LOBBY OR THEIR CLIENTS AND PROVIDE THE NAME, ADDRESS OF THE BUSINESS OR ENTITY, THE COMPENSATION RECEIVED FROM SUCH REFERRED ENTITY, AND PROVIDE A GENERAL DESCRIPTION OF THE SERVICES RENDERED OR CONSIDERATION GIVEN.

SOURCE	NAME	ADDRESS	SERVICES/ CONSIDERATION	CATEGORY OF VALUE
--------	------	---------	----------------------------	-------------------

9. List each source of gifts, EXCLUDING campaign contributions, in EXCESS of \$1,000, received during the reporting period for which

1 this statement is filed by the reporting individual or such individ-
 2 ual's spouse, DOMESTIC PARTNER or unemancipated child from the same
 3 donor, EXCLUDING gifts from a relative. INCLUDE the name and address
 4 of the donor. The term "gifts" does not include reimbursements,
 5 which term is defined in item 10. Indicate the value and nature of
 6 each such gift.

7	8	9	10	11	12	13	14	15
	Self, Spouse or Child	Name of Donor	Address	Nature of Gift	Category of Value of Gift			

11								
12								
13								
14								
15								

16 10. Identify and briefly describe the source of any reimbursements for
 17 expenditures, EXCLUDING campaign expenditures and expenditures in
 18 connection with official duties reimbursed by the state, in EXCESS
 19 of \$1,000 from each such source. For purposes of this item, the term
 20 "reimbursements" shall mean any travel-related expenses provided by
 21 nongovernmental sources and for activities related to the reporting
 22 individual's official duties such as, speaking engagements, confer-
 23 ences, or factfinding events. The term "reimbursements" does NOT
 24 include gifts reported under item 9.

25	26	27	28	29	30
Source	Description				

26					
27					
28					
29					
30					

31 11. List the identity and value, if reasonably ascertainable, of each
 32 interest in a trust, estate or other beneficial interest, including
 33 retirement plans (other than retirement plans of the state of New
 34 York or the city of New York[,]) and deferred compensation plans
 35 (e.g., 401, 403(b), 457, etc.) established in accordance with the
 36 internal revenue code, in which the REPORTING INDIVIDUAL held a
 37 beneficial interest in EXCESS of \$1,000 at any time during the
 38 preceding year. Do NOT report interests in a trust, estate or other
 39 beneficial interest established by or for, or the estate of, a rela-
 40 tive.

41	42	43	44	45	46	47
	Identity	Category of Value*				

43						
44						
45						
46						
47						

1 * The value of such interest shall be reported only if reasonably
2 ascertainable.

3 12. (a) Describe the terms of, and the parties to, any contract, prom-
4 ise, or other agreement between the reporting individual and any
5 person, firm, or corporation with respect to the employment of such
6 individual after leaving office or position (other than a leave of
7 absence).

8 _____
9 _____
10 _____
11 _____
12 _____

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

19 _____
20 _____
21 _____
22 _____
23 _____

24 13. List below the nature and amount of any income in EXCESS of \$1,000
25 from EACH SOURCE for the reporting individual and such individual's
26 spouse OR DOMESTIC PARTNER for the taxable year last occurring prior
27 to the date of filing. Nature of income includes, but is not limit-
28 ed to, all income (other than that received from the employment
29 listed under Item 2 above) from compensated employment whether
30 public or private, directorships and other fiduciary positions,
31 contractual arrangements, teaching income, partnerships, honorari-
32 ums, lecture fees, consultant fees, bank and bond interest, divi-
33 dends, income derived from a trust, real estate rents, and recog-
34 nized gains from the sale or exchange of real or other property.
35 Income from a business or profession and real estate rents shall be
36 reported with the source identified by the building address in the
37 case of real estate rents and otherwise by the name of the entity
38 and not by the name of the individual customers, clients or tenants,
39 with the aggregate net income before taxes for each building address
40 or entity. The receipt of maintenance received in connection with a
41 matrimonial action, alimony and child support payments shall not be
42 listed.

43 Self/ 44 Spouse	Source	Nature	Category of Amount
-----------------------	--------	--------	-----------------------

45	_____		
46	_____		
47	_____		
48	_____		
49	_____		

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

Source	Category of Amount
--------	--------------------

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

Item Assigned or Transferred	Assigned or Transferred to	Category of Value
------------------------------	----------------------------	-------------------

16. List below the type and market value of securities held by the reporting individual or such individual's spouse from each issuing entity in EXCESS of \$1,000 at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed ONLY IF the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to the reporting individual. Securities of which the reporting individual or the reporting individual's spouse is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership ONLY if the reporting person or the reporting person's spouse holds more than five percent (5%) of the stock of a corpo-

1
2
3 18. List below all notes and accounts receivable, other than from goods
4 or services sold, held by the reporting individual at the close of
5 the taxable year last occurring prior to the date of filing and
6 other debts owed to such individual at the close of the taxable year
7 last occurring prior to the date of filing, in EXCESS of \$1,000,
8 including the name of the debtor, type of obligation, date due and
9 the nature of the collateral securing payment of each, if any,
10 excluding securities reported in item 16 hereinabove. Debts, notes
11 and accounts receivable owed to the individual by a relative shall
12 not be reported.

13	Type of Obligation,	Category	
14	Date Due, and Nature	of	
15	Name of Debtor	of Collateral, if any	Amount
16			
17			
18			
19			
20			

21 19. List below all liabilities of the reporting individual and such
22 individual's spouse[,] OR DOMESTIC PARTNER in EXCESS of \$5,000 as of
23 the date of filing of this statement, other than liabilities to a
24 relative. Do NOT list liabilities incurred by, or guarantees made
25 by, the reporting individual or such individual's spouse OR DOMESTIC
26 PARTNER or by any proprietorship, partnership or corporation in
27 which the reporting individual or such individual's spouse OR DOMES-
28 TIC PARTNER has an interest, when incurred or made in the ordinary
29 course of the trade, business or professional practice of the
30 reporting individual or such individual's spouse OR DOMESTIC
31 PARTNER. Include the name of the creditor and any collateral
32 pledged by such individual to secure payment of any such liability.
33 A reporting individual shall not list any obligation to pay mainte-
34 nance in connection with a matrimonial action, alimony or child
35 support payments. Any loan issued in the ordinary course of business
36 by a financial institution to finance educational costs, the cost of
37 home purchase or improvements for a primary or secondary residence,
38 or purchase of a personally owned motor vehicle, household furniture
39 or appliances shall be excluded. If any such reportable liability
40 has been guaranteed by any third person, list the liability and name
41 the guarantor.

42	Name of Creditor	Type of Liability	Category
43	or Guarantor	and Collateral, if any	of
44			Amount
45			
46			
47			
48			
49			

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

5
6 (Signature of Reporting Individual)

Date (month/day/year)

7 S 29. Paragraph d of subdivision 3 of section 74 of the public offi-
8 cers law, as amended by chapter 1012 of the laws of 1965, is amended to
9 read as follows:

10 d. No officer or employee of a state agency, member of the legislature
11 or legislative employee should use or attempt to use his OR HER official
12 position to secure unwarranted privileges or exemptions for himself,
13 HERSELF, HIS OR HER RELATIVE, AS DEFINED IN PARAGRAPH (M) OF SUBDIVISION
14 ONE OF SECTION SEVENTY-THREE OF THIS ARTICLE, or others.

15 S 30. Subdivision 4 of section 74 of the public officers law, as
16 amended by chapter 14 of the laws of 2007, is amended to read as
17 follows:

18 4. Violations. In addition to any penalty contained in any other
19 provision of law any such officer, member or employee who shall knowingly
20 and intentionally violate any of the provisions of this section may
21 be fined, suspended or removed from office or employment in the manner
22 provided by law. Any such individual who knowingly and intentionally
23 violates the provisions of paragraph b, c, d or i of subdivision three
24 of this section shall be subject to a civil penalty in an amount not to
25 exceed [ten] TWENTY-FIVE thousand dollars and TRIPLE the value of any
26 gift, compensation or benefit received as a result of such violation.
27 Any such individual who knowingly and intentionally violates the
28 provisions of paragraph a, e or g of subdivision three of this section
29 shall be subject to a civil penalty in an amount not to exceed TRIPLE
30 the value of any gift, compensation or benefit received as a result of
31 such violation.

32 S 31. Subdivision 2 of section 63 of the executive law is amended to
33 read as follows:

34 2. [Whenever] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHENEVER
35 required by the governor, attend in person, or by one of his deputies,
36 any term of the supreme court or appear before the grand jury thereof
37 for the purpose of managing and conducting in such court or before such
38 jury criminal actions or proceedings as shall be specified in such
39 requirement; in which case the attorney-general or his deputy so attending
40 shall exercise all the powers and perform all the duties in respect
41 of such actions or proceedings, which the district attorney would otherwise
42 be authorized or required to exercise or perform; and in any of
43 such actions or proceedings the district attorney shall only exercise
44 such powers and perform such duties as are required of him by the attorney-general
45 or the deputy attorney-general so attending. In all such
46 cases, EXCEPT THOSE CASES ARISING OUT OF REFERRALS FROM THE STATE
47 GOVERNMENT ETHICS COMMISSION, all expenses incurred by the attorney-general,
48 including the salary or other compensation of all deputies
49 employed, shall be a county charge.

50 S 32. All powers, duties and functions conferred upon the state
51 commission on public integrity, the legislative ethics commission, the
52 state board of elections as such powers, duties and functions pertain to
53 article 14 of the election law, and their commissioners and executive
54 directors, shall be transferred to and assumed by the state government

1 ethics commission and the commissioners and executive director to be
2 appointed thereof.

3 S 33. Transfer of employees. Upon the transfer of the functions, as
4 provided for in this act, any affected employees shall be transferred to
5 the state government ethics commission in accordance with section 70 of
6 the civil service law.

7 S 34. Transfer of records. The state commission on public integrity,
8 the legislative ethics commission and the state board of elections as it
9 pertains to article 14 of the election law shall deliver to the state
10 government ethics commission all books, papers, records, and property as
11 requested by the state government ethics commission.

12 S 35. Continuity of authority. For the purpose of succession to all
13 functions, powers, duties and obligations transferred and assigned to,
14 devolved upon and assumed by it pursuant to this act, the state govern-
15 ment ethics commission shall be deemed and held to constitute the
16 continuation of the state commission on public integrity, the legisla-
17 tive ethics commission and the state board of elections as it pertains
18 to article 14 of the election law.

19 S 36. Completion of unfinished business. Any business or other matter
20 undertaken or commenced by the state commission on public integrity, the
21 legislative ethics commission and the state board of elections as it
22 pertains to article 14 of the election law pertaining to or connected
23 with the functions, powers, obligations and duties hereby transferred
24 and assigned to the state government ethics commission, and pending on
25 the effective date of this act may be conducted and completed by the
26 state government ethics commission in the same manner and under the same
27 terms and conditions and with the same effect as if conducted and
28 completed by the former state commission on public integrity, the legis-
29 lative ethics commission and the state board of elections as it pertains
30 to article 14 of the election law.

31 S 37. Terms occurring in laws, contracts and other documents. Whenever
32 the state commission on public integrity, the legislative ethics commis-
33 sion and the state board of elections as it pertains to article 14 of
34 the election law, and the committee on open government as it pertains to
35 article 7 of the public officers law are referred to or designated in
36 any law, contract or documents pertaining to the functions, powers,
37 obligations and duties hereby transferred and assigned to the state
38 government ethics commission, such reference or designation shall be
39 deemed to refer to the state government ethics commission as created by
40 this act.

41 S 38. Existing rights and remedies preserved. No existing right or
42 remedy of any character shall be lost, impaired or affected by reason of
43 this act.

44 S 39. Pending actions and proceedings. No action or proceeding pending
45 at the time when this act shall take effect, brought by or against the
46 state commission on public integrity, the legislative ethics commission
47 and the state board of elections as it pertains to article 14 of the
48 election law shall be affected by this act, but the same may be prose-
49 cuted or defended in the name of the state government ethics commission
50 and upon application to the court, the state government ethics commis-
51 sion shall be substituted as a party.

52 S 40. Notwithstanding any contrary provision of the state finance law,
53 transfer of appropriations heretofore made to the state commission on
54 public integrity, the legislative ethics commission and the state board
55 of elections as it pertains to article 14 of the election law all appro-
56 priations or reappropriations for the functions herein transferred here-

1 tofore made to the state commission on public integrity, the legislative
2 ethics commission, the state board of elections as it pertains to arti-
3 cle 14 of the election law or segregated pursuant to law, to the extent
4 of remaining unexpended or unencumbered balances thereof, whether allo-
5 cated or unallocated and whether obligated or unobligated, are hereby
6 transferred to the state government ethics commission to the extent
7 necessary to carry out the state government ethics commission's func-
8 tions, powers and duties subject to the approval of the director of the
9 budget for the same purposes for which originally appropriated or reap-
10 propriated and shall be payable on vouchers certified or approved by the
11 state government ethics commission on audit and warrant of the comp-
12 troller.

13 S 41. Separability clause. If any clause, sentence, paragraph, section
14 or part of this act shall be adjudged by any court of competent juris-
15 diction to be invalid, such judgment shall not affect, impair or invali-
16 date the remainder thereof, but shall be confined in its operation to
17 the clause, sentence, paragraph, section or part thereof directly
18 involved in the controversy in which such judgment shall have been
19 rendered.

20 S 42. This act shall take effect on the two hundred seventieth day
21 after it shall have become a law, except that appointments to the state
22 government ethics commission, as added by section four of this act, and
23 the designating commission, as added by section eight of this act, may
24 be made before such date.

25

PART B

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

28 8-A. "EMPLOYEE RETIREMENT SYSTEM BOARD" OR "BOARD." THE ENTITY ESTAB-
29 LISHED PURSUANT TO SECTION TEN-B OF THIS ARTICLE.

30 S 2. The retirement and social security law is amended by adding a new
31 section 10-b to read as follows:

32 S 10-B. THE EMPLOYEE RETIREMENT SYSTEM BOARD. 1. THERE IS HEREBY
33 ESTABLISHED THE EMPLOYEE RETIREMENT SYSTEM BOARD, WHICH SHALL CONSIST OF
34 FIVE MEMBERS TO BE APPOINTED BY A DESIGNATING COMMISSION PURSUANT TO
35 SECTION SEVENTY-THREE-F OF THE PUBLIC OFFICERS LAW.

36 2. EACH MEMBER OF THE BOARD SHALL HAVE EXPERIENCE IN THE FIELD OF
37 SECURITIES INVESTMENT, PENSION ADMINISTRATION, PENSION LAW OR GOVERN-
38 MENTAL FINANCE, SHALL SERVE FIVE YEAR TERMS AND MAY BE REAPPOINTED TO
39 THE BOARD; PROVIDED, HOWEVER, THAT OF THE MEMBERS INITIALLY APPOINTED TO
40 THE BOARD, ONE SHALL SERVE FOR ONE YEAR, ONE SHALL SERVE FOR TWO YEARS,
41 ONE SHALL SERVE FOR THREE YEARS, ONE SHALL SERVE FOR FOUR YEARS AND ONE
42 SHALL SERVE FOR FIVE YEARS, AS DESIGNATED BY THE COMMISSION. MEMBERS OF
43 THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES AS BOARD
44 MEMBERS, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR THEIR ACTUAL AND
45 NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR FUNCTIONS.
46 VACANCIES TO THE BOARD SHALL BE FILLED WITHIN SIXTY DAYS OF THEIR OCCUR-
47 RENCE IN THE SAME MANNER AS ORIGINAL APPOINTMENTS.

48 3. THE MEMBERS OF THE BOARD SHALL BE SUBJECT TO SECTIONS SEVENTY-THREE
49 AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

50 4. BOARD MEMBERS SHALL PARTICIPATE IN TRAINING, DEVELOPED AND ADMINIS-
51 TERED BY THE DEPARTMENT OF AUDIT AND CONTROL, IN CONSULTATION WITH THE
52 SUPERINTENDENT OF INSURANCE AND THE ATTORNEY GENERAL, REGARDING LEGAL,
53 FIDUCIARY, FINANCIAL AND ETHICAL RESPONSIBILITIES WITHIN ONE YEAR OF
54 APPOINTMENT TO THE BOARD.

1 5. A MAJORITY OF THE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM,
2 AND ALL ACTIONS OF THE BOARD SHALL REQUIRE APPROVAL OF A MAJORITY OF THE
3 TOTAL MEMBERS OF THE BOARD.

4 6. THE BOARD MAY EMPLOY AN EXECUTIVE DIRECTOR, A CHIEF ACTUARY, A
5 CHIEF INVESTMENT OFFICER, AS WELL AS INVESTMENT OFFICERS, PORTFOLIO
6 MANAGERS AND SUCH NECESSARY TECHNICAL AND ADMINISTRATIVE PERSONNEL AS IT
7 MAY REQUIRE. THE BOARD SHALL ESTABLISH COMPENSATION THAT IS REASONABLE
8 AND CUSTOMARY FOR SUCH POSITIONS.

9 7. THE BOARD MAY, IN CONSULTATION WITH THE SUPERINTENDENT OF INSUR-
10 ANCE, PROMULGATE RULES AND REGULATIONS ON THE GOVERNANCE OF THE RETIRE-
11 MENT SYSTEM, AND SUCH OTHER RULES AND REGULATIONS AS IT MAY DEEM APPRO-
12 PRIATE.

13 S 3. Section 13 of the retirement and social security law, subdivision
14 b as amended by chapter 369 of the laws of 1964, subdivision d as
15 amended by chapter 460 of the laws of 1971, subdivision f as amended by
16 chapter 376 of the laws of 1965, paragraph 2 of subdivision f as amended
17 by chapter 908 of the laws of 1971, subdivision h as amended by chapter
18 496 of the laws of 1967, subdivision i as amended by chapter 1046 of the
19 laws of 1973, subdivision j as added by chapter 510 of the laws of 1965
20 and subdivision k as added by chapter 841 of the laws of 1968, is
21 amended to read as follows:

22 S 13. Management of funds. a. The funds of the retirement system shall
23 be managed in accordance with this section.

24 b. The [comptroller] MEMBERS OF THE EMPLOYEE RETIREMENT SYSTEM BOARD
25 shall be trustee of the several funds of the retirement system AND THE
26 COMPTROLLER SHALL BE CUSTODIAN OF SUCH FUNDS. Such funds shall be
27 invested by the comptroller AS AUTHORIZED BY THE EMPLOYEE RETIREMENT
28 SYSTEM BOARD, in securities in which he OR SHE is authorized by law to
29 invest the funds of the state, except that he OR SHE may invest in obli-
30 gations consisting of notes, bonds, debentures, or equipment trust
31 certificates issued under an indenture, which are the direct obligations
32 of, or in the case of equipment trust certificates are secured by direct
33 obligations of, a railroad or industrial corporation, or a corporation
34 engaged directly and primarily in the production, transportation,
35 distribution, or sale of electricity or gas, or the operation of tele-
36 phone or telegraph systems or waterworks, or in some combination of
37 them; provided the obligor corporation is one which is incorporated
38 under the laws of the United States, or any state thereof, or of the
39 District of Columbia, and said obligations shall be rated at the time of
40 purchase within the three highest classifications established by at
41 least two standard rating services. The maximum amount that the comp-
42 troller AS AUTHORIZED BY THE BOARD may invest in such obligations shall
43 not exceed thirty per centum of the assets of the New York state employ-
44 ees' retirement system's funds; and provided further that not more than
45 two and one half per centum of the assets of the New York state employ-
46 ees' retirement system's funds shall be invested in the obligations of
47 any one corporation of the highest classification and subsidiary or
48 subsidiaries thereof, that not more than two per centum of the assets of
49 the New York state employees' retirement system's funds shall be
50 invested in the obligations of any one corporation of the second highest
51 classification and subsidiary or subsidiaries thereof, that not more
52 than one and one half per centum of the assets of the New York state
53 employees' retirement system's funds shall be invested in the obli-
54 gations of any one corporation of the third highest classification and
55 subsidiary or subsidiaries thereof. He OR SHE shall, however, be
56 subject to all terms, conditions, limitations and restrictions imposed

1 by this article and by law upon the making of such investments. The
2 comptroller AS AUTHORIZED BY THE BOARD shall have full power:

3 1. To hold, purchase, sell, assign, transfer or dispose of any of the
4 securities or investments, in which any of the funds of the retirement
5 system shall be invested, including the proceeds of such investments and
6 any monies belonging to such funds, and

7 2. In his OR HER name as [trustee] CUSTODIAN, to foreclose mortgages
8 upon default or to take title to real property in such proceedings in
9 lieu thereof and to lease and sell real property so acquired.

10 c. The comptroller annually shall credit to each of the funds of the
11 retirement system regular interest on the mean amount therein for the
12 preceding year.

13 d. The custody of all funds of the retirement system shall be in the
14 charge of the head of the division of the treasury of the department of
15 taxation and finance, subject to the supervision and control of the
16 commissioner of taxation and finance.

17 e. Payment of all pensions, annuities and other benefits shall be made
18 as provided in this article. For the purpose of meeting disbursements
19 for pensions, annuities and other payments ordered by the comptroller,
20 the head of such division may keep on deposit an available fund which
21 shall not exceed ten per centum of the total amount of the several funds
22 of the retirement system. Every such deposit shall be kept only in a
23 bank or trust company organized under the laws of this state, or in a
24 national bank located in this state, which shall furnish adequate secu-
25 rity therefor.

26 f. The comptroller, however, shall have a fund in his OR HER immediate
27 possession. Such fund shall be used for the immediate payment of:

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

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

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

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

36 g. Neither the comptroller nor THE MEMBERS OF THE BOARD OR any person
37 employed on the work of the retirement system shall:

38 1. Except as herein provided, have any interest, direct or indirect,
39 in the gains or profits of any investment of the retirement system, nor,
40 in connection therewith, directly or indirectly, receive any pay or
41 emolument for his OR HER services.

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

43 (a) Directly or indirectly, for himself OR HERSELF or as an agent or
44 partner of others, borrow any of its funds or deposits or in any manner
45 use the same except to make such current and necessary payments as are
46 authorized by the comptroller, or

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

49 h. The retirement system may use a part of its funds, not exceeding
50 ten per centum of its assets, (1) for purchasing or leasing of land in
51 the city of Albany and the construction thereon of a suitable office
52 building or buildings for the transaction of the business of the retire-
53 ment system and (2) for purchasing or leasing of land in the cities of
54 Albany, Syracuse, Buffalo, Binghamton, New York, Rochester and Utica and
55 the construction thereon of a suitable office building or buildings for
56 purposes of lease or sale to the state and (3) for purchasing or leasing

1 of land in the city of Albany on the north and south sides of Washington
2 avenue commonly known as the "Campus Site" acquired by the state for a
3 state buildings site pursuant to the provisions of chapter five hundred
4 seventy-two of the laws of nineteen hundred forty-seven and the
5 construction thereon of power plants including service connections,
6 electric substations including service connections, garages, warehouses
7 and restaurant facilities deemed necessary for the efficient and econom-
8 ical operation of the office building or buildings constructed on such
9 land and (4) for purchasing or leasing of land in the city of Albany
10 acquired by the state for suitable parking facilities for the use prima-
11 rily of employees of the state and persons having business with state
12 departments and state agencies and the construction thereon of such
13 structures, appurtenances and facilities deemed necessary for the effi-
14 cient and economical operation of the parking facilities constructed on
15 such land and (5) for purchasing or leasing of land in locations
16 approved by the state university trustees and the construction, acquisi-
17 tion, reconstruction, rehabilitation or improvement of suitable build-
18 ings or facilities thereon for purposes of lease or sale to the state
19 university construction fund, such buildings or facilities to be used by
20 the state university or by state-operated institutions or statutory or
21 contract colleges under the jurisdiction of the state university or by
22 the students, faculty and staff of the state university or of any such
23 state-operated institution or statutory or contract college, and their
24 families and (6) for purchasing of lands from the New York state thruway
25 authority and the construction thereon of an office building or other
26 buildings for purposes of lease or sale to the thruway authority for its
27 own use under such terms and conditions, including consideration and
28 length of term, as shall be agreed upon between the retirement system
29 and the thruway authority.

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

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

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

1 Special interest at such rates, shall be credited by the comptroller at
2 the same time that regular interest is credited, to the individual annu-
3 ity savings accounts of persons who are members as of the close of the
4 fiscal year. Special interest shall not be considered in determining
5 rates of contribution of members. In the case of persons who last became
6 members on or after July first, nineteen hundred seventy-three, the
7 provisions of this subdivision shall apply only to the fiscal years
8 beginning April first, nineteen hundred seventy-two and ending March
9 thirty-first, nineteen hundred seventy-three.

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

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

22 S 4. The retirement and social security law is amended by adding a new
23 article 3-B to read as follows:

24 ARTICLE 3-B

25 TRANSPARENCY, ACCOUNTABILITY AND PROHIBITIONS 26 IN THE STATE RETIREMENT SYSTEM

27 SECTION 156. PROHIBITION ON PLACEMENT AGENTS.

28 S 156. PROHIBITION ON PLACEMENT AGENTS. 1. DEFINITIONS. FOR THE
29 PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

30 (A) "CONFLICT OF INTEREST" SHALL MEAN A CIRCUMSTANCE UNDER WHICH AN
31 INDIVIDUAL OR ENTITY HAS AN INTEREST THAT HE, SHE OR IT IS AWARE MAY
32 IMPAIR HIS, HER OR ITS IMPARTIAL OR OBJECTIVE JUDGMENT.

33 (B) "CONSULTANT" SHALL MEAN ANY PERSON (OTHER THAN AN EMPLOYEE OF THE
34 BOARD OR THE COMPTROLLER) OR ENTITY RETAINED BY THE FUND TO PROVIDE
35 TECHNICAL OR PROFESSIONAL SERVICES TO THE FUND RELATING TO INVESTMENTS
36 BY THE FUND, INCLUDING OUTSIDE INVESTMENT COUNSEL AND LITIGATION COUN-
37 SEL, CUSTODIANS, ADMINISTRATORS, BROKER-DEALERS, AND PERSONS OR ENTITIES
38 THAT IDENTIFY INVESTMENT OBJECTIVES AND RISKS, ASSIST IN THE SELECTION
39 OF MONEY MANAGERS, SECURITIES, OR OTHER INVESTMENTS, OR MONITOR INVEST-
40 MENT PERFORMANCE.

41 (C) "FAMILY MEMBER" SHALL MEAN ANY PERSON RELATED BY BLOOD, MARRIAGE,
42 ADOPTION, OR OPERATION OF LAW WHO RESIDES IN THE SAME HOUSEHOLD, AND ANY
43 PERSON RELATED TO SUCH PERSON WITHIN THE THIRD DEGREE OF CONSANGUINITY
44 OR AFFINITY.

45 (D) "FUND" SHALL MEAN THE NEW YORK STATE COMMON RETIREMENT FUND.

46 (E) "EMPLOYEE RETIREMENT SYSTEM BOARD" OR "BOARD" SHALL MEAN THE ENTI-
47 TY ESTABLISHED PURSUANT TO SECTION TEN-B OF THIS CHAPTER.

48 (F) "INVESTMENT MANAGER" SHALL MEAN ANY PERSON (OTHER THAN AN EMPLOYEE
49 OF THE DEPARTMENT OF AUDIT AND CONTROL) OR ENTITY ENGAGED BY THE FUND IN
50 THE MANAGEMENT OF PART OR ALL OF AN INVESTMENT PORTFOLIO OF THE FUND.
51 "MANAGEMENT" SHALL INCLUDE, BUT IS NOT LIMITED TO, ANALYSIS OF PORTFOLIO
52 HOLDINGS, AND THE PURCHASE, SALE, AND LENDING THEREOF.

53 (G) "INVESTMENT POLICY STATEMENT" SHALL MEAN A WRITTEN DOCUMENT THAT,
54 CONSISTENT WITH LAW, SETS FORTH A FRAMEWORK FOR THE INVESTMENT PROGRAM
55 OF THE FUND.

1 (H) "PLACEMENT AGENT" SHALL MEAN ANY PERSON OR ENTITY THAT IS DIRECTLY
2 OR INDIRECTLY ENGAGED AND COMPENSATED BY AN INVESTMENT MANAGER TO
3 PROMOTE INVESTMENTS TO OR SOLICIT INVESTMENTS BY THE FUND, WHETHER
4 COMPENSATED ON A FLAT FEE, A CONTINGENT FEE, OR ANY OTHER BASIS, AND
5 SHALL INCLUDE A REGISTERED LOBBYIST. REGULAR EMPLOYEES OF AN INVESTMENT
6 MANAGER ARE EXCLUDED FROM THIS DEFINITION UNLESS THEY ARE EMPLOYED PRIN-
7 CIPALLY FOR THE PURPOSE OF SECURING OR INFLUENCING THE DECISION TO
8 SECURE A PARTICULAR TRANSACTION OR INVESTMENT BY THE FUND. FOR PURPOSES
9 OF THIS PARAGRAPH, THE TERM "EMPLOYEE" SHALL INCLUDE ANY PERSON WHO
10 WOULD QUALIFY AS AN EMPLOYEE UNDER THE FEDERAL INTERNAL REVENUE CODE OF
11 1986, AS AMENDED.

12 (I) "RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL
13 EMPLOYEES' RETIREMENT SYSTEM AND THE NEW YORK STATE AND LOCAL POLICE AND
14 FIRE RETIREMENT SYSTEM.

15 (J) "THIRD PARTY ADMINISTRATOR" SHALL MEAN ANY PERSON OR ENTITY THAT
16 CONTRACTUALLY PROVIDES ADMINISTRATIVE SERVICES TO THE RETIREMENT SYSTEM,
17 INCLUDING RECEIVING AND RECORDING EMPLOYER AND EMPLOYEE CONTRIBUTIONS,
18 MAINTAINING ELIGIBILITY ROSTERS, VERIFYING ELIGIBILITY FOR BENEFITS,
19 PAYING BENEFITS OR MAINTAINING ANY OTHER RETIREMENT SYSTEM RECORDS.
20 "ADMINISTRATIVE SERVICES" SHALL NOT INCLUDE SERVICES PROVIDED TO THE
21 FUND RELATING TO FUND INVESTMENTS.

22 2. IN ORDER TO PRESERVE THE INDEPENDENCE AND INTEGRITY OF THE FUND, TO
23 PRECLUDE POTENTIAL CONFLICTS OF INTEREST, AND TO ASSIST THE BOARD IN
24 FULFILLING ITS DUTIES AS A FIDUCIARY TO THE FUND:

25 (A) THE BOARD SHALL NOT ENGAGE, HIRE, INVEST WITH OR COMMIT TO AN
26 OUTSIDE INVESTMENT MANAGER, EITHER DIRECTLY OR INDIRECTLY, WHO IS USING
27 THE SERVICES OF A PLACEMENT AGENT TO ASSIST THE INVESTMENT MANAGER IN
28 OBTAINING INVESTMENTS BY THE FUND; AND

29 (B) AN INVESTMENT MANAGER MAY NOT USE THE SERVICES OF A PLACEMENT
30 AGENT TO ASSIST THE INVESTMENT MANAGER IN OBTAINING INVESTMENTS BY THE
31 FUND OR OTHERWISE DOING BUSINESS THEREWITH.

32 3. AN INVESTMENT MANAGER SHALL DISCLOSE AND CERTIFY ON AT LEAST A
33 SEMI-ANNUAL BASIS, AND MORE FREQUENTLY AS DETERMINED BY THE BOARD:

34 (A) THE NAME, TITLE AND DESCRIPTION OF RESPONSIBILITIES OF EACH
35 EMPLOYEE OF THE INVESTMENT MANAGER WHOSE PROFESSIONAL DUTIES INCLUDE
36 CONTACT WITH THE RETIREMENT SYSTEM, INCLUDING THE RETIREMENT SYSTEM'S
37 EMPLOYEES, ADVISORS, CONSULTANTS AND THIRD-PARTY ADMINISTRATORS;

38 (B) WHETHER AN EMPLOYEE OF THE INVESTMENT MANAGER, WHOSE PROFESSIONAL
39 DUTIES INCLUDE CONTACT WITH THE RETIREMENT SYSTEM, IS A CURRENT OR
40 FORMER RETIREMENT SYSTEM EMPLOYEE, ADVISOR, CONSULTANT, OR THIRD-PARTY
41 ADMINISTRATOR;

42 (C) WHETHER ANY EMPLOYEE OF THE INVESTMENT MANAGER, WHOSE PROFESSIONAL
43 DUTIES INCLUDE CONTACT WITH THE RETIREMENT SYSTEM, HAS REGISTERED AS A
44 LOBBYIST WITH ANY STATE OR THE FEDERAL GOVERNMENT IN THE PAST TWO YEARS;
45 AND

46 (D) THE NAMES AND ADDRESSES OF ALL THIRD PARTIES THAT THE INVESTMENT
47 MANAGER COMPENSATED IN CONNECTION WITH INVESTMENTS IN THE RETIREMENT
48 SYSTEM, INCLUDING ANY FEES, COMMISSIONS OR RETAINERS, AND THE AMOUNTS OF
49 SUCH COMPENSATION.

50 4. AN INVESTMENT MANAGER SHALL PROMPTLY DISCLOSE TO THE BOARD, IN
51 WRITING, ANY APPARENT, POTENTIAL OR ACTUAL CONFLICT OF INTEREST BETWEEN
52 THE INVESTMENT MANAGER, INCLUDING THE INVESTMENT MANAGER'S EMPLOYEES AND
53 ANY FAMILY MEMBERS OF THE INVESTMENT MANAGER AND ITS EMPLOYEES, AND THE
54 RETIREMENT SYSTEM, INCLUDING THE RETIREMENT SYSTEM'S EMPLOYEES, CONSULT-
55 ANTS, THIRD-PARTY ADMINISTRATORS AND ANY FAMILY MEMBERS OF THE EMPLOY-
56 EES, CONSULTANTS, AND THIRD-PARTY ADMINISTRATORS. THE INVESTMENT MANAG-

1 ER SHALL NOT PROVIDE ANY SERVICES CONCERNING ANY MATTERS AFFECTED BY
2 SUCH CONFLICT OF INTEREST UNLESS THE RETIREMENT SYSTEM EXPRESSLY WAIVES
3 SUCH PROHIBITION OR UNTIL THE CONFLICT OF INTEREST IS OTHERWISE CURED.

4 5. AN INVESTMENT MANAGER SHALL PUBLISH ALL DISCLOSURES AND CERTIF-
5 ICATIONS REQUIRED BY THIS SECTION ON THE INVESTMENT MANAGER'S WEBSITE.

6 6. THE ATTORNEY GENERAL MAY ENFORCE THE PROVISIONS OF THIS SECTION,
7 AND MAY SEEK AN INJUNCTION, ON NOTICE OF FIVE DAYS, ENJOINING A PERSON
8 OR ENTITY FROM CONTINUING TO ENGAGE IN ANY CONDUCT IN VIOLATION OF THIS
9 SECTION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT ANY RIGHT
10 OR REMEDY OTHERWISE AVAILABLE UNDER LAW TO ANY PERSON, OR ENTITY,
11 INCLUDING THE ATTORNEY GENERAL.

12 7. THE BOARD SHALL:

13 (A) FILE WITH THE SUPERINTENDENT OF INSURANCE AN ANNUAL STATEMENT AS
14 PRESCRIBED BY SECTION THREE HUNDRED SEVEN OF THE INSURANCE LAW, INCLUD-
15 ING THE RETIREMENT SYSTEM'S FINANCIAL STATEMENT, TOGETHER WITH AN OPIN-
16 ION OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT ON THE FINANCIAL
17 STATEMENT;

18 (B) DISCLOSE ON THE OFFICE OF STATE COMPTROLLER'S WEBSITE, ON AT LEAST
19 AN ANNUAL BASIS, ALL FEES PAID BY THE FUND TO INVESTMENT MANAGERS,
20 CONSULTANTS, AND THIRD-PARTY ADMINISTRATORS;

21 (C) DISCLOSE ON THE OFFICE OF STATE COMPTROLLER'S WEBSITE THE FUND'S
22 INVESTMENT POLICIES AND PROCEDURES; AND

23 (D) REQUIRE FIDUCIARY AND CONFLICT OF INTEREST REVIEWS OF THE FUND
24 EVERY THREE YEARS BY A QUALIFIED UNAFFILIATED PERSON.

25 8. FOR PURPOSES OF THIS SECTION, ANY INVESTMENT MADE BY THE FUND
26 PURSUANT TO SUBDIVISION SEVEN OF SECTION ONE HUNDRED SEVENTY-SEVEN OF
27 THIS CHAPTER SHALL BE DEEMED TO BE THE INVESTMENT OF THE FUND IN SUCH
28 INVESTMENT ENTITY, RATHER THAN IN THE ASSET OF SUCH INVESTMENT ENTITY.

29 9. ANY PERSON OR ENTITY THAT HAS A REASONABLE BASIS TO BELIEVE THAT
30 ANY OTHER PERSON OR ENTITY HAS VIOLATED THIS SECTION SHALL REPORT TO THE
31 BOARD AND THE ATTORNEY GENERAL EVIDENCE OF THE VIOLATION.

32 10. ANY VIOLATION OF THIS SECTION OR REGULATIONS PROMULGATED THERE-
33 UNDER SHALL BE A MISDEMEANOR, PUNISHABLE BY A FINE NOT TO EXCEED TWEN-
34 TY-FIVE THOUSAND DOLLARS OR BY IMPRISONMENT NOT TO EXCEED SIX MONTHS OR
35 BY BOTH SUCH FINE AND IMPRISONMENT. ANY SECOND OR SUBSEQUENT VIOLATION
36 SHALL BE A FELONY PUNISHABLE BY A FINE NOT TO EXCEED ONE HUNDRED THOU-
37 SAND DOLLARS OR BY IMPRISONMENT FOR A CLASS E FELONY OR BY BOTH SUCH
38 FINE AND IMPRISONMENT.

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

41 8-A. "EMPLOYEE RETIREMENT SYSTEM BOARD" OR "BOARD." THE ENTITY ESTAB-
42 LISHED PURSUANT TO SECTION TEN-B OF THIS CHAPTER.

43 S 6. Subdivision g of section 311 of the retirement and social securi-
44 ty law, as added by chapter 1000 of the laws of 1966, is amended to read
45 as follows:

46 g. The comptroller shall, IN CONSULTATION WITH THE EMPLOYEE RETIREMENT
47 SYSTEM BOARD, adopt and amend pursuant to this article only such rules
48 and regulations as he OR SHE determines to be for the best interest of
49 the retirement system and its members.

50 S 7. Section 313 of the retirement and social security law, as added
51 by chapter 1000 of the laws of 1966, subdivision d as amended by chapter
52 460 of the laws of 1971, paragraph 2 of subdivision f as amended by
53 chapter 908 of the laws of 1971, subdivision i as amended by chapter
54 1046 of the laws of 1973, is amended to read as follows:

1 S 313. Management of funds. a. The funds of the policemen's and fire-
2 men's retirement system shall be managed in accordance with this
3 section.

4 b. The [comptroller] MEMBERS OF THE EMPLOYEE RETIREMENT SYSTEM BOARD
5 shall be trustee of the several funds of the policemen's and firemen's
6 retirement system AND THE COMPTROLLER SHALL BE CUSTODIAN OF SUCH FUNDS.
7 Such funds shall be invested by the comptroller AS AUTHORIZED BY THE
8 BOARD, in securities in which he OR SHE is authorized by law to invest
9 the funds of the state, except that he OR SHE may invest in obligations
10 consisting of notes, bonds, debentures or equipment trust certificates
11 issued under an indenture, which are the direct obligations of, or in
12 the case of equipment trust certificates are secured by direct obli-
13 gations of, a railroad or industrial corporation, or a corporation
14 engaged directly and primarily in the production, transportation,
15 distribution, or sale of electricity, or gas, or the operation of tele-
16 phone or telegraph systems or waterworks, or in some combination of
17 them; provided the obligor corporation is one which is incorporated
18 under the laws of the United States, or any state thereof, or of the
19 District of Columbia, and said obligations shall be rated at the time of
20 purchase within the three highest classifications established by at
21 least two standard rating services. The maximum amount that the comp-
22 troller AS AUTHORIZED BY THE BOARD may invest in such obligations shall
23 not exceed thirty per centum of the assets of the New York state police-
24 men's and firemen's retirement system's funds; and provided further that
25 not more than two and one-half per centum of the assets of the New York
26 state policemen's and firemen's retirement system's funds shall be
27 invested in the obligations of any one corporation of the highest clas-
28 sification and subsidiary or subsidiaries thereof, that not more than
29 two per centum of the assets of the New York state policemen's and fire-
30 men's retirement system's funds shall be invested in the obligations of
31 any one corporation of the second highest classification and subsidiary
32 or subsidiaries thereof, that not more than one and one-half per centum
33 of the assets of the New York state policemen's and firemen's retirement
34 system's funds shall be invested in the obligations of any one corpo-
35 ration of the third highest classification and subsidiary or subsid-
36 iaries thereof. He OR SHE shall, however, be subject to all terms,
37 conditions, limitations and restrictions imposed by this article and by
38 law upon the making of such investments. The comptroller AS AUTHORIZED
39 BY THE BOARD shall have full power:

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

44 2. In his OR HER name as [trustee] CUSTODIAN, to foreclose mortgages
45 upon default or to take title to real property in such proceedings in
46 lieu thereof and to lease and sell real property so acquired.

47 c. The comptroller AS AUTHORIZED BY THE BOARD annually shall credit to
48 each of the funds of the policemen's and firemen's retirement system
49 regular interest on the mean amount therein for the preceding year.

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

54 e. Payment of all pensions, annuities and other benefits shall be made
55 as provided in this article. For the purpose of meeting disbursements
56 for pensions, annuities and other payments ordered by the comptroller,

1 the head of such division may keep on deposit an available fund which
2 shall not exceed ten per centum of the total amount of the several funds
3 of the policemen's and firemen's retirement system. Every such deposit
4 shall be kept only in a bank or trust company organized under the laws
5 of this state, or in a national bank located in this state, which shall
6 furnish adequate security therefor.

7 f. The comptroller, however, shall have a fund in his OR HER immediate
8 possession. Such fund shall be used for the immediate payment of:

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

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

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

17 g. Neither the comptroller nor THE MEMBER OF THE BOARD OR any person
18 employed on the work of the policemen's and firemen's retirement system
19 shall:

20 1. Except as herein provided, have any interest, direct or indirect,
21 in the gains or profits of any investment of the policemen's and fire-
22 men's retirement system, nor, in connection therewith, directly or indi-
23 rectly, receive any pay or emolument for his OR HER services.

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

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

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

31 h. The policemen's and firemen's retirement system may use a part of
32 its funds, not exceeding ten per centum of its assets, (1) for purchas-
33 ing or leasing of land in the city of Albany and the construction there-
34 on of a suitable office building or buildings for the transaction of the
35 business of the retirement system, (2) for purchasing or leasing of land
36 in the cities of Albany, Syracuse, Buffalo, Binghamton, New York,
37 Rochester and Utica and the construction thereon of a suitable office
38 building or buildings for purposes of lease or sale to the state, (3)
39 for purchasing or leasing of land in the city of Albany on the north and
40 south sides of Washington avenue commonly known as the "Campus Site"
41 acquired by the state for a state building site pursuant to the
42 provisions of chapter five hundred seventy-two of the laws of nineteen
43 hundred forty-seven and the construction thereon of power plants includ-
44 ing service connections, electric substations including service
45 connections, garages, warehouses and restaurant facilities deemed neces-
46 sary for the efficient and economical operation of the office building
47 or buildings constructed on such land and (4) for purchasing or leasing
48 of land in the city of Albany acquired by the state for suitable parking
49 facilities for the use primarily of employees of the state and persons
50 having business with state departments and state agencies and the
51 construction thereon of such structures, appurtenances and facilities
52 deemed necessary for the efficient and economical operation of the park-
53 ing facilities constructed on such land and (5) for purchasing or leas-
54 ing of land in locations approved by the state university trustees and
55 the construction, acquisition, reconstruction, rehabilitation or
56 improvement of suitable buildings or facilities thereon for purposes of

1 lease or sale to the state university construction fund, such buildings
2 or facilities to be used by the state university or by state-operated
3 institutions or statutory or contract colleges under the jurisdiction of
4 the state university or by the students, faculty and staff of the state
5 university or of any such state-operated institution or statutory or
6 contract college, and their families.

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

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

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

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

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

54 S 421. Definitions. As used or referred to in this article, unless a
55 different meaning clearly appears from the context. 1. The term "employ-

1 employees' retirement system" shall mean the New York state [employees]
2 EMPLOYEES' retirement system.

3 2. The term "policemen's and firemen's retirement system" shall mean
4 the New York state [policemen's and firemen's] AND LOCAL POLICE AND FIRE
5 retirement system.

6 3. The term "each retirement [sytsem] SYSTEM" shall mean each of the
7 foregoing defined systems.

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

9 5.] The term "actuary" shall mean the actuary of the employees'
10 retirement system acting jointly with the actuary of the policemen's and
11 firemen's retirement system.

12 5. "EMPLOYEE RETIREMENT SYSTEM BOARD" OR "BOARD" SHALL MEAN THE ENTITY
13 ESTABLISHED PURSUANT TO SECTION TEN-B OF THIS CHAPTER.

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

16 S 422. Establishment of a common retirement fund. 1. There is hereby
17 established a fund, in the custody of the comptroller, to be known as
18 the common retirement fund. Notwithstanding any other provision of this
19 chapter, all of the assets and income of the employees' retirement
20 system and of the policemen's and firemen's retirement system shall be
21 held by the comptroller as [trustee] CUSTODIAN of such fund, except as
22 such assets and income may be allocated or distributed to the funds of
23 each retirement system by the comptroller.

24 2. The fund shall consist initially of the total assets of the employ-
25 ees' retirement system as of March thirty-first, nineteen hundred
26 sixty-seven, as such assets are defined in subdivision a of section two
27 hundred ninety-three of this chapter. After the annual valuation of the
28 assets and liabilities of the employees' retirement system and the
29 determination relating to assets and liabilities required by subdivision
30 b of section two hundred ninety-three of this chapter, the comptroller
31 shall credit to each retirement system a participating interest in the
32 assets of such fund in the proportion and percentage that the assets of
33 each retirement system bear to the total assets of the common retirement
34 fund. [On March thirty-first, nineteen hundred sixty-eight, and at the
35 close of each succeeding fiscal year, the] THE comptroller shall credit
36 each retirement system with a participating interest in such fund in the
37 proportion and percentage that the interest attributable to each retire-
38 ment system bears to the total assets of such fund, after considering
39 contributions, earnings, disbursements and expenses attributable to each
40 system.

41 S 10. Section 423 of the retirement and social security law, as
42 amended by chapter 770 of the laws of 1970, is amended to read as
43 follows:

44 S 423. Investments. a. [On and after April first, nineteen hundred
45 sixty-seven, the] THE comptroller, AS AUTHORIZED BY THE BOARD shall
46 invest the available monies of the common retirement fund in any invest-
47 ments and securities authorized by law for each retirement system and
48 shall hold such investments in his OR HER name as [trustee] CUSTODIAN of
49 such fund, notwithstanding any other provision of this chapter. Partic-
50 ipating interests in such investments shall be credited to each retire-
51 ment system in the manner and at the time specified in [paragraph]
52 SUBDIVISION two of section four hundred twenty-two of this article.

53 b. To assist in the management of the monies of the common retirement
54 fund, the comptroller shall appoint an investment advisory committee
55 consisting of not less than seven members who shall serve for [his] THE
56 COMPTROLLER'S term of office. A vacancy occurring from any cause other

1 than expiration of term shall be filled by the comptroller for the
2 remainder of the term. Each member of the committee shall be experienced
3 in the field of investments and shall have served, or shall be serving,
4 as a senior officer or member of the board of an insurance company,
5 banking corporation or other financial or investment organization
6 authorized to do business in the state of New York. The committee shall
7 advise the comptroller, AS WELL AS ITS EXECUTIVE DIRECTOR, CHIEF ACTU-
8 ARY, AND CHIEF INVESTMENT OFFICER on investment policies relating to the
9 monies of the common retirement fund and shall review, from time to
10 time, the investment portfolio of the fund and make such recommendations
11 as may be deemed necessary.

12 The comptroller shall appoint a separate mortgage advisory committee,
13 with the advice and consent of the investment advisory committee, to
14 review proposed mortgage and real estate investments by the common
15 retirement fund. In making investments, as authorized by law, the comp-
16 troller shall be guided by policies established by each committee from
17 time to time; and, in the event the mortgage advisory committee disap-
18 proves a proposed mortgage or real estate investment, such shall not be
19 made.

20 No officer or employee of any state department or agency shall be
21 eligible for membership on either committee. Each committee shall
22 convene periodically on call of the comptroller, or on call of the
23 [chairman] CHAIR OF THE COMMITTEE. The members of each committee shall
24 be entitled to reimbursement for their actual and necessary expenses but
25 shall receive no compensation for their services.

26 S 11. Sections 423-a and 423-b of the retirement and social security
27 law, section 423-a as added by chapter 112 of the laws of 1986 and
28 section 423-b as added by chapter 624 of the laws of 1999, are amended
29 to read as follows:

30 S 423-a. Northern Ireland related investments. 1. Notwithstanding any
31 other provision of law, on and after January first, nineteen hundred
32 eighty-seven, any moneys or assets of the common retirement fund which
33 shall remain or be invested in the stocks, securities or other obli-
34 gations of any institution or company doing business in or with Northern
35 Ireland or with agencies or instrumentalities thereof, shall be invested
36 subject to the provisions of subdivision three of this section.

37 2. On or before the first day of January of each year, the comptroller
38 AS AUTHORIZED BY THE BOARD shall determine the existence of affirmative
39 action taken by institutions or companies doing business in Northern
40 Ireland to eliminate ethnic or religious discrimination based on actions
41 taken for:

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

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

47 (c) The banning of provocative religious or political emblems from the
48 workplace.

49 (d) Publicly advertising all job openings and making special recruit-
50 ment efforts to attract applicants from underrepresented religious
51 groups.

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

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

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

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

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

3. Consistent with sound investment policy, the comptroller AS AUTHORIZED BY THE BOARD shall invest the assets of the common retirement fund in such a manner that the investments in institutions doing business in or with Northern Ireland shall reflect the advances made by such institutions in eliminating discrimination as established pursuant to subdivision two of this section.

S 423-b. New York state venture capital program. The comptroller AS AUTHORIZED BY THE BOARD is hereby authorized to establish within the common retirement fund a New York state venture capital program for the purpose of investing in qualified businesses as defined in paragraph [six] SEVEN of subdivision (a) of section eleven of the tax law. The comptroller [is authorized to] AS AUTHORIZED BY THE BOARD MAY invest up to two hundred fifty million dollars of assets of the common retirement fund to carry out the purposes of this section. The comptroller AS AUTHORIZED BY THE BOARD may make investments pursuant to this section in partnerships, corporations, trusts or limited liability companies organized on a for-profit basis that enter into agreements to invest the moneys of the New York state venture capital program in qualified businesses. The comptroller AS AUTHORIZED BY THE BOARD shall make such investments consistent with the provisions of paragraph (b) of subdivision nine of section one hundred seventy-seven of this chapter. The comptroller may establish procedures necessary to insure that investments of moneys of the New York state venture capital program are, for each investment in a qualified business, equitably matched by investments made by other sources. The comptroller shall, to the maximum extent practicable, insure that the geographic distribution of investments in the program is in proportion to the state population.

S 12. Intentionally omitted.

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

S 425. Separability of retirement systems. No provision of this article shall be construed as an impairment of the separability of or of the corporate powers and privileges of the employees' retirement system or the policemen's and firemen's retirement system. The comptroller AS AUTHORIZED BY THE BOARD shall establish or continue separate funds and accounts for each retirement system, consistent with the common retirement fund herein provided for, as may be required to carry out the separate purposes and privileges of each retirement system.

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

ARTICLE 23

INVESTMENT FIRMS

SECTION 1300. LEGISLATIVE INTENT.

1301. DEFINITIONS.

1302. BAN ON INVESTMENT FIRM BUSINESS.

1303. PROHIBITION ON SOLICITING AND COORDINATING CONTRIBUTIONS.

1304. CIRCUMVENTION OF RULE.

1305. REQUIRED DISCLOSURE TO COMMISSION ON PUBLIC INTEGRITY.
1306. VOLUNTARY DISCLOSURE TO COMMISSION ON PUBLIC INTEGRITY.
1307. PROHIBITION OF CERTAIN EMPLOYMENT.
1308. PROHIBITION OF CERTAIN FINANCIAL RELATIONSHIPS.
1309. INTERNAL PROCEDURES.
1310. PROHIBITION OF CERTAIN CONTACTS.
1311. GIFTS.
1312. MANDATORY REPORTING.
1313. ATTORNEY GENERAL ACTION.
1314. CRIMINAL SANCTIONS.

S 1300. LEGISLATIVE INTENT. THE PURPOSE AND INTENT OF THIS ARTICLE IS TO ENSURE THAT THE HIGH STANDARDS AND INTEGRITY OF INVESTMENT FIRMS ARE MAINTAINED TO PREVENT FRAUDULENT AND MANIPULATIVE ACTS AND PRACTICES, TO PROMOTE JUST AND EQUITABLE PRINCIPLES, TO PERFECT A FREE AND OPEN MARKET AND TO PROTECT THE COMMON RETIREMENT FUND AND THE PUBLIC INTEREST BY:

1. PROHIBITING INVESTMENT FIRMS FROM ENGAGING IN BUSINESS WITH THE COMMON RETIREMENT FUND IF CERTAIN POLITICAL CONTRIBUTIONS HAVE BEEN MADE TO OFFICIALS THAT OVERSEE THE FUND; AND

2. REQUIRING INVESTMENT FIRMS TO DISCLOSE CERTAIN POLITICAL CONTRIBUTIONS, AS WELL AS OTHER INFORMATION, TO ALLOW PUBLIC SCRUTINY OF POLITICAL CONTRIBUTIONS BY THOSE IN THE BUSINESS.

S 1301. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "COMMON RETIREMENT FUND" SHALL MEAN ALL OF THE ASSETS AND INCOME OF THE EMPLOYEES' RETIREMENT SYSTEM AND OF THE POLICE AND FIRE RETIREMENT SYSTEM.

2. "ISSUER" SHALL MEAN THE COMPTROLLER OR HIS OR HER DESIGNEE IN RELATION TO THE ISSUANCE OF FUNDS FOR INVESTMENT FROM THE COMMON RETIREMENT FUND.

3. "INVESTMENT FIRM" SHALL MEAN ANY PERSON OR ENTITY THAT ACCEPTS AN INVESTMENT FROM OR PROVIDES INVESTMENT MANAGEMENT SERVICES TO THE RETIREMENT SYSTEM IN CONNECTION WITH THE MANAGEMENT OR INVESTMENT OF A RETIREMENT SYSTEM'S TRUST FUND OR ASSETS. INVESTMENT FIRM INCLUDES ANY SUBSIDIARY OR AFFILIATE OVER WHICH THE INVESTMENT FIRM EXERCISES EXCLUSIVE CONTROL.

4. "OFFICIAL" SHALL MEAN ANY PERSON, INCLUDING THE PERSON'S ELECTION COMMITTEE, WHO WAS, AT THE TIME OF A CONTRIBUTION, AN INCUMBENT, CANDIDATE OR SUCCESSFUL CANDIDATE FOR AN ELECTIVE OFFICE OF A GOVERNMENT ENTITY, IF THE OFFICE IS DIRECTLY RESPONSIBLE FOR, OR CAN DIRECTLY INFLUENCE THE OUTCOME OF, THE RETIREMENT SYSTEM'S INVESTMENT WITH OR ENGAGEMENT OF THE INVESTMENT FIRM.

S 1302. BAN ON INVESTMENT FIRM BUSINESS. NO INVESTMENT FIRM SHALL ENGAGE IN BUSINESS WITH THE COMMON RETIREMENT FUND WITHIN TWO YEARS AFTER ANY CONTRIBUTION TO AN OFFICIAL OF THE COMMON RETIREMENT FUND MADE BY:

1. THE INVESTMENT FIRM;

2. ANY FINANCE PROFESSIONAL ASSOCIATED WITH SUCH INVESTMENT FIRM; OR

3. ANY POLITICAL ACTION COMMITTEE CONTROLLED BY THE INVESTMENT FIRM; PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT PROHIBIT THE INVESTMENT FIRM FROM ENGAGING IN BUSINESS WITH THE COMMON RETIREMENT FUND IF THE ONLY CONTRIBUTIONS MADE BY THE FOREGOING PERSONS AND ENTITIES TO OFFICIALS OF SUCH ISSUER WITHIN THE PREVIOUS TWO YEARS WERE MADE BY PERSONS TO OFFICIALS OF SUCH ISSUER FOR WHOM THE PERSONS WERE ENTITLED TO VOTE AND WHICH CONTRIBUTIONS, IN TOTAL, WERE NOT IN EXCESS OF THREE HUNDRED DOLLARS BY ANY INVESTMENT FIRM TO EACH OFFICIAL, PER ELECTION.

S 1303. PROHIBITION ON SOLICITING AND COORDINATING CONTRIBUTIONS. NO INVESTMENT FIRM SHALL SOLICIT ANY PERSON, INCLUDING BUT NOT LIMITED TO,

1 ANY AFFILIATED ENTITY OF THE INVESTMENT FIRM OR POLITICAL ACTION COMMIT-
2 TEE, TO:

3 1. MAKE OR COORDINATE ANY CONTRIBUTION, TO AN OFFICIAL OF THE COMMON
4 RETIREMENT FUND WITH WHICH THE INVESTMENT FIRM IS ENGAGING OR IS SEEKING
5 TO ENGAGE IN BUSINESS WITH; OR

6 2. MAKE OR COORDINATE ANY PAYMENT TO A POLITICAL PARTY OF A STATE OR
7 LOCALITY WHERE THE INVESTMENT FIRM IS ENGAGING OR IS SEEKING TO ENGAGE
8 IN BUSINESS WITH THE COMMON RETIREMENT FUND.

9 S 1304. CIRCUMVENTION OF RULE. NO INVESTMENT FIRM, OR ANY PROFESSIONAL
10 THAT CONDUCTS BUSINESS WITH THE COMMON RETIREMENT FUND SHALL, DIRECTLY
11 OR INDIRECTLY, THROUGH OR BY ANY OTHER PERSON, RELATIVE OR MEANS, DO ANY
12 ACT THAT SHALL RESULT IN A VIOLATION OF SECTION THIRTEEN HUNDRED TWO OR
13 THIRTEEN HUNDRED THREE OF THIS ARTICLE.

14 S 1305. REQUIRED DISCLOSURE TO COMMISSION ON PUBLIC INTEGRITY. 1.
15 EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION TWO OF THIS SECTION, EACH
16 INVESTMENT FIRM SHALL, BY JANUARY THIRTY-FIRST, APRIL THIRTIETH, JULY
17 THIRTY-FIRST AND OCTOBER THIRTY-FIRST OF EACH YEAR, REPORT TO THE
18 COMMISSION ON PUBLIC INTEGRITY, IN A FORMAT REQUIRED BY THE COMMISSION,
19 THE FOLLOWING INFORMATION:

20 (A) FOR CONTRIBUTIONS TO OFFICIALS OF THE COMMON RETIREMENT FUND
21 (OTHER THAN A CONTRIBUTION MADE BY AN INVESTMENT FIRM TO AN OFFICIAL OF
22 AN ISSUER FOR WHOM SUCH INVESTMENT FIRM IS ENTITLED TO VOTE IF ALL
23 CONTRIBUTIONS BY SUCH INVESTMENT FIRM TO SUCH OFFICIAL, IN TOTAL, DO NOT
24 EXCEED THREE HUNDRED DOLLARS PER ELECTION) AND PAYMENTS TO POLITICAL
25 PARTIES OF A STATE OR POLITICAL SUBDIVISION (OTHER THAN A PAYMENT MADE
26 BY AN INVESTMENT FIRM TO A POLITICAL PARTY OF A STATE OR A POLITICAL
27 SUBDIVISION IN WHICH SUCH INVESTMENT FIRM IS ENTITLED TO VOTE IF ALL
28 PAYMENTS BY SUCH INVESTMENT FIRM TO SUCH POLITICAL PARTY, IN TOTAL, DO
29 NOT EXCEED THREE HUNDRED DOLLARS PER YEAR) MADE BY THE PERSONS AND ENTI-
30 TIES DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH:

31 (I) THE NAME AND TITLE (INCLUDING ANY CITY, COUNTY, STATE OR POLITICAL
32 SUBDIVISION) OF EACH OFFICIAL AND POLITICAL PARTY RECEIVING CONTRIB-
33 UTIONS OR PAYMENTS DURING SUCH CALENDAR QUARTER;

34 (II) THE CONTRIBUTION OR PAYMENT AMOUNT MADE AND THE CONTRIBUTOR CATE-
35 GORY OF EACH OF THE FOLLOWING PERSONS AND ENTITIES MAKING SUCH CONTRIB-
36 UTIONS OR PAYMENTS DURING SUCH CALENDAR QUARTER:

37 (A) ANY INVESTMENT FIRM OR FINANCE PROFESSIONAL ASSOCIATED WITH SUCH
38 INVESTMENT FIRM; AND

39 (B) EACH POLITICAL ACTION COMMITTEE CONTROLLED BY THE INVESTMENT FIRM
40 OR ANY FINANCE PROFESSIONAL ASSOCIATED WITH SUCH INVESTMENT FIRM;

41 (B) A LIST OF STATE OFFICIALS WITH WHICH THE INVESTMENT FIRM HAS
42 ENGAGED IN BUSINESS DURING SUCH CALENDAR QUARTER, ALONG WITH THE TYPE OF
43 BUSINESS;

44 (C) WHETHER ANY CONTRIBUTION LISTED IN THIS SUBDIVISION IS THE SUBJECT
45 OF AN AUTOMATIC EXEMPTION, AND THE DATE OF SUCH AUTOMATIC EXEMPTION; AND

46 (D) SUCH OTHER INFORMATION REQUIRED BY THE COMMISSION ON PUBLIC INTEG-
47 RITY.

48 2. NO INVESTMENT FIRM SHALL BE REQUIRED TO MAKE A DISCLOSURE PURSUANT
49 TO THIS SECTION TO THE COMMISSION ON PUBLIC INTEGRITY FOR ANY CALENDAR
50 QUARTER IN WHICH:

51 (A) SUCH INVESTMENT FIRM HAS NO INFORMATION TO DISCLOSE FOR SUCH
52 CALENDAR QUARTER; OR

53 (B) SUCH INVESTMENT FIRM HAS NOT ENGAGED IN BUSINESS WITH THE COMMON
54 RETIREMENT FUND, BUT ONLY IF SUCH INVESTMENT FIRM DID NOT ENGAGE IN
55 BUSINESS WITH THE COMMON RETIREMENT FUND DURING THE SEVEN CONSECUTIVE
56 CALENDAR QUARTERS IMMEDIATELY PRECEDING SUCH CALENDAR QUARTER.

1 3. THE COMMISSION ON PUBLIC INTEGRITY SHALL MAKE PUBLIC A COPY OF THE
2 DISCLOSURES RECEIVED FROM ANY INVESTMENT FIRM.

3 4. IF AN INVESTMENT FIRM ENGAGES IN BUSINESS DURING ANY CALENDAR QUAR-
4 TER AFTER NOT HAVING REPORTED THE INFORMATION DESCRIBED IN PARAGRAPH (A)
5 OF SUBDIVISION ONE OF THIS SECTION FOR ONE OR MORE CONTRIBUTIONS OR
6 PAYMENTS MADE DURING THE TWO-YEAR PERIOD PRECEDING SUCH CALENDAR QUARTER
7 SOLELY AS A RESULT OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION,
8 THEN SUCH INVESTMENT FIRM SHALL INCLUDE IN THE INFORMATION FOR SUCH
9 CALENDAR QUARTER ALL SUCH INFORMATION (INCLUDING YEAR AND CALENDAR QUAR-
10 TER OF SUCH CONTRIBUTIONS OR PAYMENTS) NOT SO REPORTED DURING SUCH TWO-
11 YEAR PERIOD.

12 5. AN INVESTMENT FIRM THAT SUBMITS INFORMATION TO THE COMMISSION ON
13 PUBLIC INTEGRITY SHALL:

14 (A) SEND TWO COPIES OF SUCH DISCLOSURE TO THE COMMISSION ON PUBLIC
15 INTEGRITY BY CERTIFIED OR REGISTERED MAIL, OR SOME OTHER EQUALLY PROMPT
16 MEANS THAT PROVIDES A RECORD OF SENDING; OR

17 (B) SUBMIT AN ELECTRONIC VERSION OF SUCH DISCLOSURE TO THE COMMISSION
18 ON PUBLIC INTEGRITY IN SUCH FORMAT AND MANNER SPECIFIED IN REGULATIONS
19 PROMULGATED BY THE COMMISSION ON PUBLIC INTEGRITY.

20 S 1306. VOLUNTARY DISCLOSURE TO COMMISSION ON PUBLIC INTEGRITY. THE
21 COMMISSION ON PUBLIC INTEGRITY SHALL ACCEPT ADDITIONAL DISCLOSURES
22 RELATED TO CONTRIBUTIONS MADE TO OFFICIALS OF ISSUERS AND PAYMENTS TO
23 POLITICAL PARTIES AND POLITICAL SUBDIVISIONS VOLUNTARILY SUBMITTED BY AN
24 INVESTMENT FIRM PROVIDED THAT SUCH DISCLOSURES ARE SUBMITTED IN ACCORD-
25 ANCE WITH SECTION THIRTEEN HUNDRED FIVE OF THIS ARTICLE.

26 S 1307. PROHIBITION OF CERTAIN EMPLOYMENT. NO INVESTMENT FIRM SHALL
27 EMPLOY OR COMPENSATE IN ANY MANNER A BOARD MEMBER, OFFICIAL, RETIREMENT
28 FUND OFFICIAL, EMPLOYEE OR FIDUCIARY OF THE COMMON RETIREMENT FUND FOR
29 TWO YEARS AFTER THE TERMINATION OF SUCH PERSON'S RELATIONSHIP WITH THE
30 COMMON RETIREMENT FUND UNLESS SUCH PERSON SHALL NOT HAVE CONTACT WITH,
31 OR PROVIDE SERVICES TO, THE COMMON RETIREMENT FUND.

32 S 1308. PROHIBITION OF CERTAIN FINANCIAL RELATIONSHIPS. NO INVESTMENT
33 FIRM OR RELATED PARTY SHALL HAVE A DIRECT OR INDIRECT FINANCIAL, COMMER-
34 CIAL OR BUSINESS RELATIONSHIP WITH AN OFFICIAL OR ISSUER OF PENSION
35 FUNDS, UNLESS THE BOARD CONSENTS AFTER FULL DISCLOSURE BY THE INVESTMENT
36 FIRM OR RELATED PARTY.

37 S 1309. INTERNAL PROCEDURES. AN INVESTMENT FIRM SHALL ADOPT INTERNAL
38 PROCEDURES TO MONITOR AND ENSURE ITS COMPLIANCE WITH THIS ARTICLE, AND
39 SHALL PROVIDE TO THE BOARD AND THE ATTORNEY GENERAL A COPY OF THESE
40 PROCEDURES, INCLUDING ANY UPDATES THERETO.

41 S 1310. PROHIBITION OF CERTAIN CONTACTS. UPON THE COMMON RETIREMENT
42 FUND'S RELEASE OF ANY REQUEST FOR PROPOSAL, INVITATION FOR BID, OR
43 COMPARABLE PROCUREMENT VEHICLE FOR ANY INVESTMENT SERVICES, THERE SHALL
44 BE NO COMMUNICATION BETWEEN ANY BOARD MEMBER, OFFICIAL, RETIREMENT FUND
45 OFFICIAL, EMPLOYEE OR FIDUCIARY OF THE COMMON RETIREMENT FUND CONCERNING
46 THE PROCUREMENT PROCESS UNTIL THE PROCESS IS COMPLETE, PROVIDED, HOWEV-
47 ER, THAT A REQUEST FOR TECHNICAL CLARIFICATION REGARDING THE PROCUREMENT
48 PROCESS ITSELF SHALL BE PERMISSIBLE, AND AN INVESTMENT FIRM SHALL DIRECT
49 SUCH REQUEST TO THE PERSON DESIGNATED BY THE COMMON RETIREMENT FUND.
50 NOTHING HEREIN SHALL PROHIBIT AN INVESTMENT FIRM FROM COMPLYING WITH A
51 REQUEST FOR INFORMATION FROM THE COMMON RETIREMENT FUND DURING THE
52 PROCUREMENT PROCESS.

53 S 1311. GIFTS. AN INVESTMENT FIRM SHALL NOT GIVE OR OFFER TO GIVE ANY
54 GIFT TO ANY BOARD MEMBER, OFFICIAL, RETIREMENT FUND OFFICIAL, EMPLOYEE
55 OR FIDUCIARY OF THE COMMON RETIREMENT FUND OTHER THAN AN ARTICLE OF
56 MERCHANDISE NOT EXCEEDING FIFTEEN DOLLARS IN VALUE, WHICH SHALL HAVE

1 CONSPICUOUSLY STAMPED OR PRINTED THEREON THE ADVERTISEMENT OF THE
2 INVESTMENT FIRM. FOR THE PURPOSE OF THIS SECTION, A GIFT SHALL INCLUDE,
3 BUT IS NOT LIMITED TO, MONEY, LOANS, LODGING, MEALS, REFRESHMENTS,
4 VACATIONS, PRIZES, DISCOUNTS, AND ENTERTAINMENT.

5 S 1312. MANDATORY REPORTING. ANY PERSON OR ENTITY THAT HAS A REASON-
6 ABLE BASIS TO BELIEVE THAT ANY OTHER PERSON OR ENTITY HAS VIOLATED THIS
7 ARTICLE SHALL REPORT TO THE BOARD AND THE ATTORNEY GENERAL EVIDENCE OF
8 THE VIOLATION.

9 S 1313. ATTORNEY GENERAL ACTION. THE ATTORNEY GENERAL MAY ENFORCE THE
10 PROVISIONS OF THIS ARTICLE AND MAY SEEK AN INJUNCTION, ON NOTICE OF FIVE
11 DAYS, ENJOINING A PERSON OR ENTITY FROM CONTINUING TO ENGAGE IN ANY
12 CONDUCT IN VIOLATION OF THIS ARTICLE. NOTHING IN THIS ARTICLE SHALL BE
13 CONSTRUED TO LIMIT ANY RIGHT OR REMEDY OTHERWISE AVAILABLE UNDER LAW TO
14 ANY PERSON OR ENTITY, INCLUDING THE ATTORNEY GENERAL.

15 S 1314. CRIMINAL SANCTIONS. ANY VIOLATION OF THIS ARTICLE OR REGU-
16 LATIONS PROMULGATED THEREUNDER SHALL BE A MISDEMEANOR, PUNISHABLE BY A
17 FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS OR BY IMPRISONMENT NOT
18 TO EXCEED SIX MONTHS OR BY BOTH SUCH FINE AND IMPRISONMENT. ANY SECOND
19 OR SUBSEQUENT VIOLATION SHALL BE A FELONY PUNISHABLE BY A FINE NOT TO
20 EXCEED ONE HUNDRED THOUSAND DOLLARS OR BY IMPRISONMENT FOR A CLASS E
21 FELONY OR BY BOTH SUCH FINE AND IMPRISONMENT.

22 S 15. Section 98 of the state finance law, subdivision 2-a as added by
23 chapter 61 of the laws of 1989, subdivision 3-a as amended by chapter
24 219 of the laws of 1999, subdivision 5 as amended by chapter 6 of the
25 laws of 1960, subdivision 6 as amended by chapter 527 of the laws of
26 1950, subdivision 7 as amended by chapter 243 of the laws of 1952,
27 subdivisions 8, 9 and 10 as amended by chapter 870 of the laws of 1948,
28 subdivision 11 as amended by chapter 458 of the laws of 1950, the open-
29 ing paragraph and paragraphs b, c and i of subdivision 11 as amended by
30 chapter 250 of the laws of 1951, paragraph w of subdivision 11 as added
31 by chapter 259 of the laws of 1952, paragraph x of subdivision 11 as
32 added by chapter 364 of the laws of 1955, paragraph y of subdivision 11
33 as amended by chapter 865 of the laws of 1955 and as relettered by chap-
34 ter 864 of the laws of 1956, paragraph z of subdivision 11 as amended by
35 chapter 809 of the laws of 1968, paragraph aa of subdivision 11 as
36 amended by chapter 339 of the laws of 1961, paragraph aa of subdivision
37 11 as added by chapter 261 of the laws of 1957, paragraph bb of subdivi-
38 sion 11 as added by chapter 826 of the laws of 1958, paragraph cc of
39 subdivision 11 as added by chapter 324 of the laws of 1965, paragraph dd
40 of subdivision 11 as added by chapter 717 of the laws of 1967, paragraph
41 dd of subdivision 11 as added by chapter 722 of the laws of 1967, para-
42 graph ee of subdivision 11 as added by chapter 1124 of the laws of 1969,
43 paragraph ff of subdivision 11 as added by chapter 460 of the laws of
44 1970, paragraph ff of subdivision 11 as added by chapter 714 of the laws
45 of 1970, subdivision 12 as added by chapter 499 of the laws of 1952,
46 subdivision 13 as added by chapter 311 of the laws of 1960, subdivision
47 13-a as added by chapter 113 of the laws of 1968, subdivision 13-b as
48 added by chapter 234 of the laws of 1988, subdivision 13-c as added by
49 chapter 144 of the laws of 1991, subdivision 14 as added by chapter 797
50 of the laws of 1963, subdivision 14 as added by chapter 932 of the laws
51 of 1963, subdivision 15 as added by chapter 392 of the laws of 1973,
52 subdivision 16 as added by chapter 7 of the laws of 1975, subdivision 17
53 as added by chapter 169 of the laws of 1975, subdivision 18 as amended
54 by chapter 219 of the laws of 1999, subdivision 19 as amended by chapter
55 201 of the laws of 1996, subdivision 20 as added by chapter 545 of the

1 laws of 2005 and the closing paragraph as amended by chapter 317 of the
2 laws of 1994, is amended to read as follows:

3 S 98. Investment of state funds. The comptroller, AS AUTHORIZED BY THE
4 EMPLOYEE RETIREMENT SYSTEM BOARD OF TRUSTEES ESTABLISHED PURSUANT TO
5 SECTION TEN-B OF THE RETIREMENT AND SOCIAL SECURITY LAW, shall invest
6 and keep invested all moneys belonging to any and all funds which the
7 comptroller OR SUCH BOARD now is or hereafter shall be authorized to
8 invest, in any of the following securities:

9 1. Bonds and notes of the United States.

10 2. Bonds and notes of this state.

11 2-a. General obligation bonds and notes of any state other than this
12 state, provided that such bonds and notes receive the highest rating of
13 at least one independent rating agency designated by the comptroller.

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

16 3-a. Notes, bonds, debentures, mortgages and other evidences of
17 indebtedness of the United States Postal Service; the federal national
18 mortgage association; federal home loan mortgage corporation; student
19 loan marketing association; federal farm credit system or any other
20 United States government sponsored agency, provided that at the time of
21 the investment such agency or its obligations are rated and the agency
22 receives, or its obligations receive, the highest rating of all inde-
23 pendent rating agencies that rate such agency or its obligations,
24 provided, however, that no more than two hundred fifty million dollars
25 may be invested in the obligations of any one agency.

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

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

29 6. Mortgage bonds or any obligations for the payment of money, no
30 matter how designated, secured by another instrument representing a lien
31 on specific real property or a leasehold thereof, heretofore or hereaft-
32 er and at the time of the assignment thereof to the comptroller insured
33 by the federal housing administrator or any of his successors in office
34 and guaranteed by the United States under the provisions of the national
35 housing act, as amended or supplemented. Any such mortgage bonds or
36 obligations as aforesaid in which the comptroller has invested or shall
37 have invested pursuant to this subdivision shall be serviced by the
38 comptroller or in his discretion, by mortgagees, as such are defined by
39 the national housing act, as amended or supplemented, duly appointed by
40 him and subject to the inspection and supervision of some governmental
41 agency. The comptroller may receive and hold such debentures and certif-
42 icates or other obligations as are issued in payment of such insurance
43 or guarantee.

44 7. Bonds and notes of the Savings and Loan Bank of the state of New
45 York.

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

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

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

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

54 a. Port of New York Authority.

55 b. Niagara Frontier Authority.

56 c. Triborough bridge and tunnel authority.

- 1 d. Thousand Islands Bridge Authority.
- 2 e. New York State Bridge Authority.
- 3 f. New York City Tunnel Authority.
- 4 g. Lake Champlain Bridge Commission.
- 5 h. Lower Hudson Regional Market Authority.
- 6 i. Albany Regional Market Authority.
- 7 k. American Museum of Natural History Planetarium Authority.
- 8 l. Industrial Exhibit Authority.
- 9 m. Buffalo Sewer Authority.
- 10 n. Whiteface Mountain Authority.
- 11 o. Pelham-Portchester Parkway Authority.
- 12 p. Jones Beach State Parkway Authority.
- 13 q. Bethpage Park Authority.
- 14 r. Dormitory Authority.
- 15 s. Central New York Regional Market Authority.
- 16 t. Erie County Water Authority.
- 17 u. Suffolk County Water Authority.
- 18 v. New York State Thruway Authority.
- 19 w. Genesee Valley Regional Market Authority.
- 20 x. Onondaga county water authority.
- 21 y. Power Authority of the state of New York.
- 22 z. Ogdensburg Bridge and Port Authority.
- 23 aa. East Hudson Parkway Authority.
- 24 aa. Niagara Frontier Port Authority.
- 25 bb. Northwestern New York Water Authority.
- 26 cc. Metropolitan Commuter Transportation Authority.
- 27 dd. Niagara Frontier Transportation Authority.
- 28 dd. New York State Pure Waters Authority.
- 29 ee. Rochester-Genesee Regional Transportation Authority.
- 30 ff. Capital District Transportation Authority.
- 31 ff. Central New York Regional Transportation Authority.
- 32 12. Obligations of the International Bank for Reconstruction and
33 Development duly issued pursuant to law.
- 34 13. Obligations of the inter-American development bank duly issued
35 pursuant to law.
- 36 13-a. Obligations of the Asian Development Bank duly issued pursuant
37 to law.
- 38 13-b. Obligations of the African Development Bank duly issued pursuant
39 to law.
- 40 13-c. Obligations of the International Finance Corporation duly issued
41 pursuant to law.
- 42 14. Collateral trust notes issued by a trust company, all of the capi-
43 tal stock of which is owned by not less than twenty savings banks of the
44 state of New York.
- 45 14. Bonds and notes issued for any of the corporate purposes of the
46 New York state housing finance agency.
- 47 15. Bonds and notes issued for any of the corporate purposes of the
48 New York state medical care facilities finance agency.
- 49 16. Bonds and notes issued for any of the corporate purposes of the
50 New York state project finance agency.
- 51 17. Bonds and notes issued for any of the corporate purposes of the
52 municipal assistance corporation for New York City.
- 53 18. Obligations of any corporation organized under the laws of any
54 state in the United States maturing within two hundred seventy days
55 provided that such obligations receive the highest rating of two inde-
56 pendent rating services designated by the comptroller and that the

1 issuer of such obligations has maintained such ratings on similar obli-
2 gations during the preceding six months provided, however, that the
3 issuer of such obligations need not have received such rating during the
4 prior six month period if such issuer has received the highest rating of
5 two independent rating services designated by the state comptroller and
6 is the successor or wholly owned subsidiary of an issuer that has main-
7 tained such ratings on similar obligations during the preceding six
8 month period or if the issuer is the product of a merger of two or more
9 issuers, one of which has maintained such ratings on similar obligations
10 during the preceding six month period, provided, however, that no more
11 than two hundred fifty million dollars may be invested in such obli-
12 gations of any one corporation.

13 19. Bankers' acceptances maturing within ninety days which are eligi-
14 ble for purchase in the open market by federal reserve banks and which
15 have been accepted by a bank or trust company, which is organized under
16 the laws of the United States or of any state thereof and which is a
17 member of the federal reserve system and whose short-term obligations
18 meet the criteria outlined in subdivision eighteen of this section.
19 Provided, however, that no more than two hundred fifty million dollars
20 may be invested in such bankers' acceptance of any one bank or trust
21 company.

22 20. No-load money market mutual funds registered under the Securities
23 Act of 1933, as amended, and operated in accordance with Rule 2a-7 of
24 the Investment Company Act of 1940, as amended, provided that such funds
25 are limited to investments in obligations issued or guaranteed by the
26 United States of America or in obligations of agencies or instrumentalities
27 of the United States of America where the payment of principal and
28 interest are guaranteed by the United States of America (including
29 contracts for the sale and repurchase of any such obligations), and are
30 rated in the highest rating category by at least one nationally recog-
31 nized statistical rating organization, provided, however, that no more
32 than two hundred fifty million dollars may be invested in such funds.

33 The comptroller, AS AUTHORIZED BY THE EMPLOYEE RETIREMENT SYSTEM
34 BOARD, whenever he, SHE OR IT deems it for the best interest of any of
35 such funds, may dispose of any of the securities therein or investments
36 therefor, in making other investments authorized by law, and he, SHE OR
37 IT may exchange any such securities for those held in any other of such
38 funds, and the comptroller OR SUCH BOARD may take such action as may be
39 necessary to obtain the benefits of the insurance provided for in the
40 national housing act, and may draw his, HER OR ITS warrant upon the
41 treasurer for the amount required for such investments and exchanges.

42 Notwithstanding the provisions of any other general or special law,
43 the comptroller shall not invest the moneys of any fund in any security
44 or securities except as above described, provided, however, that: (a)
45 the comptroller may, in order to maximize the rate of return on invest-
46 ments, invest the moneys belonging to the New York interest on lawyer
47 account fund in notes, securities and deposits of banking institutions
48 which accept IOLA accounts, and (b) the provisions of this section shall
49 not limit the types of investments that may be made with moneys belong-
50 ing to the volunteer ambulance service award fund established by section
51 two hundred nineteen-h of the general municipal law.

52 S 16. The public officers law is amended by adding a new section 73-f
53 to read as follows:

54 S 73-F. DESIGNATING COMMISSION FOR THE EMPLOYEE RETIREMENT SYSTEM
55 BOARD. 1. DEFINITIONS. FOR THE PURPOSE OF THIS CHAPTER, THE FOLLOWING
56 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1 A. "DESIGNATING COMMISSION" MEANS THE DESIGNATING COMMISSION FOR THE
2 EMPLOYEE RETIREMENT SYSTEM BOARD.

3 B. "DESIGNATING MEMBERS" MEANS THE MEMBERS OF THE DESIGNATING COMMIS-
4 SION FOR THE EMPLOYEE RETIREMENT SYSTEM BOARD.

5 C. "COMMISSIONER" MEANS A MEMBER OF THE STATE GOVERNMENT ETHICS
6 COMMISSION.

7 D. "CANDIDATE" MEANS ANY INDIVIDUAL UNDER CONSIDERATION BY THE DESIG-
8 NATING COMMISSION FOR THE POSITION OF TRUSTEE OF THE EMPLOYEE RETIREMENT
9 SYSTEM BOARD.

10 E. "APPOINTING OFFICER" MEANS THE STATE ELECTED OFFICIAL RESPONSIBLE
11 FOR APPOINTING THE DESIGNATING MEMBERS.

12 2. ORGANIZATION OF THE DESIGNATING COMMISSION. A. A DESIGNATING
13 COMMISSION FOR THE EMPLOYEE RETIREMENT SYSTEM BOARD IS HEREBY ESTAB-
14 LISHED. THE DESIGNATING COMMISSION SHALL CONSIST OF TEN MEMBERS OF WHOM
15 FOUR SHALL BE APPOINTED BY THE GOVERNOR, AND ONE EACH BY THE ATTORNEY
16 GENERAL, THE STATE COMPTROLLER, THE SPEAKER OF THE ASSEMBLY, THE TEMPO-
17 RARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, AND THE
18 MINORITY LEADER OF THE ASSEMBLY. OF THE FOUR MEMBERS APPOINTED BY THE
19 GOVERNOR, NO MORE THAN TWO SHALL BE ENROLLED IN THE SAME POLITICAL
20 PARTY. NO MEMBER OF THE DESIGNATING COMMISSION SHALL BE A MEMBER OF THE
21 LEGISLATURE, AN EMPLOYEE OF STATE GOVERNMENT, HOLD ANY OFFICE IN ANY
22 POLITICAL PARTY OR BE A REGISTERED LOBBYIST IN THIS STATE OR IN ANY
23 OTHER STATE. NO MEMBER OF THE DESIGNATING COMMISSION SHALL BE A PARTNER,
24 OF COUNSEL OR OTHERWISE EMPLOYED BY A LOBBYING FIRM OR ANY ENTITY
25 RECEIVING A STATE CONTRACT THAT SHARES IN ANY PART OF THE PROFIT DERIVED
26 FROM LOBBYING. TO THE EXTENT POSSIBLE, THE MEMBERS OF THE DESIGNATING
27 COMMISSION SHALL BE INDIVIDUALS WITH KNOWLEDGE OR EXPERIENCE IN THE
28 FIELD OF SECURITIES INVESTMENTS, PENSION ADMINISTRATION, PENSION LAW OR
29 GOVERNMENTAL FINANCE.

30 B. THE MEMBERS FIRST APPOINTED BY THE GOVERNOR SHALL HAVE RESPECTIVELY
31 ONE, TWO, THREE AND FOUR-YEAR TERMS AS HE SHALL DESIGNATE. THE MEMBER
32 FIRST APPOINTED BY THE ATTORNEY GENERAL SHALL HAVE A TWO-YEAR TERM. THE
33 MEMBER FIRST APPOINTED BY THE STATE COMPTROLLER SHALL HAVE A TWO-YEAR
34 TERM. THE MEMBER FIRST APPOINTED BY THE TEMPORARY PRESIDENT OF THE
35 SENATE SHALL HAVE A ONE-YEAR TERM. THE MEMBER FIRST APPOINTED BY THE
36 MINORITY LEADER OF THE SENATE SHALL HAVE A TWO-YEAR TERM. THE MEMBER
37 FIRST APPOINTED BY THE SPEAKER OF THE ASSEMBLY SHALL HAVE A FOUR-YEAR
38 TERM. THE MEMBER FIRST APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY
39 SHALL HAVE A THREE-YEAR TERM. EACH SUBSEQUENT APPOINTMENT SHALL BE FOR
40 A TERM OF FOUR YEARS.

41 C. A VACANCY SHALL BE DEEMED TO OCCUR IMMEDIATELY UPON THE APPOINTMENT
42 OR ELECTION OF ANY MEMBER TO AN OFFICE THAT WOULD DISQUALIFY HIM OR HER
43 FOR APPOINTMENT TO, OR MEMBERSHIP ON, THE DESIGNATING COMMISSION. A
44 VACANCY OCCURRING FOR ANY REASON OTHER THAN BY EXPIRATION OF TERM SHALL
45 BE FILLED BY THE APPOINTING OFFICER FOR THE REMAINDER OF THE UNEXPIRED
46 TERM. NO MEMBER OF THE DESIGNATING COMMISSION SHALL HOLD OFFICE FOR
47 MORE THAN NINETY DAYS AFTER THE EXPIRATION OF HIS OR HER TERM. IF THE
48 APPOINTING OFFICER FAILS TO APPOINT A PERSON TO A VACANT OFFICE, BY A
49 MAJORITY VOTE WITHOUT VACANCY, THE DESIGNATING COMMISSION SHALL SELECT A
50 PERSON TO FILL THE VACANT OFFICE.

51 D. THE MEMBERS SHALL DESIGNATE ONE OF THEIR NUMBER TO SERVE AS CHAIR-
52 MAN FOR A PERIOD OF TWO YEARS OR UNTIL HIS OR HER TERM OF OFFICE
53 EXPIRES, WHICHEVER PERIOD IS SHORTER.

54 E. NO MEMBER OF THE DESIGNATING COMMISSION SHALL RECEIVE COMPENSATION,
55 BUT MAY RECEIVE HIS OR HER ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
56 DISCHARGE OF HIS OR HER DUTIES.

1 F. EIGHT MEMBERS OF THE DESIGNATING COMMISSION SHALL CONSTITUTE A
2 QUORUM.

3 3. FUNCTIONS OF THE DESIGNATING COMMISSION. A. THE DESIGNATING COMMIS-
4 SION SHALL CONSIDER AND EVALUATE THE QUALIFICATIONS OF CANDIDATES FOR
5 APPOINTMENT AS A MEMBER OF THE EMPLOYEE RETIREMENT SYSTEM BOARD AND, AS
6 A VACANCY OCCURS IN ANY SUCH OFFICE, SHALL APPOINT PERSONS WHO BY THEIR
7 CHARACTER, TEMPERAMENT, PROFESSIONAL APTITUDE AND EXPERIENCE ARE WELL
8 QUALIFIED TO HOLD SUCH OFFICE. THE DESIGNATING COMMISSION SHALL SELECT
9 ONE SUCH PERSON TO SERVE AS CHAIR OF THE BOARD.

10 B. AN APPOINTMENT AS MEMBER OF THE EMPLOYEE RETIREMENT SYSTEM BOARD BY
11 THE DESIGNATING COMMISSION SHALL REQUIRE THE CONCURRENCE OF SEVEN
12 MEMBERS OF THE DESIGNATING COMMISSION. THE APPOINTMENT SHALL BE TRANS-
13 MITTED TO THE GOVERNOR, THE ATTORNEY GENERAL, THE STATE COMPTROLLER, THE
14 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE
15 MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY IN
16 A SINGLE WRITTEN REPORT, WHICH SHALL BE RELEASED TO THE PUBLIC BY THE
17 DESIGNATING COMMISSION AT THE TIME IT IS SUBMITTED. THE REPORT SHALL BE
18 IN WRITING, SIGNED ONLY BY THE CHAIRMAN, AND SHALL INCLUDE THE DESIGNAT-
19 ING COMMISSION'S FINDINGS RELATING TO THE CHARACTER, TEMPERAMENT,
20 PROFESSIONAL APTITUDE, EXPERIENCE, QUALIFICATIONS AND FITNESS FOR OFFICE
21 OF EACH CANDIDATE WHO IS APPOINTED COMMISSIONER.

22 C. NO PERSON SHALL BE APPOINTED MEMBER OF THE BOARD BY THE DESIGNATING
23 COMMISSION WHO HAS NOT CONSENTED TO BE A CANDIDATE, WHO HAS NOT BEEN
24 PERSONALLY INTERVIEWED BY A QUORUM OF THE MEMBERSHIP OF THE DESIGNATING
25 COMMISSION, AND WHO HAS NOT FILED A FINANCIAL STATEMENT WITH THE DESIG-
26 NATING COMMISSION, ON A FORM TO BE PRESCRIBED BY THE DESIGNATING COMMIS-
27 SION. THE FINANCIAL STATEMENT SHALL CONSIST OF A SWORN STATEMENT OF THE
28 PERSON'S ASSETS, LIABILITIES AND SOURCES OF INCOME, AND ANY OTHER RELE-
29 VANT FINANCIAL INFORMATION WHICH THE DESIGNATING COMMISSION MAY REQUIRE.
30 THE DESIGNATING COMMISSION SHALL TRANSMIT THE FINANCIAL STATEMENT FILED
31 BY EACH PERSON WHO IS APPOINTED TO THE GOVERNOR, THE ATTORNEY GENERAL,
32 THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAK-
33 ER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY
34 LEADER OF THE ASSEMBLY. THE DESIGNATING COMMISSION SHALL MAKE AVAILABLE
35 TO THE PUBLIC THE FINANCIAL STATEMENT FILED BY THE PERSON WHO IS
36 APPOINTED TO FILL A VACANCY. THE FINANCIAL STATEMENTS FILED BY ALL OTHER
37 PERSONS NOT APPOINTED BY THE DESIGNATING COMMISSION SHALL BE CONFIDEN-
38 TIAL.

39 4. ADDITIONAL FUNCTIONS OF THE DESIGNATING COMMISSION. THE DESIGNATING
40 COMMISSION SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

41 A. ESTABLISH DETAILED COMMUNICATION PROCEDURES TO ASSURE THAT PERSONS
42 WHO MAY BE QUALIFIED FOR APPOINTMENT TO THE BOARD, OTHER THAN THOSE WHO
43 HAVE REQUESTED CONSIDERATION OR WHO HAVE BEEN RECOMMENDED FOR CONSIDER-
44 ATION BY OTHERS, ARE ENCOURAGED TO AGREE TO BE CONSIDERED BY THE DESIG-
45 NATING COMMISSION. THE TOTAL NUMBER OF REQUESTS FOR CONSIDERATION SHALL
46 BE DOCUMENTED FOR THE PUBLIC RECORD.

47 B. CONDUCT INVESTIGATIONS, ADMINISTER OATHS OR AFFIRMATIONS, INTERVIEW
48 WITNESSES AND COMPEL THEIR ATTENDANCE, EXAMINE THEM UNDER OATH OR AFFIR-
49 MATION AND REQUIRE THE PRODUCTION OF ANY BOOKS, RECORDS, DOCUMENTS OR
50 OTHER EVIDENCE THAT IT MAY DEEM RELEVANT OR MATERIAL TO ITS EVALUATION
51 OF CANDIDATES FOR TRUSTEE.

52 C. REQUIRE FROM ANY COURT, DEPARTMENT, DIVISION, BOARD, BUREAU,
53 COMMISSION, OR OTHER AGENCY OF THE STATE OR POLITICAL SUBDIVISION THERE-
54 OF OR ANY PUBLIC AUTHORITY SUCH ASSISTANCE, INFORMATION AND DATA, AS
55 WILL ENABLE IT PROPERLY TO EVALUATE THE QUALIFICATIONS OF CANDIDATES,

1 SUBJECT TO ANY ABSOLUTE JUDICIAL OR EXECUTIVE PRIVILEGE, WHERE ONE
2 EXISTS.

3 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DESIGNATING COMMIS-
4 SION, WITH THE CONSENT OF THE APPLICANT, SHALL BE ENTITLED TO REQUIRE
5 FROM ANY FORMAL DELIBERATIVE BODY ANY FORMAL WRITTEN COMPLAINT AGAINST A
6 CANDIDATE, IN WHICH THE APPLICANT'S MISCONDUCT WAS ESTABLISHED, ANY
7 PENDING COMPLAINT AGAINST A CANDIDATE, AND THE RECORD TO DATE OF ANY
8 PENDING PROCEEDING PURSUANT TO A FORMAL WRITTEN COMPLAINT AGAINST SUCH
9 CANDIDATE. THE DELIBERATIVE BODY THAT HAS JURISDICTION OVER SUCH
10 COMPLAINT SHALL HAVE FIFTEEN DAYS WITHIN WHICH TO RESPOND TO A REQUEST
11 MADE PURSUANT TO THIS SUBDIVISION.

12 D. REQUIRE THE APPEARANCE OF ANY CANDIDATE BEFORE IT AND INTERVIEW ANY
13 PERSON CONCERNING THE QUALIFICATIONS OF ANY CANDIDATE.

14 E. ESTABLISH PROCEDURES TO COMMUNICATE WITH THE GOVERNOR, THE ATTORNEY
15 GENERAL, THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE,
16 THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE
17 MINORITY LEADER OF THE ASSEMBLY CONCERNING THE QUALIFICATIONS OF ANY
18 PERSON WHO IT HAS APPOINTED AS TRUSTEE.

19 F. APPOINT, AND AT PLEASURE REMOVE, A COUNSEL AND SUCH OTHER STAFF AS
20 IT MAY REQUIRE FROM TIME TO TIME, AND PRESCRIBE THEIR POWERS AND DUTIES.
21 THE DESIGNATING COMMISSION SHALL FIX THE COMPENSATION OF ITS STAFF AND
22 PROVIDE FOR REIMBURSEMENT OF THEIR EXPENSES WITHIN THE AMOUNTS APPROPRI-
23 ATED BY LAW.

24 G. DO ALL OTHER THINGS NECESSARY AND CONVENIENT TO CARRY OUT ITS FUNC-
25 TIONS PURSUANT TO THIS ARTICLE.

26 5. RULES OF THE DESIGNATING COMMISSION. A. THE DESIGNATING COMMISSION
27 SHALL ADOPT, AND MAY AMEND, WRITTEN RULES OF PROCEDURE NOT INCONSISTENT
28 WITH LAW.

29 B. RULES OF THE DESIGNATING COMMISSION SHALL BE FILED WITH THE SECRE-
30 TARY OF STATE AND SHALL BE PUBLISHED IN THE OFFICIAL COMPILATION OF
31 CODES, RULES AND REGULATIONS OF THE STATE. UPON REQUEST OF ANY PERSON,
32 THE SECRETARY OF STATE SHALL FURNISH A COPY OF THE DESIGNATING COMMIS-
33 SION'S RULES WITHOUT CHARGE.

34 C. RULES OF THE DESIGNATING COMMISSION MAY PRESCRIBE FORMS AND QUES-
35 TIONNAIRES TO BE COMPLETED AND, IF REQUIRED BY THE DESIGNATING COMMIS-
36 SION, VERIFIED BY CANDIDATES.

37 D. RULES OF THE DESIGNATING COMMISSION SHALL PROVIDE THAT UPON THE
38 COMPLETION BY THE DESIGNATING COMMISSION OF ITS CONSIDERATION AND EVALU-
39 ATION OF THE QUALIFICATIONS OF A CANDIDATE, THERE SHALL BE NO RECONSID-
40 ERATION OF SUCH CANDIDATE FOR THE VACANCY FOR WHICH HE WAS CONSIDERED,
41 EXCEPT WITH THE CONCURRENCE OF EIGHT MEMBERS OF THE DESIGNATING COMMIS-
42 SION.

43 6. CONFIDENTIALITY OF PROCEEDINGS AND RECORDS. A. ALL COMMUNICATIONS
44 TO THE DESIGNATING COMMISSION, AND ITS PROCEEDINGS, AND ALL APPLICA-
45 TIONS, CORRESPONDENCE, INTERVIEWS, TRANSCRIPTS, REPORTS AND ALL OTHER
46 PAPERS, FILES AND RECORDS OF THE DESIGNATING COMMISSION SHALL BE CONFID-
47 ENTIAL AND PRIVILEGED AND, EXCEPT FOR THE PURPOSES OF ARTICLE TWO
48 HUNDRED TEN OF THE PENAL LAW, SHALL NOT BE MADE AVAILABLE TO ANY PERSON
49 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE.

50 B. NEITHER THE MEMBERS OF THE BOARD, MEMBERS OF THE DESIGNATING
51 COMMISSION NOR ITS STAFF SHALL PUBLICLY DIVULGE THE NAMES OF, OR ANY
52 INFORMATION CONCERNING, ANY CANDIDATE EXCEPT AS OTHERWISE PROVIDED IN
53 THIS ARTICLE. ANY VIOLATION OF THIS SUBDIVISION SHALL BE A CLASS A
54 MISDEMEANOR.

55 7. PROCEDURES WHEN VACANCIES OCCUR. A. WHENEVER A VACANCY WILL OCCUR
56 FOR THE POSITION OF MEMBER OF THE EMPLOYEE RETIREMENT SYSTEM BOARD BY

1 EXPIRATION OF A TERM, THE MEMBER OF THE BOARD SHALL NOTIFY THE DESIGNAT-
2 ING COMMISSION OF THE ANTICIPATED VACANCY NO LATER THAN SEVEN MONTHS
3 PRECEDING THE VACANCY. THE DESIGNATING COMMISSION SHALL MAKE ITS
4 APPOINTMENT TO THE BOARD ON OR BEFORE THE DATE OF EXPIRATION, TO TAKE
5 EFFECT ON THE DAY FOLLOWING SUCH EXPIRATION.

6 B. WHENEVER A VACANCY OCCURS OTHER THAN BY EXPIRATION OF TERM, THE
7 COMMISSIONERS OF STATE GOVERNMENT ETHICS SHALL IMMEDIATELY NOTIFY THE
8 DESIGNATING COMMISSION OF SUCH VACANCY. THE DESIGNATING COMMISSION SHALL
9 MAKE ITS APPOINTMENT NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER RECEIPT
10 OF SUCH NOTICE.

11 S 17. Severability. If any title, section, subdivision, paragraph or
12 other part of this act shall be adjudged invalid by any court of compe-
13 tent jurisdiction, such judgment shall not invalidate the remainder
14 thereof, but shall be confined in its operation to the part directly
15 involved in the controversy wherein such judgment shall have been
16 rendered.

17 S 18. This act shall take effect on the ninetieth day after it shall
18 have become a law.

19

PART C

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

24 1. issue instructions and promulgate rules and regulations relating to
25 the administration of the election process[,] AND election campaign
26 practices [and campaign financing practices] consistent with the
27 provisions of law;

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

37 9. study and examine the administration of elections within the state
38 including [campaign financing, campaign financing reporting, and]
39 campaign practices;

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

44 S 2. Subdivision 9-A of section 3-102 of the election law is REPEALED.

45 S 3. Subdivision 7 of section 3-102 of the election law is REPEALED.

46 S 4. Section 3-104 of the election law, subdivisions 1, 3, 4 and 5 as
47 redesignated and subdivision 2 as amended by chapter 9 of the laws of
48 1978, is amended to read as follows:

49 S 3-104. State board of elections; enforcement powers. 1. The state
50 board of elections shall have jurisdiction of, and be responsible for,
51 the execution and enforcement of the provisions of [article fourteen of]
52 this chapter, EXCEPT ARTICLE FOURTEEN, WHICH THE STATE GOVERNMENT ETHICS
53 COMMISSION SHALL HAVE JURISDICTION OF, and other statutes governing
54 campaigns, elections and related procedures.

1 2. Whenever the state board of elections or other board of elections
2 shall determine, on its own initiative or upon complaint, or otherwise,
3 that there is substantial reason to believe a violation of this chapter
4 or any code or regulation promulgated thereunder has occurred, it shall
5 expeditiously make an investigation which shall also include investi-
6 gation of reports and statements made or failed to be made by the
7 complainant and any political committee supporting his candidacy if the
8 complainant is a candidate or, if the complaint was made by an officer
9 or member of a political committee, of reports and statements made or
10 failed to be made by such political committee and any candidates
11 supported by it. The state board of elections, in lieu of making such an
12 investigation, may direct the appropriate board of elections to make an
13 investigation. The state board of elections may request, and shall
14 receive, the assistance of the state police in any investigation it
15 shall conduct.

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

22 4. [The state or other board of elections may, where appropriate,
23 commence a judicial proceeding with respect to the filing or failure to
24 file any statement of receipts, expenditures, or contributions, under
25 the provisions of this chapter, and the state board of elections may
26 direct the appropriate other board of elections to commence such
27 proceeding.

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

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

32 1. "political committee" means any [corporation] BUSINESS ENTITY
33 aiding or promoting and any committee, political club or combination of
34 one or more persons operating or co-operating to aid or to promote the
35 success or defeat of a political party or principle, or of any ballot
36 proposal; or to aid or take part in the election or defeat of a candi-
37 date for public office or to aid or take part in the election or defeat
38 of a candidate for nomination at a primary election or convention,
39 including all proceedings prior to such primary election, or of a candi-
40 date for any party position voted for at a primary election, or to aid
41 or defeat the nomination by petition of an independent candidate for
42 public office; OR ANY POLITICAL ACTION COMMITTEE ESTABLISHED, FINANCED,
43 MAINTAINED OR CONTROLLED BY ANY BUSINESS ENTITY, LABOR ORGANIZATION OR
44 ANY OTHER PERSON OR ENTITY WHICH MAKES NO EXPENDITURE TO AID OR TAKE
45 PART IN THE ELECTION OR DEFEAT OF A CANDIDATE, OTHER THAN IN THE FORM OF
46 CONTRIBUTIONS; but nothing in this article shall apply to any committee
47 or organization for the discussion or advancement of political questions
48 or principles without connection with any vote or to a national commit-
49 tee organized for the election of presidential or vice-presidential
50 candidates; provided, however, that a person or [corporation] BUSINESS
51 ENTITY making a contribution or contributions to a candidate or a poli-
52 tical committee which has filed pursuant to section 14-118 shall not, by
53 that fact alone, be deemed to be a political committee as herein
54 defined.

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

4 (2) any funds received by a political committee from another political
5 committee [to the extent such funds do not constitute a transfer] BY ANY
6 MEANS, INCLUDING BUT NOT LIMITED TO TRANSFERS,

7 9-A. "INTERMEDIARY" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP,
8 POLITICAL COMMITTEE, EMPLOYEE ORGANIZATION OR OTHER ENTITY WHICH:

9 (A) OTHER THAN IN THE REGULAR COURSE OF BUSINESS AS A POSTAL, DELIVERY
10 OR MESSENGER SERVICE, DELIVERS ANY CONTRIBUTION FROM ANOTHER PERSON OR
11 ENTITY TO A CANDIDATE OR AUTHORIZED COMMITTEE; OR

12 (B) SUCCESSFULLY SOLICITS CONTRIBUTIONS TO A CANDIDATE OR OTHER
13 AUTHORIZED COMMITTEE WHERE SUCH SOLICITATION IS KNOWN TO SUCH CANDIDATE
14 OR HIS OR HER AUTHORIZED COMMITTEE. FOR PURPOSES OF THIS PARAGRAPH, ONLY
15 PERSONS CLEARLY IDENTIFIED AS THE SOLICITOR OF A CONTRIBUTION TO THE
16 CANDIDATE OR HIS OR HER AUTHORIZED COMMITTEE SHALL BE PRESUMED TO BE
17 KNOWN TO SUCH CANDIDATE OR HIS OR HER AUTHORIZED COMMITTEE. "INTERME-
18 DIARY" SHALL NOT INCLUDE SPOUSES, DOMESTIC PARTNERS, PARENTS, CHILDREN
19 OR SIBLINGS OF THE PERSON MAKING SUCH CONTRIBUTION, OR ANY PAID OR
20 VOLUNTEER FULL-TIME CAMPAIGN WORKERS OR COMMERCIAL FUNDRAISING FIRMS
21 RETAINED BY THE CANDIDATE AND THE AGENTS THEREOF.

22 S 7. Subdivisions 1 and 3 of section 14-102 of the election law, as
23 amended by chapter 8 of the laws of 1978, subdivision 1 as redesignated
24 by chapter 9 of the laws of 1978 and subdivision 3 as renumbered by
25 chapter 70 of the laws of 1983, are amended to read as follows:

26 1. The treasurer of every political committee which, or any officer,
27 member or agent of any such committee who, in connection with any
28 election, receives or expends any money or other [valuable thing] ITEM
29 OF VALUE or incurs any liability to pay money or its equivalent shall
30 file statements sworn, or subscribed and bearing a form notice that
31 false statements made therein are punishable as a class A misdemeanor
32 pursuant to section 210.45 of the penal law, at the times prescribed by
33 this article setting forth all the receipts, contributions to and the
34 expenditures by and liabilities of the committee, and of its officers,
35 members and agents in its behalf. Such statements shall include the
36 dollar amount of any receipt, contribution or transfer, or the fair
37 market value of any receipt, contribution or transfer, which is other
38 than of money, the name [and], address AND OCCUPATION of the transferor,
39 contributor or person from whom received, OTHER THAN IN THE REGULAR
40 COURSE OF A LENDER'S BUSINESS, AND FOR A NATURAL PERSON CONTRIBUTING TWO
41 HUNDRED DOLLARS OR MORE, THE NAME AND ADDRESS OF SUCH PERSON'S EMPLOYER,
42 AND THE BUSINESS ADDRESS OF EACH POLITICAL COMMITTEE OR OTHER ENTITY
43 MAKING SUCH CONTRIBUTION, OR ANY LOAN, GUARANTEE, OR OTHER SECURITY FOR
44 SUCH A LOAN and if the transferor, contributor or person is a political
45 committee; the name of and the political unit represented by the commit-
46 tee, the date of its receipt, the dollar amount of every expenditure,
47 the name and address of the person to whom it was made or the name of
48 and the political unit represented by the committee to which it was made
49 and the date thereof, and shall state clearly the purpose of such
50 expenditure. IF ANY ONE EXPENDITURE IS MADE FOR MORE THAN ONE PURPOSE,
51 OR AS PAYMENT FOR GOODS OR SERVICES SUPPLIED BY MORE THAN ONE SUPPLIER,
52 SUCH STATEMENT SHALL SET FORTH SEPARATELY EACH SUCH PURPOSE OR SUPPLIER
53 AND THE AMOUNT EXPENDED FOR EACH SUCH PURPOSE OR TO EACH SUCH SUPPLIER.
54 Any statement reporting a loan shall have attached to it a copy of the
55 evidence of indebtedness. Expenditures in sums under fifty dollars need
56 not be specifically accounted for by separate items in said statements,

1 and receipts and contributions aggregating not more than ninety-nine
2 dollars, from any one contributor need not be specifically accounted for
3 by separate items in said statements, provided however, that such
4 expenditures, receipts and contributions shall be subject to the other
5 provisions of section 14-118 of this article.

6 3. The state [board of elections] GOVERNMENT ETHICS COMMISSION shall
7 promulgate regulations with respect to the accounting methods to be
8 applied IN COMPLYING WITH, AND in preparing the statements required by,
9 the provisions of this article and shall provide forms suitable for such
10 statements. SUCH REGULATIONS SHALL BE DRAWN TO ASSURE SUCH COMPLIANCE
11 AND OBTAIN THE MAXIMUM POSSIBLE DISCLOSURE.

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

15 4. Any committee which is required to file statements with [any board
16 of elections] THE STATE GOVERNMENT ETHICS COMMISSION pursuant to this
17 article and which raises or spends or expects to raise or spend more
18 than one thousand dollars in any calendar year shall file all such
19 statements pursuant to the electronic reporting system prescribed by
20 [the state board of elections as set forth in subdivision nine-A of
21 section 3-102 of this chapter] SECTION SEVENTY-THREE-C OF THE PUBLIC
22 OFFICERS LAW. Notwithstanding the provisions of this subdivision, upon
23 the filing of a sworn statement by the treasurer of a political commit-
24 tee which states that such political committee does not have access to
25 the technology necessary to comply with the electronic filing require-
26 ments [of subdivision nine-A of section 3-102 of this chapter]
27 PRESCRIBED BY SECTION SEVENTY-THREE-C OF THE PUBLIC OFFICERS LAW and
28 that filing by such means would constitute a substantial hardship for
29 such political committee, the state [board of elections] GOVERNMENT
30 ETHICS COMMISSION may issue an exemption from the electronic filing
31 requirements of this article.

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

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

41 S 14-104. Statements of campaign receipts, contributions, transfers
42 and expenditures by and to candidates. 1. Any candidate for election to
43 public office, or for nomination for public office at a contested prima-
44 ry election or convention, or for election to a party position at a
45 primary election, shall file statements sworn, or subscribed and bearing
46 a form notice that false statements made therein are punishable as a
47 class A misdemeanor pursuant to section 210.45 of the penal law, at the
48 times prescribed by this article setting forth the particulars specified
49 by section 14-102 of this article, as to all moneys or other valuable
50 things, paid, given, expended or promised by him to aid his own nomi-
51 nation or election, or to promote the success or defeat of a political
52 party, or to aid or influence the nomination or election or the defeat
53 of any other candidate to be voted for at the election or primary
54 election or at a convention, including contributions to political
55 committees, officers, members or agents thereof, and transfers, receipts
56 and contributions to him to be used for any of the purposes above speci-

1 filed, or in lieu thereof, any such candidate may file such a sworn
2 statement at the first filing period, on a form prescribed by [the state
3 board of elections] SECTION SEVENTY-THREE-C OF THE PUBLIC OFFICERS LAW
4 that such candidate has made no such expenditures and does not intend to
5 make any such expenditures, except through a political committee author-
6 ized by such candidate pursuant to this article. A committee authorized
7 by such a candidate may fulfill all of the filing requirements of this
8 [act] ARTICLE on behalf of such candidate.

9 2. Statements filed by any political committee authorized by a candi-
10 date pursuant to this article which is required to file such statements
11 with [any board of elections] THE STATE GOVERNMENT ETHICS COMMISSION and
12 which raises or spends or expects to raise or spend more than one thou-
13 sand dollars in any calendar year shall file all such statements pursu-
14 ant to the electronic reporting system prescribed by [the state board of
15 elections as set forth in subdivision nine-A of section 3-102 of this
16 chapter] SECTION SEVENTY-THREE-C OF THE PUBLIC OFFICERS LAW. Notwith-
17 standing the provisions of this subdivision, upon the filing of a sworn
18 statement by the treasurer of a political committee authorized by a
19 candidate pursuant to this article which states that such committee does
20 not have access to the technology necessary to comply with the electron-
21 ic filing requirements [of subdivision nine-A of section 3-102 of this
22 chapter] PRESCRIBED BY SECTION SEVENTY-THREE-C OF THE PUBLIC OFFICERS
23 LAW and that filing by such means would constitute a substantial hard-
24 ship for such committee, the state [board of elections] GOVERNMENT
25 ETHICS COMMISSION may issue an exemption from the electronic filing
26 requirements of this article.

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

33 S 10. Section 14-108 of the election law, subdivision 1 as amended by
34 chapter 955 of the laws of 1983, subdivision 2 as amended by chapter 109
35 of the laws of 1997, subdivisions 3, 4 and 6 as redesignated by chapter
36 9 of the laws of 1978, subdivision 5 as amended and subdivision 7 as
37 added by chapter 146 of the laws of 1994 and subdivision 6 as amended by
38 chapter 323 of the laws of 1977, is amended to read as follows:

39 S 14-108. Time for filing statements. 1. The statements required by
40 this article shall be filed at such times as the state [board of
41 elections] GOVERNMENT ETHICS COMMISSION, by rule or regulation, shall
42 specify; provided, however, that in no event shall the [board] STATE
43 GOVERNMENT ETHICS COMMISSION provide for fewer than three filings in the
44 aggregate in connection with any primary, general or special election,
45 or in connection with a question to be voted on and two of said filings
46 shall be before any such election, including one such filing not less
47 than thirty days nor more than forty-five days prior to such election
48 and one such filing not less than eleven days nor more than fifteen days
49 prior to such election. In addition, the [board] STATE GOVERNMENT ETHICS
50 COMMISSION shall provide that every political committee which has filed
51 a statement of treasurer and depository shall make [at least] one filing
52 [every six months between the time such statement of treasurer and
53 depository is filed and the time such committee goes out of business] ON
54 JANUARY THIRTY-FIRST, ONE FILING ON APRIL THIRTIETH AND ONE FILING ON
55 JULY THIRTY-FIRST OF EACH YEAR. If any candidate or committee shall be
56 required by the provisions of this section, or by rule or regulation

1 hereunder, to effect two filings within a period of five days, the state
2 [board of elections] GOVERNMENT ETHICS COMMISSION may, by rule or regu-
3 lation, waive the requirement of filing the earlier of such statements.
4 If a statement filed by a candidate or committee after the election to
5 which it pertains is not a final statement showing satisfaction of all
6 liabilities and disposition of all assets, such candidate or committee
7 shall file such additional statements as the [board] STATE GOVERNMENT
8 ETHICS COMMISSION shall, by rule or regulation provide until such a
9 final statement is filed.

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

17 3. Each statement shall be preserved by the officer with whom or the
18 [board] STATE GOVERNMENT ETHICS COMMISSION with which it is required to
19 be filed for a period of five years from the date of filing thereof.

20 4. Each statement shall constitute a part of the public records of
21 such officer or [board] STATE GOVERNMENT ETHICS COMMISSION and shall be
22 open to public inspection.

23 5. The state [board of elections or other board of elections, as the
24 case may be,] GOVERNMENT ETHICS COMMISSION shall not later than ten days
25 after the last day to file any such statement notify each person
26 required to file any such statement which has not been received by such
27 [board] COMMISSION by such tenth day in accordance with this article of
28 such person's failure to file such statement timely. Such notice shall
29 be in writing and mailed to the last known residence or business address
30 of such person by certified mail, return receipt requested. Failure to
31 file within five days of receipt of such notice shall constitute prima
32 facie evidence of a willful failure to file. If the person required to
33 file such statement is a treasurer who has stated that the committee has
34 been authorized by one or more candidates, a copy of such notice shall
35 be sent to each such candidate by first class mail. [A copy of any such
36 notice sent by a board of elections other than the state board of
37 elections shall be sent by such other board to the state board.]

38 6. A statement shall be deemed properly filed when deposited in an
39 established post-office within the prescribed time, duly stamped, certi-
40 fied and directed to the officer with whom or to the [board] STATE
41 GOVERNMENT ETHICS COMMISSION with which the statement is required to be
42 filed, but in the event it is not received, a duplicate of such state-
43 ment shall be promptly filed upon notice by such officer or such [board]
44 COMMISSION of its non-receipt; PROVIDED, HOWEVER, ALL STATEMENTS
45 REQUIRED TO BE FILED DURING THE PERIOD OF FIFTEEN DAYS BEFORE ANY
46 ELECTION SHALL BE FILED ELECTRONICALLY OR BY GUARANTEED OVERNIGHT DELIV-
47 ERY THROUGH THE UNITED STATES POSTAL SERVICE OR SOME OTHER OVERNIGHT
48 DELIVERY SERVICE.

49 7. On the twentieth day following the date by which such statements
50 were required to be filed, the state [board of elections] GOVERNMENT
51 ETHICS COMMISSION shall prepare and make available for public inspection
52 and distribution a list of those persons and committees from whom it has
53 not yet received such statement.

54 S 11. Section 14-110 of the election law, as amended by chapter 46 of
55 the laws of 1984, is amended to read as follows:

1 S 14-110. Place for filing statements. The places for filing the
2 statements required by this article shall be determined by rule or regu-
3 lation of the state [board of elections] GOVERNMENT ETHICS COMMISSION;
4 provided, however, that the statements of a candidate for election to
5 the office of governor, lieutenant governor, attorney general, comp-
6 troller, member of the legislature, delegate to a constitutional conven-
7 tion, justice of the supreme court or for nomination for any such office
8 at a primary election and of any committee aiding or taking part in the
9 designation, nomination, election or defeat of candidates for one or
10 more of such offices or promoting the success or defeat of a question to
11 be voted on by the voters of the entire state shall be filed with the
12 state [board of elections] GOVERNMENT ETHICS COMMISSION and in such
13 other places as the state [board of elections] GOVERNMENT ETHICS COMMIS-
14 SION may, by rule or regulation provide.

15 S 12. Section 14-112 of the election law, as amended by chapter 930 of
16 the laws of 1981, is amended to read as follows:

17 S 14-112. [Political] AUTHORIZED COMMITTEE; POLITICAL committee
18 authorization statement. 1. Any political committee aiding or taking
19 part in the election or nomination of any candidate[, other than by
20 making contributions,] shall file, in the office in which the statements
21 of such committee are to be filed pursuant to this article, either a
22 sworn verified statement by the treasurer of such committee AND THE
23 CANDIDATE that [the] SUCH candidate has authorized the political commit-
24 tee to aid or take part in his OR HER election or A SWORN VERIFIED
25 STATEMENT BY THE TREASURER OF SUCH COMMITTEE that the candidate has not
26 authorized the committee to aid or take part in his OR HER election.

27 2. NO CANDIDATE MAY AUTHORIZE MORE THAN ONE POLITICAL COMMITTEE FOR
28 ANY ONE ELECTION. ANY CANDIDATE WHO, ON DECEMBER FIRST, TWO THOUSAND
29 TEN, HAS AUTHORIZED MORE THAN ONE POLITICAL COMMITTEE FOR ANY ONE
30 ELECTION SHALL, NOT LATER THAN THIRTY DAYS AFTER SAID DATE, DISAVOW ALL
31 BUT ONE OF SUCH COMMITTEES, IN WRITING, TO THE STATE GOVERNMENT ETHICS
32 COMMISSION. THIS SUBDIVISION SHALL NOT APPLY TO THE AUTHORIZATION OF AN
33 EXPLORATORY COMMITTEE BY AN ELECTED PUBLIC OFFICIAL. A MULTI-CANDIDATE
34 COMMITTEE MAY NOT BE AN AUTHORIZED COMMITTEE.

35 3. CAMPAIGN FUNDS REMAINING IN ANY DISAVOWED COMMITTEE SHALL BE
36 DISPOSED OF PURSUANT TO SECTION 14-132 OF THIS ARTICLE.

37 S 13. Subdivision 1 of section 14-114 of the election law, as amended
38 by chapter 79 of the laws of 1992, paragraphs a and b as amended by
39 chapter 659 of the laws of 1994, is amended to read as follows:

40 1. The following limitations apply to all contributions to candidates
41 for election to any public office or for nomination for any such office,
42 or for election to any party positions, and to all contributions to
43 political committees working directly or indirectly with any candidate
44 to aid or participate in such candidate's nomination or election, other
45 than any contributions to any party committee or constituted committee:

46 a. In any election for a public office to be voted on by the voters of
47 the entire state, or for nomination to any such office, no contributor
48 may make a contribution to any candidate or political committee, and no
49 candidate or political committee may accept any contribution from any
50 contributor, which is in [the aggregate amount greater than: (i) in the
51 case of any nomination to public office, the product of the total number
52 of enrolled voters in the candidate's party in the state, excluding
53 voters in inactive status, multiplied by \$.005, but such amount shall be
54 not less than four thousand dollars nor more than twelve thousand
55 dollars] EXCESS OF ONE THOUSAND DOLLARS as increased or decreased by the
56 cost of living adjustment described in paragraph c of this subdivision[,

1 and (ii) in the case of any election to a public office, twenty-five
2 thousand dollars as increased or decreased by the cost of living adjust-
3 ment described in paragraph c of this subdivision; provided however,
4 that the maximum amount which may be so contributed or accepted, in the
5 aggregate, from any candidate's child, parent, grandparent, brother and
6 sister, and the spouse of any such persons, shall not exceed in the case
7 of any nomination to public office an amount equivalent to the product
8 of the number of enrolled voters in the candidate's party in the state,
9 excluding voters in inactive status, multiplied by \$.025, and in the
10 case of any election for a public office, an amount equivalent to the
11 product of the number of registered voters in the state excluding voters
12 in inactive status, multiplied by \$.025].

13 b. In any other election for party position or for election to a
14 public office or for nomination for any such office, no contributor may
15 make a contribution to any candidate or political committee and no
16 candidate or political committee may accept any contribution from any
17 contributor, which is in [the aggregate amount greater than: (i) in the
18 case of any election for party position, or for nomination to public
19 office, the product of the total number of enrolled voters in the candi-
20 date's party in the district in which he is a candidate, excluding
21 voters in inactive status, multiplied by \$.05, and (ii) in the case of
22 any election for a public office, the product of the total number of
23 registered voters in the district, excluding voters in inactive status,
24 multiplied by \$.05,] EXCESS OF ONE THOUSAND DOLLARS AS INCREASED OR
25 DECREASED BY THE COST OF LIVING ADJUSTMENT DESCRIBED IN PARAGRAPH C OF
26 THIS SUBDIVISION; however in the case of a nomination OR ELECTION within
27 the city of New York for the office of mayor, public advocate [or],
28 comptroller, BOROUGH PRESIDENT OR MEMBER OF THE CITY COUNCIL, such
29 amount shall be [not less than four thousand dollars nor more than
30 twelve thousand dollars as increased or decreased by the cost of living
31 adjustment described in paragraph c of this subdivision; in the case of
32 an election within the city of New York for the office of mayor, public
33 advocate or comptroller, twenty-five thousand dollars as increased or
34 decreased by the cost of living adjustment described in paragraph c of
35 this subdivision] EQUAL TO THE CONTRIBUTION LIMITS SET FORTH IN PARA-
36 GRAPH (F) OF SUBDIVISION ONE OF SECTION 3-703 OF THE ADMINISTRATIVE CODE
37 OF THE CITY OF NEW YORK OR ANY SUCCESSOR PROVISION; PROVIDED HOWEVER in
38 the case of a nomination OR ELECTION for state senator, [four] ONE thou-
39 sand dollars as increased or decreased by the cost of living adjustment
40 described in paragraph c of this subdivision; [in the case of an
41 election for state senator, six thousand two hundred fifty dollars as
42 increased or decreased by the cost of living adjustment described in
43 paragraph c of this subdivision;] in the case of [an election or] A
44 nomination OR ELECTION for a member of the assembly, [twenty-five
45 hundred] ONE THOUSAND dollars as increased or decreased by the cost of
46 living adjustment described in paragraph c of this subdivision[; but in
47 no event shall any such maximum exceed fifty thousand dollars or be less
48 than one thousand dollars; provided however, that the maximum amount
49 which may be so contributed or accepted, in the aggregate, from any
50 candidate's child, parent, grandparent, brother and sister, and the
51 spouse of any such persons, shall not exceed in the case of any election
52 for party position or nomination for public office an amount equivalent
53 to the number of enrolled voters in the candidate's party in the
54 district in which he is a candidate, excluding voters in inactive
55 status, multiplied by \$.25 and in the case of any election to public
56 office, an amount equivalent to the number of registered voters in the

1 district, excluding voters in inactive status, multiplied by \$.25; or
2 twelve hundred fifty dollars, whichever is greater, or in the case of a
3 nomination or election of a state senator, twenty thousand dollars,
4 whichever is greater, or in the case of a nomination or election of a
5 member of the assembly twelve thousand five hundred dollars, whichever
6 is greater, but in no event shall any such maximum exceed one hundred
7 thousand dollars].

8 c. At the beginning of each fourth calendar year, commencing in [nine-
9 teen hundred ninety-five] TWO THOUSAND TWELVE, the state [board] GOVERN-
10 MENT ETHICS COMMISSION shall determine the percentage of the difference
11 between the [most recent available monthly] consumer price index for all
12 urban consumers published by the United States bureau of labor statis-
13 tics and such consumer price index published for the same month four
14 years previously. The amount of each contribution limit fixed in this
15 subdivision shall be adjusted by the amount of such percentage differ-
16 ence to the closest one hundred dollars by the state [board] GOVERNMENT
17 ETHICS COMMISSION which, not later than the first day of February in
18 each such year, shall issue a regulation publishing the amount of each
19 such contribution limit. Each contribution limit as so adjusted shall be
20 the contribution limit in effect for any election held before the next
21 such adjustment.

22 S 14. Subdivision 2 of section 14-114 of the election law, as redesign-
23 nated by chapter 9 of the laws of 1978, is amended to read as follows:

24 2. For purposes of this section, contributions other than of money
25 shall be evaluated at their fair market value. The state [board of
26 elections] GOVERNMENT ETHICS COMMISSION shall promulgate regulations,
27 consistent with law, governing the manner of computing fair market
28 value.

29 S 15. Subdivision 8 of section 14-114 of the election law, as amended
30 by chapter 8 of the laws of 1978 and as redesignated by chapter 9 of the
31 laws of 1978, is amended to read as follows:

32 8. A. Except as may otherwise be provided [for] BY a candidate [and
33 his family] FOR HIS OR HER OWN CAMPAIGN, no NATURAL person may contrib-
34 ute, loan or guarantee in excess of [one hundred fifty] TWENTY-FIVE
35 thousand dollars within the state OF NEW YORK IN ANY CALENDAR YEAR in
36 connection with the nomination or election of [persons to] CANDIDATES
37 FOR state [and] OR local public offices [and] OR party positions [within
38 the state of New York in any one calendar year].

39 B. For the purposes of this subdivision "loan" or "guarantee" shall
40 mean a loan or guarantee which is not repaid or discharged in the calen-
41 dar year in which it is made.

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

44 10. a. No contributor may make a contribution to a party or consti-
45 tuted committee and no such committee may accept a contribution from any
46 contributor which, in the aggregate, is greater than [sixty-two] ONE
47 thousand [five hundred] dollars per annum.

48 b. At the beginning of each fourth calendar year, commencing in [nine-
49 teen hundred ninety-five] TWO THOUSAND TWELVE, the state [board] GOVERN-
50 MENT ETHICS COMMISSION shall determine the percentage of the difference
51 between the most recent available monthly consumer price index for all
52 urban consumers published by the United States bureau of labor statis-
53 tics and such consumer price index published for the same month four
54 years previously. The amount of such contribution limit fixed in para-
55 graph a of this subdivision shall be adjusted by the amount of such
56 percentage difference to the closest one hundred dollars by the state

1 [board] GOVERNMENT ETHICS COMMISSION which, not later than the first day
2 of February in each such year, shall issue a regulation publishing the
3 amount of such contribution limit. Such contribution limit as so
4 adjusted shall be the contribution limit in effect for any election held
5 before the next such adjustment.

6 S 17. Section 14-116 of the election law, subdivision 1 as redesign-
7 nated by chapter 9 of the laws of 1978 and subdivision 2 as amended by
8 chapter 260 of the laws of 1981, is amended to read as follows:

9 S 14-116. Political contributions by certain organizations OR INDIVID-
10 UALS. 1. No corporation [or], joint-stock association, LIMITED LIABIL-
11 ITY COMPANY, PROFESSIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR
12 LIMITED LIABILITY PARTNERSHIP doing business in this state, except [a
13 corporation or association] AN ENTITY organized or maintained for poli-
14 tical purposes only, shall directly or indirectly pay or use or offer,
15 consent or agree to pay or use any money or property for or in aid of
16 any political party, committee or organization, or for, or in aid of,
17 any [corporation, joint-stock or other association] ENTITY organized or
18 maintained for political purposes, or for, or in aid of, any candidate
19 for political office or for nomination for such office, or for any poli-
20 tical purpose whatever, or for the reimbursement or indemnification of
21 any person for moneys or property so used. Any officer, director, stock-
22 holder, MEMBER, PARTNER, attorney or agent of any corporation [or],
23 joint-stock association, LIMITED LIABILITY COMPANY, PROFESSIONAL LIMITED
24 LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PARTNERSHIP which
25 violates any of the provisions of this section, who participates in,
26 aids, abets or advises or consents to any such violations, and any
27 person who solicits or knowingly receives any money or property in
28 violation of this section, shall be guilty of a misdemeanor.

29 2. [Notwithstanding the provisions of subdivision one of this section,
30 any corporation or an organization financially supported in whole or in
31 part, by such corporation may make expenditures, including contrib-
32 utions, not otherwise prohibited by law, for political purposes, in an
33 amount not to exceed five thousand dollars in the aggregate in any
34 calendar year; provided that no public utility shall use revenues
35 received from the rendition of public service within the state for
36 contributions for political purposes unless such cost is charged to the
37 shareholders of such a public service corporation.] CONTRIBUTION DELIV-
38 ERY ACTIVITIES BY AN INTERMEDIARY AS DEFINED IN THIS ARTICLE ARE PROHIB-
39 ITED, AND ANY PERSON WHO SOLICITS OR KNOWINGLY RECEIVES ANY MONEY OR
40 PROPERTY IN VIOLATION OF THIS SECTION, SHALL BE GUILTY OF A MISDEMEANOR.

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

43 1. Every political committee shall have a treasurer and a depository,
44 and shall cause the treasurer to keep detailed, bound accounts of all
45 receipts, transfers, loans, liabilities, contributions and expenditures,
46 made by the committee or any of its officers, members or agents acting
47 under its authority or in its behalf. All such accounts shall be
48 retained by a treasurer for a period of five years from the date of the
49 filing of the final statement with respect to the election, primary
50 election or convention to which they pertain. No officer, member or
51 agent of any political committee shall receive any receipt, transfer or
52 contribution, or make any expenditure or incur any liability until the
53 committee shall have chosen a treasurer and depository and filed their
54 names in accordance with this subdivision. There shall be filed in the
55 office in which the committee is required to file its statements under
56 section 14-110 of this article, within five days after the choice of a

1 treasurer and depository, a statement giving the name and address of the
2 treasurer chosen, the name and address of any person authorized to sign
3 checks by such treasurer, the name and address of the depository chosen
4 and the candidate or candidates or ballot proposal or proposals the
5 success or defeat of which the committee is to aid or take part;
6 provided, however, that such statement shall not be required of a
7 constituted committee [and provided further that a political committee
8 which makes no expenditures, to aid or take part in the election or
9 defeat of a candidate, other than in the form of contributions, shall
10 not be required to list the candidates being supported or opposed by
11 such committee]. SUCH A STATEMENT FROM ANY COMMITTEE OTHER THAN A PARTY
12 OR AUTHORIZED COMMITTEE ALSO SHALL CLEARLY IDENTIFY THE ECONOMIC OR
13 OTHER SPECIAL INTEREST, IF IDENTIFIABLE, OF A MAJORITY OF ITS CONTRIBU-
14 TORS, AND IF A MAJORITY OF ITS CONTRIBUTORS SHARE A COMMON EMPLOYER,
15 SHALL IDENTIFY SUCH EMPLOYER. IF THE ECONOMIC OR OTHER SPECIAL INTEREST
16 OR COMMON EMPLOYER ARE NOT IDENTIFIABLE, SUCH STATEMENT OF A MULTI-CAN-
17 DIDATE COMMITTEE SHALL CLEARLY IDENTIFY THE ECONOMIC OR OTHER SPECIAL
18 INTEREST, IF IDENTIFIABLE, OF A MAJORITY OF ITS ORGANIZERS, AND IF A
19 MAJORITY OF ITS ORGANIZERS SHARE A COMMON EMPLOYER, SHALL IDENTIFY SUCH
20 EMPLOYER, AND IF ORGANIZED, CONTROLLED OR MAINTAINED BY AN INDIVIDUAL,
21 SHALL IDENTIFY SUCH INDIVIDUAL. Such statement shall be signed by the
22 treasurer and all other persons authorized to sign checks. Any change in
23 the information required in any statement shall be reported, in an
24 amended statement filed in the same manner and in the same office as an
25 original statement filed under this section, within two days after it
26 occurs. Only a banking organization authorized to do business in this
27 state may be designated a depository hereunder.

28 S 18-a. Subdivision 2 of section 14-120 of the election law is
29 REPEALED.

30 S 19. Subdivision 2 of section 14-124 of the election law, as redesign-
31 nated by chapter 323 of the laws of 1977, is amended to read as follows:

32 2. The filing requirements and the expenditure, contribution and
33 receipt limits of this article shall not apply to any candidate or
34 committee who or which engages exclusively in activities on account of
35 which, pursuant to the laws of the United States, there is required to
36 be filed a statement or report of the campaign receipts, expenditures
37 and liabilities of such candidate or committee with an office or offi-
38 cers of the government of the United States, provided a copy of each
39 such statement or report is filed in the office of the state [board of
40 elections] GOVERNMENT ETHICS COMMISSION.

41 S 20. Subdivision 3 of section 14-124 of the election law is REPEALED.

42 S 21. Section 14-126 of the election law, as amended by chapter 8 of
43 the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of
44 1994 and subdivisions 2, 3 and 4 as redesignated by chapter 9 of the
45 laws of 1978, is amended to read as follows:

46 S 14-126. Violations; penalties. 1. Any person who fails to file a
47 statement required to be filed by this article shall be subject to a
48 civil penalty, not in excess of [five hundred] ONE THOUSAND dollars, [to
49 be recoverable in a special proceeding or civil action to be brought by
50 the state board of elections or other board of elections] ASSESSED BY
51 THE STATE GOVERNMENT ETHICS COMMISSION IN ACCORDANCE WITH THE PROVISIONS
52 OF SUBDIVISION TWELVE OF SECTION SEVENTY-THREE-C OF THE PUBLIC OFFICERS
53 LAW.

54 2. ANY PERSON WHO, ACTING AS OR ON BEHALF OF A CANDIDATE OR POLITICAL
55 COMMITTEE, UNDER CIRCUMSTANCES EVINCING AN INTENT TO VIOLATE SUCH LAW,
56 UNLAWFULLY ACCEPTS A MONETARY CONTRIBUTION IN EXCESS OF A CONTRIBUTION

1 LIMITATION ESTABLISHED IN THIS ARTICLE, SHALL BE REQUIRED TO REFUND SUCH
2 EXCESS AMOUNT AND SHALL BE SUBJECT TO A CIVIL PENALTY EQUAL TO TWO TIMES
3 THE EXCESS AMOUNT PLUS A FINE OF UP TO TEN THOUSAND DOLLARS, TO BE
4 RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION TO BE BROUGHT BY THE
5 STATE GOVERNMENT ETHICS COMMISSION PURSUANT TO SECTION 16-120 OF THIS
6 CHAPTER.

7 3. ANY PERSON WHO, ACTING AS OR ON BEHALF OF A CANDIDATE OR POLITICAL
8 COMMITTEE, UNDER CIRCUMSTANCES EVINCING AN INTENT TO VIOLATE SUCH LAW,
9 UNLAWFULLY (A) EXPENDS CAMPAIGN FUNDS FOR A PERSONAL USE IN VIOLATION OF
10 THIS ARTICLE, OR (B) CONDUCTS ACTIVITIES PROHIBITED BY THIS ARTICLE,
11 SHALL BE SUBJECT TO A CIVIL PENALTY, NOT IN EXCESS OF TEN THOUSAND
12 DOLLARS, TO BE RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION TO BE
13 BROUGHT BY THE STATE GOVERNMENT ETHICS COMMISSION PURSUANT TO SECTION
14 16-120 OF THIS CHAPTER.

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

20 [3.] 5. Any person who knowingly and willfully contributes, accepts or
21 aids or participates in the acceptance of a contribution in an amount
22 exceeding an applicable maximum specified in this article shall be guilty
23 of a misdemeanor.

24 [4.] 6. Any person who shall, acting on behalf of a candidate or political
25 committee, knowingly and willfully solicit, organize or coordinate
26 the formation of activities of one or more unauthorized committees, make
27 expenditures in connection with the nomination for election or election
28 of any candidate, or solicit any person to make any such expenditures,
29 for the purpose of evading the contribution limitations of this article,
30 shall be guilty of a class E felony.

31 S 22. Section 14-127 of the election law is REPEALED.

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

34 S 14-130. Campaign funds for personal use. [Contributions] 1. CAMPAIGN
35 FUNDS received by a candidate or a political committee may ONLY be
36 expended for [any] lawful [purpose] PURPOSES THAT ARE DIRECTLY RELATED
37 TO PROMOTING THE NOMINATION OR ELECTION OF A CANDIDATE. Such funds shall
38 not be converted by any person to a personal use [which is unrelated to
39 a political campaign or the holding of a public office or party position].
40 tion].

41 2. AS USED IN THIS SECTION, THE TERM "CAMPAIGN FUNDS" MEANS ANY FUNDS
42 RECEIVED BY A CANDIDATE OR POLITICAL COMMITTEE INCLUDING, BUT NOT LIMITED
43 TO, CONTRIBUTIONS AND TRANSFERS FROM ANY SOURCE AND INTEREST RECEIVED
44 AS THE RESULT OF THE LOAN OR INVESTMENT OF SUCH FUNDS.

45 3. NO CAMPAIGN FUNDS SHALL BE USED TO PAY INTEREST OR ANY OTHER
46 FINANCE CHARGES UPON MONIES LOANED TO THE CAMPAIGN BY SUCH CANDIDATE OR
47 THE SPOUSE OF SUCH CANDIDATE.

48 4. NO CAMPAIGN FUND SHALL BE USED TO PAY ATTORNEY'S FEES OR ANY COSTS
49 OF DEFENDING AGAINST CIVIL OR CRIMINAL INVESTIGATION OR PROSECUTION FOR
50 ALLEGED VIOLATIONS OF STATE, FEDERAL OR LOCAL LAW COMMITTED WHILE HOLD-
51 ING PUBLIC OFFICE OR PARTY POSITION, OR BEING A CANDIDATE FOR SUCH
52 OFFICE OR POSITION, UNLESS THE ALLEGED VIOLATION ARISES IN CONNECTION
53 WITH THE NOMINATION OR ELECTION OF SUCH CANDIDATE TO PUBLIC OFFICE OR
54 PARTY POSITION.

55 5. (A) AS USED IN THIS SECTION, EXPENDITURES FOR "PERSONAL USE" ARE
56 DEFINED AS EXPENDITURES THAT:

1 (I) ARE FOR THE PERSONAL BENEFIT OF THE CANDIDATE OR ANY OTHER INDI-
2 VIDUAL;
3 (II) DEFRAY NORMAL LIVING EXPENSES OF THE CANDIDATE, IMMEDIATE FAMILY
4 OF THE CANDIDATE OR ANY OTHER INDIVIDUAL;
5 (III) ARE USED TO FULFILL ANY COMMITMENT, OBLIGATION OR EXPENSE OF A
6 PERSON THAT WOULD EXIST IRRESPECTIVE OF THE CANDIDATE'S ELECTION
7 CAMPAIGN INCLUDING, BUT NOT LIMITED TO, ANY EXPENSE INCURRED MORE THAN
8 THIRTY DAYS AFTER THE CANDIDATE CEASES TO BE A CANDIDATE; OR
9 (IV) ARE PUT TO ANY USE FOR WHICH THE CANDIDATE WOULD BE REQUIRED TO
10 TREAT THE AMOUNT OF THE EXPENDITURE AS GROSS INCOME UNDER SECTION 61 OF
11 THE INTERNAL REVENUE CODE, OR ANY SUBSEQUENT CORRESPONDING SECTION OF
12 THE INTERNAL REVENUE CODE.
13 (B) PROHIBITED EXPENDITURES FOR PERSONAL USE OF CAMPAIGN FUNDS SHALL
14 INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:
15 (I) ANY RESIDENTIAL OR HOUSEHOLD ITEMS, SUPPLIES OR EXPENDITURES,
16 INCLUDING MORTGAGE, RENT OR UTILITY PAYMENTS FOR ANY PART OF ANY
17 PERSONAL RESIDENCE OF A CANDIDATE OR OFFICEHOLDER OR A MEMBER OF THE
18 CANDIDATE'S OR OFFICEHOLDER'S FAMILY.
19 (II) MORTGAGE, RENT OR UTILITY PAYMENTS FOR ANY PART OF ANY NON-RESI-
20 DENTIAL PROPERTY THAT IS OWNED BY A CANDIDATE OR OFFICEHOLDER OR A
21 MEMBER OF A CANDIDATE'S OR OFFICEHOLDER'S FAMILY AND USED FOR CAMPAIGN
22 PURPOSES, TO THE EXTENT THE PAYMENTS EXCEED THE FAIR MARKET VALUE OF THE
23 PROPERTY USAGE;
24 (III) FUNERAL, CREMATION OR BURIAL EXPENSES, INCLUDING ANY EXPENSES
25 RELATED TO A DEATH WITHIN A CANDIDATE'S OR OFFICEHOLDER'S FAMILY;
26 (IV) CLOTHING, OR OTHER THAN ITEMS OF NOMINAL VALUE THAT ARE USED IN
27 THE CAMPAIGN;
28 (V) TUITION PAYMENTS;
29 (VI) CHILDCARE COSTS;
30 (VII) DUES, FEES OR GRATUITIES AT A COUNTRY CLUB, HEALTH CLUB, RECRE-
31 ATIONAL FACILITY OR OTHER NONPOLITICAL ORGANIZATION, UNLESS THEY ARE
32 PART OF A SPECIFIC FUNDRAISING EVENT THAT TAKES PLACE ON THE ORGANIZA-
33 TION'S PREMISES;
34 (VIII) SALARY PAYMENTS TO ANY PERSON FOR SERVICES THAT ARE NOT SOLELY
35 FOR CAMPAIGN PURPOSES;
36 (IX) SALARY PAYMENTS TO A MEMBER OF A CANDIDATE'S FAMILY, UNLESS THE
37 FAMILY MEMBER IS PROVIDING BONA FIDE SERVICES TO THE CAMPAIGN. IF A
38 FAMILY MEMBER PROVIDES BONA FIDE SERVICES TO A CAMPAIGN, ANY SALARY
39 PAYMENTS IN EXCESS OF THE FAIR MARKET VALUE OF THE SERVICES PROVIDED
40 SHALL BE CONSIDERED PAYMENTS FOR PERSONAL USE;
41 (X) ADMISSION TO A SPORTING EVENT, CONCERT, THEATER OR OTHER FORM OF
42 ENTERTAINMENT, UNLESS PART OF A SPECIFIC CAMPAIGN OR OFFICEHOLDER ACTIV-
43 ITY;
44 (XI) PAYMENT OF ANY FINES, FEES OR PENALTIES ASSESSED PURSUANT TO THIS
45 CHAPTER;
46 (XII) AUTOMOBILE PURCHASES;
47 (XIII) AUTOMOBILE LEASES;
48 (XIV) TRAVEL EXPENSES, UNLESS USED SOLELY FOR CAMPAIGN PURPOSES. IF A
49 CANDIDATE USES CAMPAIGN FUNDS TO PAY EXPENSES ASSOCIATED WITH TRAVEL
50 THAT INVOLVES BOTH PERSONAL ACTIVITIES AND CAMPAIGN ACTIVITIES, THE
51 INCREMENTAL EXPENSES THAT RESULT FROM THE PERSONAL ACTIVITIES SHALL BE
52 CONSIDERED FOR PERSONAL USE UNLESS THE PERSON OR PERSONS BENEFITING FROM
53 THE USE REIMBURSES THE CAMPAIGN ACCOUNT WITHIN THIRTY DAYS FOR THE FULL
54 AMOUNT OF THE INCREMENTAL EXPENSES; AND
55 (XV) ANY OTHER EXPENDITURES DESIGNATED BY THE STATE GOVERNMENT ETHICS
56 COMMISSION AS CONSTITUTING PERSONAL USE.

1 6. NOTHING IN THIS SECTION SHALL PROHIBIT A CANDIDATE FROM PURCHASING
2 EQUIPMENT OR PROPERTY FROM HIS PERSONAL FUNDS AND LEASING OR RENTING
3 SUCH EQUIPMENT OR PROPERTY TO A COMMITTEE WORKING DIRECTLY OR INDIRECTLY
4 WITH HIM TO AID OR PARTICIPATE IN HIS NOMINATION OR ELECTION, INCLUDING
5 AN EXPLORATORY COMMITTEE; PROVIDED THAT THE CANDIDATE AND HIS CAMPAIGN
6 TREASURER SIGN A WRITTEN LEASE OR RENTAL AGREEMENT. SUCH AGREEMENT SHALL
7 INCLUDE THE LEASE OR RENTAL PRICE, WHICH SHALL NOT EXCEED THE FAIR LEASE
8 OR RENTAL VALUE OF THE EQUIPMENT. THE CANDIDATE SHALL NOT RECEIVE LEASE
9 OR RENTAL PAYMENTS WHICH, IN THE AGGREGATE, EXCEED THE COST OF PURCHAS-
10 ING THE EQUIPMENT OR PROPERTY.

11 7. (A) NOTWITHSTANDING THIS SECTION, AN INDIVIDUAL WHO DOES NOT HOLD A
12 PUBLIC OFFICE OR A PARTY POSITION AND IS NOT A DECLARED CANDIDATE FOR
13 PUBLIC OFFICE OR PARTY POSITION MAY NOT EXPEND CAMPAIGN FUNDS FOR
14 PERSONAL USE INCLUDING, BUT NOT LIMITED TO, MEALS, ENTERTAINMENT, AND
15 SALARIES FOR IMMEDIATE FAMILY MEMBERS; PROVIDED, HOWEVER, NOTHING IN
16 THIS SUBDIVISION PROHIBITS THE USE OF CAMPAIGN FUNDS TO SUPPORT ONE OR
17 MORE DECLARED CANDIDATES AS AUTHORIZED BY THIS ARTICLE.

18 (B) FOR PURPOSES OF THIS SECTION, A "DECLARED CANDIDATE" MEANS AN
19 INDIVIDUAL WHO HAS FILED WITH THE STATE GOVERNMENT ETHICS COMMISSION
20 BOTH AN "AUTHORIZATION OR NON-AUTHORIZATION BY A CANDIDATE" FORM PURSU-
21 ANT TO SECTION 14-102 OF THIS ARTICLE AND A "COMMITTEE DESIGNATION OF
22 TREASURER AND DEPOSITORY" FORM PURSUANT TO SECTION 14-118 OF THIS ARTI-
23 CLE, BOTH OF WHICH INDICATE THE SPECIFIC OFFICE AND DISTRICT SOUGHT AND
24 THE YEAR OF THE ELECTION.

25 S 24. The election law is amended by adding a new section 14-132 to
26 read as follows:

27 S 14-132. DISPOSITION OF CAMPAIGN FUNDS. 1. A POLITICAL COMMITTEE
28 AIDING OR TAKING PART IN THE ELECTION OR NOMINATION OF ANY CANDIDATE,
29 OTHER THAN BY MAKING CONTRIBUTIONS, AUTHORIZED BY A CANDIDATE, MUST
30 DISPOSE OF ALL CAMPAIGN FUNDS AND CLOSE WITHIN TWO YEARS AFTER THE LATER
31 OF (A) THE END OF THE INDIVIDUAL'S MOST RECENT TERM OF OFFICE, OR (B)
32 THE DATE OF THE ELECTION IN WHICH THE INDIVIDUAL LAST WAS A FILED CANDI-
33 DATE.

34 2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION,
35 A COMMITTEE DISAVOWED PURSUANT TO SECTION 14-112 OF THIS ARTICLE SHALL
36 DISPOSE OF ALL CAMPAIGN FUNDS NO LATER THAN DECEMBER THIRTY-FIRST, TWO
37 THOUSAND TEN.

38 3. ANY CANDIDATE COMMITTEE REQUIRED TO DISPOSE OF FUNDS PURSUANT TO
39 THIS SECTION SHALL, AT THE OPTION OF THE CANDIDATE, DISPOSE OF SUCH
40 FUNDS BY ANY OF THE FOLLOWING MEANS, OR ANY COMBINATION THEREOF:

41 (A) RETURNING, PRO RATA, TO EACH CONTRIBUTOR THE FUNDS THAT HAVE NOT
42 BEEN SPENT OR OBLIGATED;

43 (B) DONATING THE FUNDS TO A CHARITABLE ORGANIZATION OR ORGANIZATIONS
44 THAT MEET THE QUALIFICATIONS OF SECTION 501(C)(3) OF THE INTERNAL REVEN-
45 UE CODE;

46 (C) DONATING THE FUNDS TO THE STATE UNIVERSITY OF NEW YORK;

47 (D) DONATING THE FUNDS TO THE STATE'S GENERAL FUND;

48 (E) TRANSFERRING THE FUNDS TO A POLITICAL PARTY COMMITTEE REGISTERED
49 WITH THE STATE BOARD OF ELECTIONS; OR

50 (F) CONTRIBUTING THE FUNDS TO A CANDIDATE OR POLITICAL COMMITTEE SUCH
51 THAT THIS DOES NOT EXCEED THE LIMITS SET FORTH IN SECTION 14-114 OF THIS
52 ARTICLE.

53 4. NO POLITICAL COMMITTEE SHALL DISPOSE OF CAMPAIGN FUNDS BY MAKING
54 EXPENDITURES FOR PERSONAL USE AS DEFINED IN SECTION 14-130 OF THIS ARTI-
55 CLE.

1 5. UPON THE DEATH OF A CANDIDATE, FORMER CANDIDATE OR HOLDER OF ELEC-
2 TIVE OFFICE, WHO RECEIVED CAMPAIGN CONTRIBUTIONS, ALL CONTRIBUTIONS
3 SHALL BE DISPOSED OF ACCORDING TO THIS SECTION WITHIN TWELVE MONTHS OF
4 THE DEATH OF THE CANDIDATE.

5 S 25. Section 16-100 of the election law is amended to read as
6 follows:

7 S 16-100. Jurisdiction; supreme court, county court. 1. The supreme
8 court is vested with jurisdiction to summarily determine any question of
9 law or fact arising as to any subject set forth in this article, which
10 shall be construed liberally.

11 2. The county court is vested with jurisdiction to summarily determine
12 any question of law or fact except proceedings as to a nomination or
13 election at a primary election or a nomination at a judicial convention,
14 proceedings as to the casting and canvass of ballots [and], proceedings
15 for examination or preservation of ballots AND PROCEEDINGS TO ENFORCE
16 THE PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER AS PROVIDED IN
17 SECTION 16-120 OF THIS ARTICLE.

18 S 26. Section 16-114 of the election law, subdivisions 1, 2, 3 and 4
19 as redesignated by chapter 9 of the laws of 1978, is amended to read as
20 follows:

21 S 16-114. Proceedings to compel filing of statements or corrected
22 statements of campaign receipts, expenditures and contributions. 1. The
23 supreme court or a justice thereof, in a proceeding instituted by any
24 candidate voted for at the election or primary or by any five qualified
25 voters or by the state [or other board of elections] GOVERNMENT ETHICS
26 COMMISSION may compel by order, any person required to file a statement
27 of receipts, expenditures or contributions for campaign purposes, who
28 has not filed any such statement within the time prescribed by this
29 chapter, to file such statement within five days after notice of the
30 order.

31 2. The supreme court or a justice thereof, in a proceeding instituted
32 by any candidate voted for at the election or primary or by any five
33 qualified voters, or by the state [or other board of elections] GOVERN-
34 MENT ETHICS COMMISSION in accordance with the provision of this chapter
35 may compel by order any person required under the provisions of this
36 chapter to file a statement of receipts, expenditures or contributions
37 for campaign purposes, who has filed a statement which does not conform
38 to the requirements of this chapter in respect to its truth, sufficiency
39 in detail or otherwise, to file a new or supplemental statement which
40 shall make the statement or statements true and complete within five
41 days after notice of the order. The state [board of elections] GOVERN-
42 MENT ETHICS COMMISSION shall be a necessary party in any such proceed-
43 ing.

44 3. The supreme court or a justice thereof, in a proceeding instituted
45 by any candidate voted for at the election or primary or by any five
46 qualified voters, or by the state [or other board of elections] GOVERN-
47 MENT ETHICS COMMISSION may compel by order any person who has failed to
48 comply, or the members of any committee which has failed to comply, with
49 any of the provisions of this chapter, to comply therewith.

50 4. In every proceeding instituted under this section, except a
51 proceeding to compel the filing of a statement by a candidate for nomi-
52 nation to a public office at a primary election or for election thereto,
53 or by the treasurer of a political committee, who has failed to file any
54 statement, the petitioner or petitioners, upon the institution of the
55 proceeding shall file with the county clerk an undertaking in a sum to
56 be determined and with sureties to be approved by a justice of the

1 supreme court conditioned to pay any costs imposed against him or them;
2 provided, however, that no such undertaking shall be required in a
3 proceeding instituted by the state [or other board of elections] GOVERN-
4 MENT ETHICS COMMISSION.

5 S 27. The election law is amended by adding a new section 16-120 to
6 read as follows:

7 S 16-120. ENFORCEMENT PROCEEDINGS. 1. THE SUPREME COURT OR A JUSTICE
8 THEREOF, IN A PROCEEDING INSTITUTED BY THE STATE GOVERNMENT ETHICS
9 COMMISSION, MAY IMPOSE A CIVIL PENALTY, AS PROVIDED FOR IN SUBDIVISIONS
10 TWO AND THREE OF SECTION 14-126 OF THIS CHAPTER, UPON ANY PERSON WHO,
11 ACTING AS OR ON BEHALF OF A CANDIDATE OR POLITICAL COMMITTEE UNDER
12 CIRCUMSTANCES EVINCING AN INTENT TO VIOLATE SUCH LAW, HAS UNLAWFULLY (A)
13 ACCEPTED A MONETARY CONTRIBUTION IN EXCESS OF A CONTRIBUTION LIMITATION
14 ESTABLISHED IN ARTICLE FOURTEEN OF THIS CHAPTER, (B) EXPENDED CAMPAIGN
15 FUNDS FOR A PERSONAL USE IN VIOLATION OF THIS ARTICLE OR (C) IN THE CASE
16 OF A POLITICAL COMMITTEE, CONDUCTED ACTIVITIES PROHIBITED BY ARTICLE
17 FOURTEEN OF THIS CHAPTER.

18 2. UPON PROOF THAT A VIOLATION OF ARTICLE FOURTEEN, AS PROVIDED IN
19 SUBDIVISION ONE OF THIS SECTION, HAS OCCURRED, THE COURT MAY IMPOSE A
20 CIVIL PENALTY, PURSUANT TO SUBDIVISIONS TWO AND THREE OF SECTION 14-126
21 OF THIS CHAPTER, AFTER CONSIDERING, AMONG OTHER FACTORS, THE SEVERITY OF
22 THE VIOLATION OR VIOLATIONS, WHETHER THE SUBJECT OF THE VIOLATION MADE A
23 GOOD FAITH EFFORT TO CORRECT THE VIOLATION BEFORE THE STATE GOVERNMENT
24 ETHICS COMMISSION DISCOVERED SUCH VIOLATION, AND WHETHER THE SUBJECT OF
25 THE VIOLATION HAS A HISTORY OF SIMILAR VIOLATIONS. ALL SUCH DETERMI-
26 NATIONS SHALL BE MADE ON A FAIR AND EQUITABLE BASIS WITHOUT REGARD TO
27 THE STATUS OF THE CANDIDATE OR POLITICAL COMMITTEE.

28 S 28. The legislative law is amended by adding a new article 1-B to
29 read as follows:

30 ARTICLE 1-B
31 PARTICIPATION IN FUNDRAISERS DURING
32 A LEGISLATIVE SESSION

33 SECTION 1-AA. DEFINITIONS.

34 1-BB. PARTICIPATION IN FUNDRAISERS DURING A LEGISLATIVE SESSION.

35 S 1-AA. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
36 SHALL HAVE THE FOLLOWING MEANINGS:

37 1. "FUNDRAISER" SHALL MEAN AN EVENT OR FUNCTION AT WHICH OR IN
38 CONNECTION WITH FUNDS ARE SOLICITED FOR OR ON BEHALF OF (A) A GOVERNOR,
39 LIEUTENANT GOVERNOR, COMPTROLLER, ATTORNEY GENERAL, MEMBER OR MEMBERS OF
40 THE STATE LEGISLATURE, OR A CANDIDATE FOR ANY OF THE FOREGOING OFFICES;
41 (B) A POLITICAL COMMITTEE ORGANIZED TO SUPPORT OR OPPOSE THE ELECTION OF
42 ANY SUCH PERSON OR PERSONS; (C) A STATE COMMITTEE OR A SUBCOMMITTEE OF
43 SUCH STATE COMMITTEE, PROVIDED THAT THE TERM "FUNDRAISER" WHEN APPLIED
44 TO AN EVENT OR FUNCTION HELD BY A STATE COMMITTEE OR SUBCOMMITTEE THERE-
45 OF SHALL NOT INCLUDE AN EVENT OR FUNCTION AT WHICH FUNDS ARE RAISED
46 EXCLUSIVELY TO SUPPORT OR OPPOSE A CANDIDATE OR CANDIDATES FOR FEDERAL
47 ELECTIVE OFFICE, OR A POLITICAL COMMITTEE AUTHORIZED BY SUCH A CANDIDATE
48 OR CANDIDATES, WHERE SUCH FUNDS ARE NOT USED FOR ANY OTHER PURPOSE; OR
49 (D) ANY LOBBYIST OR CLIENT POLITICAL COMMITTEE, WHERE SUCH AN EVENT OR
50 FUNCTION IS HELD FOR THE EXPLICIT PURPOSE OF RAISING FUNDS FOR OR ON
51 BEHALF OF ANY OF THE FOREGOING ENTITIES.

52 2. "LOBBYIST OR CLIENT POLITICAL COMMITTEE" SHALL MEAN A POLITICAL
53 COMMITTEE ORGANIZED TO SUPPORT THE ACTIVITIES OF A LOBBYIST OR CLIENT
54 PROVIDED, HOWEVER, THAT THE TERM "LOBBYIST OR CLIENT POLITICAL COMMIT-
55 TEE" AS USED IN THIS ARTICLE, SHALL NOT INCLUDE A FUNDRAISING EVENT OR
56 FUNCTION HOSTED BY SUCH A COMMITTEE TO RAISE FUNDS FOR THE COMMITTEE'S

1 GENERAL USE WHERE SUCH AN EVENT OR FUNCTION IS NOT TARGETED TO BENEFIT
2 ANY OF THE SPECIFIC PERSONS OR ENTITIES DESCRIBED IN SUBDIVISION ONE OF
3 THIS SECTION.

4 3. THE TERM "LEGISLATIVE SESSION" SHALL MEAN THE PERIOD BEGINNING ON
5 THE WEDNESDAY SUCCEEDING THE FIRST MONDAY OF JANUARY AND ENDING ON THE
6 LATER OF (A) THE THIRTIETH DAY OF JUNE OR (B) TWO WEEKS AFTER THE DAY ON
7 WHICH THE LEGISLATURE HAS TAKEN FINAL ACTION ON ALL OF THE APPROPRIATION
8 BILLS SUBMITTED BY THE GOVERNOR PURSUANT TO ARTICLE SEVEN OF THE STATE
9 CONSTITUTION, THEREBY ENACTING A STATE BUDGET THAT PROVIDED SUFFICIENT
10 APPROPRIATION AUTHORITY FOR THE ONGOING OPERATION AND SUPPORT OF STATE
11 GOVERNMENT AND LOCAL ASSISTANCE FOR THE ENSUING FISCAL YEAR.

12 S 1-BB. PARTICIPATION IN FUNDRAISERS DURING A LEGISLATIVE SESSION. 1.
13 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, NO PERSON OR ENTITY SHALL
14 HOLD, PARTICIPATE IN, CONTRIBUTE TO, PURCHASE A TICKET FOR, OR ATTEND
15 ANY FUNDRAISER WITHIN FORTY MILES OF THE NEW YORK STATE CAPITOL DURING
16 THE LEGISLATIVE SESSION.

17 2. THIS SECTION SHALL NOT APPLY TO FUNDRAISERS WITHIN THE DISTRICT OF
18 MEMBERS OF THE LEGISLATURE OR CANDIDATES THEREFOR WHOSE DISTRICTS ARE
19 LOCATED IN WHOLE OR IN PART WITHIN FORTY MILES OF THE NEW YORK STATE
20 CAPITOL, PROVIDED, HOWEVER THAT SUCH FUNDRAISERS SHALL BE SOLELY FOR THE
21 BENEFIT OF THE LEGISLATOR OR THE CANDIDATE OR THE AUTHORIZED POLITICAL
22 COMMITTEE OF SUCH LEGISLATOR OR CANDIDATE AND NO OTHER ELECTED OFFICIAL,
23 POLITICAL COMMITTEE OR CANDIDATE FOR ELECTED OFFICE; AND FURTHER
24 PROVIDED THAT SUCH FUNDRAISERS SHALL NOT BE HELD ON ANY DAY WHEN A
25 QUORUM OF EITHER HOUSE OF THE LEGISLATURE IS IN ATTENDANCE OF A SESSION
26 OF THEIR RESPECTIVE HOUSE.

27 S 29. Sections 14-100 through 14-130 of article 14 of the election law
28 are designated title 1 and a new title heading is added to read as
29 follows:

30 CAMPAIGN RECEIPTS AND EXPENDITURES

31 S 30. Article 14 of the election law is amended by adding a new title
32 2 to read as follows:

33 TITLE II 34 PUBLIC FINANCING

35 SECTION 14-200. DEFINITIONS.

36 14-202. ELIGIBILITY.

37 14-204. QUALIFIED CAMPAIGN EXPENDITURES.

38 14-206. OPTIONAL PUBLIC FINANCING.

39 14-208. CONTRIBUTION AND RECEIPT LIMITATIONS.

40 14-210. EXPENDITURE LIMITATIONS.

41 14-212. EXAMINATIONS AND AUDITS; REPAYMENTS.

42 14-214. CIVIL PENALTIES.

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

45 1. THE TERM "ETHICS COMMISSION" SHALL MEAN THE STATE GOVERNMENT ETHICS
46 COMMISSION.

47 2. THE TERM "ELIGIBLE CANDIDATE" SHALL MEAN A CANDIDATE FOR NOMINATION
48 OR ELECTION TO ANY OF THE OFFICES OF GOVERNOR, LIEUTENANT GOVERNOR,
49 COMPTROLLER, ATTORNEY GENERAL, MEMBER OF THE STATE LEGISLATURE, AT-LARGE
50 DELEGATE TO A CONSTITUTIONAL CONVENTION OR DISTRICT DELEGATE TO A
51 CONSTITUTIONAL CONVENTION.

52 3. THE TERM "PARTICIPATING COMMITTEE" SHALL MEAN A SINGLE POLITICAL
53 COMMITTEE WHICH A CANDIDATE CERTIFIES IS THE COMMITTEE THAT WILL SOLELY
54 BE USED TO PARTICIPATE IN THE PUBLIC FINANCING SYSTEM ESTABLISHED BY
55 THIS TITLE AFTER JANUARY FIRST OF THE YEAR IN WHICH THE PRIMARY, GENERAL

1 OR SPECIAL ELECTION IS HELD FOR THE PUBLIC OFFICE SOUGHT. A MULTI-CAN-
2 DIDATE COMMITTEE MAY NOT BE A PARTICIPATING COMMITTEE.

3 4. THE TERM "PARTICIPATING CANDIDATE" SHALL MEAN A CANDIDATE WHO IS
4 ELIGIBLE TO PARTICIPATE IN THE OPTIONAL PUBLIC FINANCING SYSTEM ESTAB-
5 LISHED BY THIS TITLE AND HAS ELECTED TO PARTICIPATE IN THE PUBLIC
6 FINANCING SYSTEM.

7 5. THE TERM "MATCHABLE CONTRIBUTIONS" SHALL MEAN THAT PORTION OF THE
8 AGGREGATE CONTRIBUTIONS MADE (A) IN THE CASE OF A PRIMARY OR GENERAL
9 ELECTION, AFTER JANUARY FIRST OF THE YEAR IN WHICH THE PRIMARY OR GENER-
10 AL ELECTION IS HELD FOR THE PUBLIC OFFICE SOUGHT OR (B) IN THE CASE OF A
11 SPECIAL ELECTION, WITHIN SIX MONTHS OF SUCH ELECTION BY NATURAL PERSONS
12 RESIDENT IN THE STATE OF NEW YORK TO A CANDIDATE FOR NOMINATION OR
13 ELECTION TO ANY OF THE OFFICES COVERED BY THE PROVISIONS OF THIS TITLE
14 WHICH DO NOT EXCEED TWO HUNDRED FIFTY DOLLARS, WHICH HAVE BEEN REPORTED
15 IN FULL BY THE CANDIDATE'S PARTICIPATING COMMITTEE TO THE ETHICS COMMIS-
16 SION, INCLUDING THE CONTRIBUTOR'S FULL NAME AND RESIDENTIAL ADDRESS.
17 "MATCHABLE CONTRIBUTIONS" SHALL BE THE NET AMOUNT OF ANY MONETARY
18 CONTRIBUTION REALIZED BY A CANDIDATE OR DESIGNATED COMMITTEE AFTER
19 DEDUCTING THE REASONABLE VALUE OF ANY GOODS OR SERVICES PROVIDED THE
20 CONTRIBUTOR IN CONNECTION WITH THE CONTRIBUTION, EXCEPT THAT CONTRIB-
21 UCTIONS FROM ANY PERSON WHO HAS RECEIVED A PAYMENT OR ANYTHING OF VALUE
22 FROM SUCH COMMITTEE OR FROM A PERSON WHO IS AN OFFICER, DIRECTOR OR
23 EMPLOYEE OF, OR A PERSON WHO HAS A TEN PERCENT OR GREATER OWNERSHIP
24 INTEREST IN ANY ENTITY WHICH HAS RECEIVED SUCH A PAYMENT OR THING OF
25 VALUE SHALL NOT BE MATCHABLE. A LOAN MAY NOT BE TREATED AS A MATCHABLE
26 CONTRIBUTION.

27 6. THE TERM "QUALIFIED CAMPAIGN EXPENDITURE" SHALL MEAN AN EXPENDITURE
28 FOR WHICH PUBLIC FUNDS MAY BE USED.

29 7. THE TERM "THRESHOLD FOR ELIGIBILITY" SHALL MEAN THE AMOUNT OF TOTAL
30 MATCHABLE CONTRIBUTIONS THAT THE PARTICIPATING COMMITTEE OF AN OTHERWISE
31 ELIGIBLE CANDIDATE MUST RECEIVE, AS REQUIRED BY SECTION 14-202 OF THIS
32 TITLE, IN ORDER TO QUALIFY FOR OPTIONAL PUBLIC FINANCING PURSUANT TO
33 THIS TITLE.

34 8. THE TERM "CONTRIBUTION" SHALL HAVE THE SAME MEANING AS IN SUBDIVI-
35 SION NINE OF SECTION 14-100 OF THIS ARTICLE.

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

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

40 (B) BE A CANDIDATE FOR STATEWIDE OFFICE, THE STATE LEGISLATURE OR
41 DELEGATE TO A CONSTITUTIONAL CONVENTION AT A PRIMARY, GENERAL OR SPECIAL
42 ELECTION AND MEET THE THRESHOLD FOR ELIGIBILITY SET FORTH IN SUBDIVISION
43 TWO OF THIS SECTION;

44 (C) ELECT TO PARTICIPATE IN THE PUBLIC FINANCING SYSTEM ESTABLISHED BY
45 THIS TITLE BY FILING A WRITTEN CERTIFICATION IN SUCH FORM AS MAY BE
46 PRESCRIBED BY THE ETHICS COMMISSION, WHICH SETS FORTH HIS OR HER ACCEPT-
47 ANCE OF AND AGREEMENT TO COMPLY WITH THE TERMS AND CONDITIONS FOR THE
48 PROVISIONS OF SUCH FUNDS, NOT LATER THAN SEVEN DAYS AFTER THE LAST DAY
49 TO FILE DESIGNATING PETITIONS FOR THE OFFICE SUCH CANDIDATE IS SEEKING
50 OR, IN THE CASE OF A SPECIAL ELECTION, NOT LATER THAN THE LAST DAY TO
51 FILE NOMINATING CERTIFICATES FOR SUCH OFFICE;

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

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

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

6 2. THE THRESHOLD FOR ELIGIBILITY FOR PUBLIC FUNDING FOR CANDIDATES IN
7 A PRIMARY, GENERAL OR SPECIAL ELECTION FOR THE FOLLOWING OFFICES SHALL
8 BE:

9 (A) GOVERNOR IN A PRIMARY OR GENERAL ELECTION. NOT LESS THAN EIGHT
10 HUNDRED THOUSAND DOLLARS FROM AT LEAST EIGHT THOUSAND MATCHABLE CONTRIB-
11 UTIONS MADE UP OF SUMS OF UP TO TWO HUNDRED FIFTY DOLLARS PER INDIVIDUAL
12 CONTRIBUTOR WHO RESIDES IN NEW YORK STATE.

13 (B) LIEUTENANT GOVERNOR IN A PRIMARY ELECTION AND COMPTROLLER OR
14 ATTORNEY GENERAL IN A PRIMARY OR GENERAL ELECTION. NOT LESS THAN FOUR
15 HUNDRED THOUSAND DOLLARS FROM AT LEAST FOUR THOUSAND MATCHABLE CONTRIB-
16 UTIONS MADE UP OF SUMS OF UP TO TWO HUNDRED FIFTY DOLLARS PER INDIVIDUAL
17 CONTRIBUTOR WHO RESIDES IN NEW YORK STATE.

18 (C) MEMBERS OF THE STATE SENATE IN A PRIMARY, GENERAL OR SPECIAL
19 ELECTION. NOT LESS THAN TWENTY THOUSAND DOLLARS FROM AT LEAST TWO
20 HUNDRED MATCHABLE CONTRIBUTIONS MADE UP OF SUMS OF UP TO TWO HUNDRED
21 FIFTY DOLLARS PER INDIVIDUAL CONTRIBUTOR WHO RESIDES IN THE SENATE
22 DISTRICT IN WHICH THE SEAT IS TO BE FILLED.

23 (D) MEMBERS OF THE ASSEMBLY IN A PRIMARY, GENERAL OR SPECIAL ELECTION.
24 NOT LESS THAN EIGHT THOUSAND DOLLARS FROM AT LEAST ONE HUNDRED MATCHABLE
25 CONTRIBUTIONS MADE UP OF SUMS OF UP TO TWO HUNDRED FIFTY DOLLARS PER
26 INDIVIDUAL CONTRIBUTOR WHO RESIDES IN THE ASSEMBLY DISTRICT IN WHICH THE
27 SEAT IS TO BE FILLED.

28 (E) AT-LARGE DELEGATE TO A CONSTITUTIONAL CONVENTION IN A PRIMARY OR
29 GENERAL ELECTION. NOT LESS THAN TWENTY THOUSAND DOLLARS FROM AT LEAST
30 TWO HUNDRED MATCHABLE CONTRIBUTIONS MADE UP OF SUMS OF UP TO TWO HUNDRED
31 FIFTY DOLLARS PER INDIVIDUAL CONTRIBUTOR WHO RESIDES IN NEW YORK STATE.

32 (F) DISTRICT DELEGATE TO A CONSTITUTIONAL CONVENTION IN A PRIMARY OR
33 GENERAL ELECTION. NOT LESS THAN FIVE THOUSAND DOLLARS FROM AT LEAST
34 FIFTY MATCHABLE CONTRIBUTIONS MADE UP OF SUMS OF UP TO TWO HUNDRED FIFTY
35 DOLLARS PER INDIVIDUAL CONTRIBUTOR WHO RESIDES IN THE DISTRICT IN WHICH
36 THE SEAT IS TO BE FILLED.

37 3. IN ORDER TO BE ELIGIBLE TO RECEIVE PUBLIC FUNDS IN A PRIMARY
38 ELECTION A CANDIDATE MUST AGREE, BY FILING A WRITTEN CERTIFICATION IN
39 SUCH FORM AS MAY BE PRESCRIBED BY THE ETHICS COMMISSION, THAT IN THE
40 EVENT SUCH CANDIDATE IS A CANDIDATE FOR SUCH OFFICE IN THE GENERAL
41 ELECTION IN SUCH YEAR, THAT SUCH CANDIDATE WILL BE BOUND BY THE
42 PROVISIONS OF THIS TITLE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT AND
43 EXPENDITURE LIMITS OF THIS TITLE.

44 4. CANDIDATES WHO ARE CONTESTED IN A PRIMARY ELECTION AND WHO DO NOT
45 SEEK PUBLIC FUNDS SHALL NOT BE ELIGIBLE FOR PUBLIC FUNDS FOR THE GENERAL
46 ELECTION IN THAT YEAR. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT
47 APPLY TO CANDIDATES FOR THE OFFICE OF LIEUTENANT GOVERNOR.

48 5. CANDIDATES WHO ARE UNOPPOSED IN A PRIMARY, GENERAL OR SPECIAL
49 ELECTION SHALL NOT BE ELIGIBLE TO RECEIVE PUBLIC FUNDS.

50 6. NO CANDIDATE FOR ELECTION TO AN OFFICE IN A PRIMARY, GENERAL OR
51 SPECIAL ELECTION WHO HAS ELECTED TO PARTICIPATE IN THE PUBLIC FINANCING
52 SYSTEM SHALL BE DEEMED OPPOSED AND RECEIVE PUBLIC FUNDS UNLESS AT LEAST
53 ONE OTHER CANDIDATE FOR SUCH OFFICE IN SUCH ELECTION WHO ALSO ELECTED TO
54 PARTICIPATE IN THE PUBLIC FINANCING SYSTEM, OR SUCH CANDIDATE'S COMMIT-
55 TEE, OR AT LEAST ONE OTHER CANDIDATE FOR SUCH OFFICE IN SUCH ELECTION
56 WHO HAS NOT ELECTED TO PARTICIPATE, OR SUCH CANDIDATE'S COMMITTEE, HAVE

1 EITHER SPENT, CONTRACTED OR OBLIGATED TO SPEND, OR HAVE CONTRIBUTED SUCH
2 CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR HAVE
3 RECEIVED IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING TEN PERCENT OF
4 THE EXPENDITURE LIMIT FOR SUCH OFFICE IN SUCH ELECTION WHICH IS FIXED BY
5 THIS TITLE FOR CANDIDATES WHO HAVE ELECTED TO ACCEPT SUCH PUBLIC FUNDS.
6 IF ANY CANDIDATE FOR AN OFFICE AND THE COMMITTEE OF SUCH CANDIDATE
7 REACHES THE THRESHOLD TO QUALIFY TO RECEIVE PUBLIC FUNDS, OR SPENDS,
8 CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES SUCH CANDIDATE'S
9 PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR RECEIVES IN LOANS OR
10 CONTRIBUTIONS, AN AMOUNT EXCEEDING TEN PERCENT OF THE EXPENDITURE LIMIT
11 FOR SUCH OFFICE IN SUCH ELECTION AT ANY TIME AFTER THE FILING DEADLINE
12 FOR THE LAST REPORT REQUIRED TO BE FILED BEFORE THE FIRST DISTRIBUTION
13 OF PUBLIC FUNDS FOR SUCH ELECTION, SUCH CANDIDATE OR COMMITTEE MUST
14 NOTIFY THE ETHICS COMMISSION OF THAT FACT WITHIN TWENTY-FOUR HOURS IN
15 THE SAME MANNER AS PROVIDED IN SUBDIVISION TWO OF SECTION 14-108 OF THIS
16 ARTICLE.

17 S 14-204. QUALIFIED CAMPAIGN EXPENDITURES. 1. PUBLIC FUNDS PROVIDED
18 UNDER THE PROVISIONS OF THIS TITLE MAY ONLY BE USED FOR EXPENDITURES BY
19 THE PARTICIPATING COMMITTEE AUTHORIZED BY THE CANDIDATE TO MAKE EXPENDI-
20 TURES ON SUCH CANDIDATE'S BEHALF, TO FURTHER THE CANDIDATE'S NOMINATION
21 OR ELECTION AFTER JANUARY FIRST OF THE YEAR IN WHICH THE PRIMARY OR
22 GENERAL ELECTION IS HELD FOR THE OFFICE SOUGHT, FOR SERVICES, MATERIALS,
23 FACILITIES OR OTHER THINGS OF VALUE USED DURING THAT CAMPAIGN CYCLE OR,
24 IN THE CASE OF A SPECIAL ELECTION, FOR EXPENDITURES DURING THE PERIOD
25 COMMENCING THREE MONTHS BEFORE AND ENDING ONE MONTH AFTER SUCH SPECIAL
26 ELECTION. THE TOTAL OF ALL EXPENDITURES MADE BY THE CANDIDATE AND SUCH
27 CANDIDATE'S PARTICIPATING COMMITTEE, INCLUDING ALL PAYMENTS RECEIVED
28 FROM THE FUND, SHALL NOT EXCEED THE EXPENDITURE LIMITATIONS ESTABLISHED
29 IN SECTION 14-210 OF THIS TITLE, EXCEPT INsofar AS SUCH PAYMENTS ARE
30 MADE TO REPAY LOANS USED TO PAY CAMPAIGN EXPENDITURES.

31 2. SUCH PUBLIC FUNDS MAY NOT BE USED FOR:

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

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

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

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

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

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

50 (G) GIFTS, EXCEPT BROCHURES, BUTTONS, SIGNS AND OTHER CAMPAIGN MATERI-
51 AL OF NOMINAL VALUE.

52 S 14-206. OPTIONAL PUBLIC FINANCING. 1. PARTICIPATING CANDIDATES FOR
53 NOMINATION OR ELECTION IN PRIMARY, GENERAL AND SPECIAL ELECTIONS MAY
54 OBTAIN PAYMENT TO A PARTICIPATING COMMITTEE FROM PUBLIC FUNDS FOR QUALI-
55 FIED CAMPAIGN EXPENDITURES. NO SUCH PUBLIC FUNDS SHALL BE PAID TO A
56 PARTICIPATING COMMITTEE UNTIL THE CANDIDATE HAS QUALIFIED TO APPEAR ON

1 THE BALLOT AND FILED A SWORN STATEMENT WITH THE ETHICS COMMISSION ELECT-
2 ING TO PARTICIPATE IN THE OPTIONAL PUBLIC FINANCING SYSTEM AND AGREEING
3 TO ABIDE BY THE REQUIREMENTS OF THIS TITLE. PAYMENTS SHALL NOT EXCEED
4 THE AMOUNTS SPECIFIED IN THIS TITLE, AND SHALL BE MADE ONLY IN ACCORD-
5 ANCE WITH THE PROVISIONS OF THIS TITLE. SUCH PAYMENTS MAY ONLY BE MADE
6 TO A PARTICIPATING CANDIDATE'S PARTICIPATING COMMITTEE. NO PUBLIC FUNDS
7 SHALL BE USED EXCEPT AS REIMBURSEMENT OR PAYMENT FOR QUALIFIED CAMPAIGN
8 EXPENDITURES ACTUALLY AND LAWFULLY INCURRED OR TO REPAY LOANS USED TO
9 PAY QUALIFIED CAMPAIGN EXPENDITURES.

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

15 3. (A) HOWEVER, IF ANY CANDIDATE IN ANY ELECTION FOR AN OFFICE FOR
16 WHICH PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THE PROVISIONS OF THIS
17 TITLE, ELECTS NOT TO ACCEPT PUBLIC FUNDS AND SUCH CANDIDATE OR SUCH
18 CANDIDATE'S COMMITTEE EITHER SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR
19 CONTRIBUTES SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMIT-
20 TEE OR RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING THE
21 EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES
22 WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, THEN (I) SUCH CANDIDATE OR
23 COMMITTEE MUST NOTIFY THE ETHICS COMMISSION OF THE FACT WITHIN
24 TWENTY-FOUR HOURS VIA THE INTERNET USING THE ELECTRONIC FILING SYSTEM
25 ESTABLISHED BY THE ETHICS COMMISSION, OR IF SUCH CANDIDATE DOES NOT FILE
26 ELECTRONICALLY VIA THE INTERNET, BY FACSIMILE OR OVERNIGHT MAIL; AND
27 (II) THE PARTICIPATING COMMITTEE OF EACH PARTICIPATING CANDIDATE FOR
28 SUCH OFFICE SHALL BE ENTITLED TO A GRANT OF PUBLIC FUNDS EQUAL TO TWEN-
29 TY-FIVE PERCENT OF THE TOTAL AMOUNT OF PUBLIC FUNDS RECEIVED BY THE
30 PARTICIPATING CANDIDATE FOR MATCHABLE CONTRIBUTIONS OBTAINED AND
31 REPORTED TO THE ETHICS COMMISSION. SUCH GRANT SHALL BE PAID WITHIN TWO
32 BUSINESS DAYS AND SHALL ONLY BE USED FOR QUALIFIED CAMPAIGN EXPENDI-
33 TURES.

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

54 (C) HOWEVER, IF ANY CANDIDATE IN ANY ELECTION FOR AN OFFICE FOR WHICH
55 PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THE PROVISIONS OF THIS TITLE,
56 ELECTS NOT TO ACCEPT PUBLIC FUNDS AND SUCH CANDIDATE OR SUCH CANDIDATE'S

1 COMMITTEE EITHER SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES
2 SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR
3 RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING THE TOTAL OF THE
4 EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES
5 WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, PLUS THE FIFTY PERCENT TOTAL
6 AGGREGATE GRANT ALREADY RECEIVED BY THE PARTICIPATING CANDIDATE, THEN
7 (I) SUCH CANDIDATE OR COMMITTEE MUST NOTIFY THE ETHICS COMMISSION OF THE
8 FACT WITHIN TWENTY-FOUR HOURS VIA THE INTERNET USING THE ELECTRONIC
9 FILING SYSTEM ESTABLISHED BY THE ETHICS COMMISSION, OR IF SUCH CANDIDATE
10 DOES NOT FILE ELECTRONICALLY VIA THE INTERNET, BY FACSIMILE OR OVERNIGHT
11 MAIL; AND (II) THE PARTICIPATING COMMITTEE OF EACH PARTICIPATING CANDI-
12 DATE FOR SUCH OFFICE SHALL BE ENTITLED TO AN ADDITIONAL GRANT OF PUBLIC
13 FUNDS EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF PUBLIC FUNDS
14 RECEIVED BY THE PARTICIPATING CANDIDATE FOR MATCHABLE CONTRIBUTIONS
15 OBTAINED AND REPORTED TO THE ETHICS COMMISSION. SUCH GRANT SHALL BE
16 PAID WITHIN TWO BUSINESS DAYS AND SHALL ONLY BE USED FOR QUALIFIED
17 CAMPAIGN EXPENDITURES.

18 (D) HOWEVER, IF ANY CANDIDATE IN ANY ELECTION FOR AN OFFICE FOR WHICH
19 PUBLIC FUNDS ARE AVAILABLE PURSUANT TO THE PROVISIONS OF THIS TITLE,
20 ELECTS NOT TO ACCEPT PUBLIC FUNDS AND SUCH CANDIDATE OR SUCH CANDIDATE'S
21 COMMITTEE EITHER SPENDS, CONTRACTS OR OBLIGATES TO SPEND, OR CONTRIBUTES
22 SUCH CANDIDATE'S PERSONAL FUNDS TO SUCH CANDIDATE'S COMMITTEE OR
23 RECEIVES IN LOANS OR CONTRIBUTIONS, AN AMOUNT EXCEEDING THE TOTAL OF THE
24 EXPENDITURE LIMIT FOR SUCH OFFICE, AS FIXED BY THIS TITLE FOR CANDIDATES
25 WHO HAVE ELECTED TO ACCEPT PUBLIC FUNDS, PLUS THE SEVENTY-FIVE PERCENT
26 TOTAL AGGREGATE GRANT ALREADY RECEIVED BY THE PARTICIPATING CANDIDATE,
27 THEN (I) SUCH CANDIDATE OR COMMITTEE MUST NOTIFY THE ETHICS COMMISSION
28 OF THE FACT WITHIN TWENTY-FOUR HOURS VIA THE INTERNET USING THE ELEC-
29 TRONIC FILING SYSTEM ESTABLISHED BY THE ETHICS COMMISSION, OR IF SUCH
30 CANDIDATE DOES NOT FILE ELECTRONICALLY VIA THE INTERNET, BY FACSIMILE OR
31 OVERNIGHT MAIL; AND (II) THE PARTICIPATING COMMITTEE OF EACH PARTICIPAT-
32 ING CANDIDATE FOR SUCH OFFICE SHALL BE ENTITLED TO AN ADDITIONAL GRANT
33 OF PUBLIC FUNDS EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF
34 PUBLIC FUNDS RECEIVED BY THE PARTICIPATING CANDIDATE FOR MATCHABLE
35 CONTRIBUTIONS OBTAINED AND REPORTED TO THE ETHICS COMMISSION. SUCH
36 GRANT SHALL BE PAID WITHIN TWO BUSINESS DAYS AND MAY ONLY BE USED FOR
37 QUALIFIED CAMPAIGN EXPENDITURES.

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

41 5. THE ETHICS COMMISSION SHALL PROMPTLY EXAMINE ALL REPORTS OF
42 CONTRIBUTIONS TO DETERMINE WHETHER, ON THEIR FACE, THEY MEET THE
43 REQUIREMENTS FOR MATCHABLE CONTRIBUTIONS, AND SHALL KEEP A RECORD OF
44 SUCH CONTRIBUTIONS.

45 6. THE ETHICS COMMISSION SHALL PROMULGATE REGULATIONS FOR THE CERTIF-
46 ICATION OF THE AMOUNT OF FUNDS PAYABLE TO A PARTICIPATING CANDIDATE THAT
47 HAS QUALIFIED TO RECEIVE SUCH PAYMENT. THESE REGULATIONS SHALL INCLUDE
48 THE PROMULGATION AND DISTRIBUTION OF FORMS ON WHICH CONTRIBUTIONS AND
49 EXPENDITURES ARE TO BE REPORTED, THE PERIODS DURING WHICH SUCH REPORTS
50 MUST BE FILED AND THE VERIFICATION REQUIRED. THE ETHICS COMMISSION SHALL
51 INSTITUTE PROCEDURES WHICH WILL MAKE POSSIBLE PAYMENT FROM THE FUND
52 WITHIN FOUR BUSINESS DAYS AFTER RECEIPT OF THE REQUIRED FORMS AND
53 VERIFICATIONS.

54 S 14-208. CONTRIBUTION AND RECEIPT LIMITATIONS. 1. IN ANY PRIMARY,
55 SPECIAL OR GENERAL ELECTION FOR ANY STATEWIDE OFFICE, STATE LEGISLATIVE
56 OFFICE OR CONSTITUTIONAL CONVENTION DELEGATE 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 HUNDRED FIFTY DOLLARS.

2. 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. 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 OR, IN THE CASE OF A SPECIAL ELECTION RECEIVED MORE THAN SIX MONTHS BEFORE THE SPECIAL ELECTION, MAY NOT BE EXPENDED IN ANY ELECTION FOR ANY SUCH OFFICE.

3. 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 AND BY THEIR PARTICIPATING COMMITTEES SHALL NOT EXCEED:

(I) FOR GOVERNOR, 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 EIGHT HUNDRED THOUSAND DOLLARS NOR MORE THAN EIGHT MILLION DOLLARS;

(II) FOR LIEUTENANT GOVERNOR, COMPTROLLER OR ATTORNEY GENERAL, 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 FIVE HUNDRED THOUSAND DOLLARS NOR MORE THAN FIVE MILLION DOLLARS;

(III) FOR SENATOR, THE SUM OF TWO DOLLARS AND FIFTY CENTS FOR EACH VOTER ENROLLED IN THE CANDIDATE'S PARTY IN THE SENATE DISTRICT; PROVIDED, HOWEVER, SUCH SUM SHALL NOT BE LESS THAN TWENTY THOUSAND DOLLARS NOR MORE THAN TWO HUNDRED THOUSAND DOLLARS;

(IV) FOR MEMBER OF THE ASSEMBLY, THE SUM OF TWO DOLLARS AND FIFTY CENTS FOR EACH VOTER ENROLLED IN THE CANDIDATE'S PARTY IN THE ASSEMBLY DISTRICT; PROVIDED, HOWEVER, SUCH SUM SHALL NOT BE LESS THAN EIGHT THOUSAND DOLLARS NOR MORE THAN EIGHTY THOUSAND DOLLARS;

(V) FOR AT-LARGE DELEGATE TO A CONSTITUTIONAL CONVENTION, THE SUM OF FIFTEEN CENTS FOR EACH VOTER ENROLLED IN THE CANDIDATE'S PARTY IN THE STATE; PROVIDED, HOWEVER, SUCH SUM SHALL NOT BE LESS THAN SEVENTY-FIVE THOUSAND DOLLARS NOR MORE THAN ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS;

(VI) FOR DISTRICT DELEGATES TO A CONSTITUTIONAL CONVENTION, THE SUM OF ONE DOLLAR AND TEN CENTS FOR EACH VOTER ENROLLED IN THE CANDIDATE'S PARTY IN THE DISTRICT; PROVIDED, HOWEVER, SUCH SUM SHALL NOT BE LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN FIFTY THOUSAND 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 OR SPECIAL ELECTION, EXPENDITURES BY PARTICIPATING CANDIDATES FOR THE FOLLOWING OFFICES AND BY THEIR PARTICIPATING COMMITTEES SHALL NOT EXCEED THE FOLLOWING AMOUNTS:

CANDIDATES FOR ELECTION TO THE OFFICE OF:

1 GOVERNOR AND LIEUTENANT GOVERNOR (COMBINED) \$12,000,000
2 ATTORNEY GENERAL \$8,000,000
3 COMPTROLLER \$8,000,000
4 MEMBER OF SENATE \$300,000
5 MEMBER OF ASSEMBLY \$125,000
6 DELEGATE AT-LARGE TO A CONSTITUTIONAL CONVENTION \$300,000
7 DISTRICT DELEGATE TO A CONSTITUTIONAL CONVENTION \$75,000
8 3. EXPENDITURES FOR LEGAL FEES AND REASONABLE EXPENSES TO DEFEND THE
9 VALIDITY OF PETITIONS OF DESIGNATION OR NOMINATION OR CERTIFICATES OF
10 NOMINATION, ACCEPTANCE, AUTHORIZATION, DECLINATION OR SUBSTITUTION, OR
11 TO SUCCESSFULLY CHALLENGE ANY SUCH PETITION OR CERTIFICATE ON GROUNDS OF
12 FRAUD, OR FOR EXPENSES INCURRED TO COMPLY WITH THE CAMPAIGN FINANCE
13 REPORTING REQUIREMENTS OF THIS ARTICLE, SHALL NOT BE SUBJECT TO THE
14 EXPENDITURE LIMITS OF THIS SUBDIVISION.
15 4. MONIES OF THE PUBLIC FINANCING SYSTEM, FOLLOWING APPROPRIATION BY
16 THE LEGISLATURE, MAY BE EXPENDED FOR THE PURPOSE OF MAKING PAYMENTS TO
17 CANDIDATES PURSUANT TO TITLE II OF ARTICLE FOURTEEN OF THE ELECTION LAW.
18 MONIES SHALL BE PAID OUT BY THE ETHICS COMMISSION ON VOUCHERS CERTIFIED
19 OR APPROVED BY THE ETHICS COMMISSION, OR ITS DULY DESIGNATED REPRESENTATIVE,
20 IN THE MANNER PRESCRIBED BY LAW, NOT MORE THAN FOUR WORKING DAYS
21 AFTER SUCH VOUCHER IS RECEIVED.
22 5. NO PUBLIC FUNDS SHALL BE PAID TO ANY PARTICIPATING CANDIDATES IN A
23 PRIMARY ELECTION ANY EARLIER THAN THE DAY THAT SUCH CANDIDATE IS CERTIFIED
24 AS BEING ON THE BALLOT FOR SUCH PRIMARY ELECTION.
25 6. NO PUBLIC FUNDS SHALL BE PAID TO ANY PARTICIPATING CANDIDATES IN A
26 GENERAL ELECTION ANY EARLIER THAN THE DAY AFTER THE DAY OF THE PRIMARY
27 ELECTION HELD TO NOMINATE CANDIDATES FOR SUCH ELECTION.
28 7. NO PUBLIC FUNDS SHALL BE PAID TO ANY PARTICIPATING CANDIDATES IN A
29 SPECIAL ELECTION ANY EARLIER THAN THE DAY AFTER THE LAST DAY TO FILE
30 CERTIFICATES OF PARTY NOMINATION FOR SUCH SPECIAL ELECTION.
31 8. NO PUBLIC FUNDS SHALL BE PAID TO ANY PARTICIPATING CANDIDATE WHO
32 HAS BEEN DISQUALIFIED OR WHOSE DESIGNATING PETITIONS HAVE BEEN DECLARED
33 INVALID BY THE APPROPRIATE BOARD OF ELECTIONS OR A COURT OF COMPETENT
34 JURISDICTION UNTIL AND UNLESS SUCH FINDING IS REVERSED BY A HIGHER
35 AUTHORITY. NO PAYMENT FROM THE FUND IN THE POSSESSION OF SUCH A CANDIDATE
36 OR SUCH CANDIDATE'S PARTICIPATING COMMITTEE ON THE DATE OF SUCH
37 DISQUALIFICATION OR INVALIDATION MAY THEREAFTER BE EXPENDED FOR ANY
38 PURPOSE EXCEPT THE PAYMENT OF LIABILITIES INCURRED BEFORE SUCH DATE. ALL
39 SUCH MONEYS SHALL BE REPAID TO THE FUND.
40 S 14-212. EXAMINATIONS AND AUDITS; REPAYMENTS; REPORT. 1. THE ETHICS
41 COMMISSION SHALL HAVE THE POWER TO AUDIT AND EXAMINE ALL MATTERS RELATING
42 TO THE PROPER ADMINISTRATION OF THIS ARTICLE. THE ETHICS COMMISSION
43 SHALL PROMULGATE RULES AND REGULATIONS REGARDING WHAT DOCUMENTATION IS
44 SUFFICIENT IN DEMONSTRATING FINANCIAL ACTIVITY AND THE METHOD OF
45 CONDUCTING AUDITS, INCLUDING REAL TIME AUDITS. THESE AUDIT AND EXAMINATION
46 POWERS EXTEND TO ALL PARTICIPATING CANDIDATES AND NON-PARTICIPATING
47 CANDIDATES, AND THE AUTHORIZED COMMITTEES OF ALL PARTICIPATING AND NON-
48 PARTICIPATING CANDIDATES.
49 2. (A) IF THE ETHICS COMMISSION DETERMINES THAT ANY PORTION OF THE
50 PAYMENT MADE TO A PARTICIPATING COMMITTEE WAS IN EXCESS OF THE AGGREGATE
51 AMOUNT OF PAYMENTS TO WHICH SUCH ELIGIBLE CANDIDATE WAS ENTITLED PURSUANT
52 TO SECTION 14-206 OF THIS TITLE, IT SHALL NOTIFY SUCH COMMITTEE OF
53 THE EXCESS AMOUNT AND SUCH COMMITTEE SHALL PAY TO THE ETHICS COMMISSION
54 AN AMOUNT EQUAL TO THE AMOUNT OF EXCESS PAYMENTS.
55 (B) IF THE ETHICS COMMISSION DETERMINES THAT ANY AMOUNT OF PAYMENT
56 MADE TO A PARTICIPATING COMMITTEE WAS USED FOR PURPOSES OTHER THAN TO

1 DEFRAY QUALIFIED CAMPAIGN EXPENSES, IT SHALL NOTIFY SUCH PARTICIPATING
2 COMMITTEE OF THE AMOUNT DISQUALIFIED AND SUCH PARTICIPATING COMMITTEE
3 SHALL PAY TO THE ETHICS COMMISSION AN AMOUNT EQUAL TO SUCH DISQUALIFIED
4 AMOUNT.

5 (C) IF THE TOTAL OF CONTRIBUTIONS AND PAYMENTS RECEIVED BY ANY PARTIC-
6 IPATING CANDIDATE AND SUCH CANDIDATE'S PARTICIPATING COMMITTEE, EXCEEDS
7 THE CAMPAIGN EXPENDITURES OF SUCH CANDIDATE AND COMMITTEE, SUCH CANDI-
8 DATE AND COMMITTEE SHALL USE SUCH EXCESS FUNDS TO REIMBURSE THE ETHICS
9 COMMISSION FOR PAYMENTS RECEIVED BY SUCH COMMITTEE, UP TO THE AMOUNT OF
10 PUBLIC FUNDS RECEIVED BY SUCH PARTICIPATING CANDIDATE, NOT LATER THAN
11 TEN DAYS AFTER ALL PERMISSIBLE LIABILITIES HAVE BEEN PAID AND IN ANY
12 EVENT, NOT LATER THAN MARCH THIRTY-FIRST OF THE YEAR FOLLOWING THE YEAR
13 OF THE ELECTION FOR WHICH SUCH PAYMENTS WERE INTENDED. NO SUCH EXCESS
14 FUNDS SHALL BE USED FOR ANY OTHER PURPOSE.

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

22 4. THE ETHICS COMMISSION MUST PROVIDE WRITTEN NOTICE OF ALL PAYMENTS
23 DUE FROM A PARTICIPATING CANDIDATE OR SUCH CANDIDATE'S COMMITTEE TO THE
24 ETHICS COMMISSION AND PROVIDE AN OPPORTUNITY FOR THE CANDIDATE OR
25 COMMITTEE TO REBUT, IN WHOLE OR IN PART, THE ALLEGED AMOUNT DUE. UPON A
26 FINAL WRITTEN DETERMINATION BY THE ETHICS COMMISSION, THE AMOUNT DUE
27 SHALL BE PAID TO THE ETHICS COMMISSION WITHIN THIRTY DAYS OF SUCH DETER-
28 MINATION.

29 5. THE ETHICS COMMISSION SHALL REVIEW THE IMPLEMENTATION OF PUBLIC
30 FINANCING UNDER THIS ARTICLE AND REPORT TO THE GOVERNOR AND THE LEGISLA-
31 TURE ON JANUARY FIRST, TWO THOUSAND THIRTEEN. THE REPORT SHALL INCLUDE
32 BUT NOT BE LIMITED TO: (A) THE NUMBER OF CANDIDATES QUALIFYING AND
33 OPTING FOR PUBLIC FINANCING, THE AMOUNTS EXPENDED FOR THIS PURPOSE IN
34 THE PRECEDING FISCAL YEAR AND A PROJECTION OF THE NUMBER OF CANDIDATES
35 LIKELY TO QUALIFY AND OPT FOR PUBLIC FINANCING AND THEIR EXPENDITURES IN
36 FUTURE ELECTIONS; (B) AN ANALYSIS OF THE EFFECT OF PUBLIC FINANCING ON
37 POLITICAL CAMPAIGNS, INCLUDING ITS EFFECT ON THE SOURCES AND AMOUNTS OF
38 PRIVATE FINANCING, THE LEVEL OF CAMPAIGN EXPENDITURES, VOTER PARTIC-
39 IPATION, THE NUMBER OF CANDIDATES AND THE CANDIDATE'S ABILITY TO
40 CAMPAIGN EFFECTIVELY FOR PUBLIC OFFICE; (C) A REVIEW OF THE PROCEDURES
41 UTILIZED IN PROVIDING PUBLIC FUNDS TO CANDIDATES; AND (D) SUCH RECOM-
42 MENDED CHANGES IN PUBLIC FINANCING UNDER THIS ARTICLE AS IT DEEMS APPRO-
43 PRIATE.

44 S 14-214. CIVIL PENALTIES. 1. ANY PERSON WHO FAILS TO FILE A STATEMENT
45 OR RECORD REQUIRED TO BE FILED BY THIS TITLE OR THE RULES OR REGULATIONS
46 OF THE ETHICS COMMISSION IN IMPLEMENTATION THEREOF SHALL BE SUBJECT TO A
47 CIVIL PENALTY, NOT IN EXCESS OF TEN THOUSAND DOLLARS, TO BE RECOVERABLE
48 IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE ETHICS COMMIS-
49 SION.

50 2. IF THE AGGREGATE AMOUNT OF EXPENDITURES BY A PARTICIPATING CANDI-
51 DATE AND SUCH CANDIDATE'S PARTICIPATING COMMITTEE EXCEEDS THE EXPENDI-
52 TURE LIMITATIONS CONTAINED IN THIS TITLE SUCH PARTICIPATING CANDIDATE
53 SHALL BE LIABLE FOR A CIVIL PENALTY IN AN AMOUNT EQUAL TO THREE TIMES
54 THE SUM BY WHICH SUCH EXPENDITURES EXCEED THE PERMITTED AMOUNT, TO BE
55 RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE
56 ETHICS COMMISSION.

1 S 31. The election law is amended by adding a new section 16-103 to
2 read as follows:

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

9 2. A PROCEEDING WITH RESPECT TO SUCH A DETERMINATION OF ELIGIBILITY OR
10 PAYMENT FOR QUALIFIED CAMPAIGN EXPENDITURES PURSUANT TO SECTION 14-206
11 OF THIS CHAPTER SHALL BE INSTITUTED WITHIN SEVEN DAYS AFTER SUCH DETER-
12 MINATION WAS MADE. THE ETHICS COMMISSION SHALL BE MADE A PARTY TO ANY
13 SUCH PROCEEDING.

14 3. UPON THE ETHICS COMMISSION'S FAILURE TO RECEIVE THE AMOUNT DUE FROM
15 A PARTICIPATING CANDIDATE OR SUCH CANDIDATE'S COMMITTEE AFTER THE ISSU-
16 ANCE OF WRITTEN NOTICE OF SUCH AMOUNT DUE, AS REQUIRED BY SUBDIVISION
17 FOUR OF SECTION 14-212 OF THIS CHAPTER, THE ETHICS COMMISSION IS AUTHOR-
18 IZED TO INSTITUTE A SPECIAL PROCEEDING OR CIVIL ACTION IN SUPREME COURT,
19 ALBANY COUNTY, TO OBTAIN A JUDGMENT FOR ANY AMOUNTS DETERMINED TO BE
20 PAYABLE TO THE ETHICS COMMISSION AS A RESULT OF AN EXAMINATION AND AUDIT
21 MADE PURSUANT TO TITLE II OF ARTICLE FOURTEEN OF THIS CHAPTER.

22 4. THE ETHICS COMMISSION IS AUTHORIZED TO INSTITUTE A SPECIAL PROCEED-
23 ING OR CIVIL ACTION IN SUPREME COURT, ALBANY COUNTY, TO OBTAIN A JUDG-
24 MENT FOR CIVIL PENALTIES DETERMINED TO BE PAYABLE TO THE ETHICS COMMIS-
25 SION PURSUANT TO SECTION 14-214 OF THIS CHAPTER.

26 S 32. Severability clause. If any clause, sentence, paragraph, subdi-
27 vision, section or part of this act shall be adjudged by any court of
28 competent jurisdiction to be invalid, such judgment shall not affect,
29 impair or invalidate the remainder thereof, but shall be confined in its
30 operation to the clause, sentence, paragraph, subdivision, section or
31 part thereof directly involved in the controversy in which such judgment
32 shall have been rendered. It is hereby declared to be the intent of the
33 legislature that this act would have been enacted even if such invalid
34 provisions had not been included herein.

35 S 33. This act shall take effect immediately; provided however that:

36 a. sections one through twenty-eight of this act shall take effect on
37 the sixtieth day after it shall have become a law;

38 b. all amendments to article 14 of the election law made by this act,
39 which establish new contribution limits, shall apply January 1, 2011;

40 c. contributions legally received prior to the effective date of this
41 act may be retained and expended for lawful purposes and shall not
42 provide the basis for a violation of article 14 of the election law, as
43 amended by this act;

44 d. the state board of elections shall notify all candidates and poli-
45 tical committees of the applicable provisions of this act within thirty
46 days after this act shall have become a law; and

47 e. sections twenty-nine, thirty and thirty-one of this act shall take
48 effect immediately; provided, however, state legislature candidates will
49 be eligible to participate in the public financing system beginning with
50 the 2012 election, and all state candidates and constitutional conven-
51 tion delegates will be eligible to participate in the public financing
52 system beginning with the 2014 election.

1 Section 1. The retirement and social security law is amended by adding
2 a new article 3-C to read as follows:

3 ARTICLE 3-C

4 PENSION FORFEITURE FOR PUBLIC CORRUPTION ACT

5 SECTION 157. SHORT TITLE.

6 157-A. DEFINITIONS.

7 157-B. PENSION FORFEITURE.

8 157-C. MISCELLANEOUS.

9 S 157. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
10 THE "PENSION FORFEITURE FOR PUBLIC CORRUPTION ACT".

11 S 157-A. DEFINITIONS. THE FOLLOWING WORDS AND PHRASES, AS USED IN THIS
12 ARTICLE, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS A DIFFERENT MEANING
13 IS PLAINLY REQUIRED BY THE CONTEXT:

14 1. "DEFENDANT" SHALL MEAN A PERSON AGAINST WHOM A FORFEITURE ACTION IS
15 COMMENCED.

16 2. "DESIGNATED FELONY OFFENSE" SHALL MEAN: (A) ANY FELONY OFFENSE SET
17 FORTH IN THE PENAL LAW; (B) A CONSPIRACY TO COMMIT ANY FELONY OFFENSE
18 SET FORTH IN THE PENAL LAW; OR (C) ANY CRIMINAL OFFENSE COMMITTED IN ANY
19 OTHER STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES AND CLASSIFIED
20 AS A FELONY THEREIN, WHICH IF COMMITTED WITHIN THIS STATE, WOULD CONSTI-
21 TUTE AN OFFENSE DESIGNATED IN PARAGRAPH (A) OR (B) OF THIS SUBDIVISION.

22 3. "COMPTROLLER" SHALL MEAN THE COMPTROLLER OF THE STATE OF NEW YORK
23 IN HIS OR HER CAPACITY AS ADMINISTRATIVE HEAD OF THE NEW YORK STATE AND
24 LOCAL EMPLOYEES' RETIREMENT SYSTEM AND THE NEW YORK STATE AND LOCAL
25 POLICE AND FIRE RETIREMENT SYSTEM.

26 4. "MEMBER" SHALL MEAN A MEMBER OF THE NEW YORK STATE AND LOCAL
27 EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND
28 FIRE RETIREMENT SYSTEM WHO JOINED SUCH SYSTEM ON OR AFTER THE EFFECTIVE
29 DATE OF THIS ARTICLE.

30 5. "RETIRED MEMBER" SHALL MEAN A PERSON WHO IS RETIRED FROM AND WHO IS
31 RECEIVING A RETIREMENT ALLOWANCE FROM A RETIREMENT SYSTEM AND WHO HAD
32 JOINED SUCH SYSTEM ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

33 6. "RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL EMPLOY-
34 EES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE
35 RETIREMENT SYSTEM.

36 S 157-B. PENSION FORFEITURE. NOTWITHSTANDING ANY OTHER PROVISION OF
37 GENERAL, SPECIAL OR LOCAL LAW, RULE OR REGULATION TO THE CONTRARY:

38 1. IN THE CASE OF A MEMBER OR RETIRED MEMBER WHO IS CONVICTED OF ANY
39 DESIGNATED FELONY OFFENSE SET FORTH IN PARAGRAPH (A) OR (B) OF SUBDIVI-
40 SION TWO OF SECTION ONE HUNDRED FIFTY-SEVEN-A OF THIS ARTICLE, THE
41 COMMISSION OF WHICH IS RELATED TO THE PERFORMANCE OR FAILURE TO PERFORM
42 SUCH MEMBER OR RETIRED MEMBER'S OFFICIAL DUTIES AND RESPONSIBILITIES, AN
43 ACTION MAY BE COMMENCED IN SUPREME COURT BY THE DISTRICT ATTORNEY HAVING
44 JURISDICTION OVER THE OFFENSE FOR THE FORFEITURE OF ALL OR A PORTION OF
45 THOSE RIGHTS AND BENEFITS TO WHICH SUCH PERSON IS OR WILL BE ENTITLED AS
46 A MEMBER OR RETIRED MEMBER PROVIDED THAT ANY CONTRIBUTIONS MADE BY THE
47 OFFICIAL TO HIS OR HER RETIREMENT SYSTEM SHALL NOT BE SUBJECT TO FORFEI-
48 TURE, BUT SHALL BE RETURNED TO SUCH OFFICIAL. SUCH ACTION SHALL BE
49 COMMENCED WITHIN SIX MONTHS OF SUCH CONVICTION. FOR PURPOSES OF THIS
50 ARTICLE, A DESIGNATED FELONY OFFENSE IS RELATED TO THE PERFORMANCE OR
51 FAILURE TO PERFORM SUCH MEMBER OR RETIRED MEMBER'S OFFICIAL DUTIES AND
52 RESPONSIBILITIES IF IT: (A) CONSTITUTED A MATERIAL VIOLATION OF SUCH
53 MEMBER OR RETIRED MEMBER'S DUTIES AND RESPONSIBILITIES AS A PUBLIC SERV-
54 ANT; OR (B) EVEN THOUGH COMMITTED OUTSIDE THE SCOPE OF SUCH MEMBER'S
55 OFFICIAL DUTIES OR RESPONSIBILITIES, INVOLVED ACTIONS OR CONDUCT BY

1 WHICH SUCH MEMBER OR RETIRED MEMBER INDICATED OR CONVEYED THAT HE OR SHE
2 WAS ACTING WITH THE AUTHORITY OF, OR UNDER COLOR OF THE AUTHORITY OF,
3 ANY GOVERNMENTAL ENTITY.

4 2. WHERE THE ATTORNEY GENERAL FINDS THAT A MEMBER OR A RETIRED MEMBER
5 HAS BEEN CONVICTED OF A DESIGNATED FELONY OFFENSE AS DEFINED IN PARA-
6 GRAPH (C) OF SUBDIVISION TWO OF SECTION ONE HUNDRED FIFTY-SEVEN-A OF
7 THIS ARTICLE, THE COMMISSION OF WHICH IS RELATED TO THE PERFORMANCE OR
8 FAILURE TO PERFORM SUCH MEMBER OR RETIRED MEMBER'S OFFICIAL DUTIES AND
9 RESPONSIBILITIES, AN ACTION MAY BE COMMENCED IN SUPREME COURT BY THE
10 ATTORNEY GENERAL FOR THE FORFEITURE OF ALL OR A PORTION OF THOSE RIGHTS
11 AND BENEFITS TO WHICH SUCH PERSON IS OR WILL BE ENTITLED AS A MEMBER OR
12 RETIRED MEMBER. SUCH ACTION SHALL BE COMMENCED WITHIN ONE YEAR OF SUCH
13 CONVICTION.

14 3. PRIOR TO COMMENCEMENT OF SUCH ACTION DESCRIBED IN SUBDIVISION ONE
15 OR TWO OF THIS SECTION, THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL,
16 AS THE CASE MAY BE, SHALL PROVIDE NOTICE TO THE COMPTROLLER STATING THAT
17 HE OR SHE HAS REASON TO BELIEVE THAT THE PERSON CONVICTED COMMITTED THE
18 FELONY RELATED TO HIS OR HER OFFICIAL DUTIES AND RESPONSIBILITIES.
19 WITHIN TWENTY DAYS OF RECEIPT OF SUCH NOTICE, THE COMPTROLLER SHALL
20 SUBMIT A NOTICE OF APPLICABILITY TO THE DISTRICT ATTORNEY OR THE ATTOR-
21 NEY GENERAL AS THE CASE MAY BE. THE NOTICE OF APPLICABILITY SHALL
22 CONTAIN A STATEMENT SPECIFYING WHETHER THE PERSON CONVICTED IS OR HAS
23 BEEN A MEMBER OR RETIRED MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOY-
24 EES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE
25 RETIREMENT SYSTEM AND SHALL DESCRIBE THE RIGHTS AND BENEFITS TO WHICH
26 SUCH PERSON IS OR WILL BE ENTITLED FROM SUCH PUBLIC RETIREMENT SYSTEM.

27 4. NO FORFEITURE ACTION MAY BE COMMENCED BY THE DISTRICT ATTORNEY OR
28 THE ATTORNEY GENERAL UNTIL RECEIPT OF THE NOTICE OF APPLICABILITY AS SET
29 FORTH IN SUBDIVISION THREE OF THIS SECTION. IN DETERMINING WHETHER TO
30 SEEK FORFEITURE OF A PORTION, RATHER THAN ALL, OF SUCH RETIREMENT BENE-
31 FITS, THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL MAY CONSIDER MITI-
32 GATING FACTORS INCLUDING, BUT NOT LIMITED TO: THE NATURE AND SERIOUSNESS
33 OF THE OFFENSE COMMITTED IN RELATION TO THE AMOUNT OF THE FORFEITURE
34 PENALTY; WHETHER THE DEFENDANT'S CONDUCT IN COMMITTING THE OFFENSE WAS
35 WILLFUL OR MALICIOUS; WHETHER THE DEFENDANT MADE ANY SUBSTANTIAL GOOD
36 FAITH EFFORTS TO PREVENT OR MITIGATE THE HARM CAUSED BY THE OFFENSE;
37 WHETHER THE DEFENDANT'S PARTICIPATION IN THE CRIME WAS UNDER DURESS,
38 COERCION OR INDUCED BY OTHERS; THE IMPACT OF THE CRIME ON THE STATE OR
39 LOCAL GOVERNMENT AND THE NUMBER OF YEARS OF THE DEFENDANT'S PUBLIC
40 SERVICE PERFORMED WITHOUT CRIMINAL CONDUCT; THE PECUNIARY BENEFIT TO THE
41 DEFENDANT FROM THE CRIME; AND WHETHER AND TO WHAT EXTENT THE DEFENDANT'S
42 FAMILY IS DEPENDENT UPON THE DEFENDANT'S PRESENT AND FUTURE RETIREMENT
43 BENEFITS.

44 5. UPON MOTION BY THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL, AS
45 THE CASE MAY BE, MADE UPON COMMENCEMENT OF OR AT ANY TIME DURING THE
46 PENDENCY OF A FORFEITURE ACTION, PURSUANT TO THE PROCEDURE SET FORTH IN
47 SUBDIVISION ONE OF SECTION SIXTY-THREE HUNDRED ELEVEN OR SECTION SIXTY-
48 THREE HUNDRED THIRTEEN OF THE CIVIL PRACTICE LAW AND RULES, THE COURT
49 MAY ISSUE A TEMPORARY RESTRAINING ORDER OR A PRELIMINARY INJUNCTION
50 PROHIBITING THE DEFENDANT FROM RECEIVING ANY RIGHTS OR BENEFITS FROM THE
51 APPROPRIATE RETIREMENT SYSTEM. A PRELIMINARY INJUNCTION MAY BE GRANTED
52 WHERE THE COURT FINDS THAT THERE IS A SUBSTANTIAL PROBABILITY THAT THE
53 DISTRICT ATTORNEY OR ATTORNEY GENERAL WILL PREVAIL ON THE ISSUE OF
54 FORFEITURE. NO SHOWING OF IRREPARABLE HARM SHALL BE REQUIRED. THE COURT
55 MAY NOT CONSIDER ON SUCH MOTION ANY ISSUES PRESENTED TO THE COURT WHICH

1 HEARD THE CRIMINAL ACTION IN WHICH THE DEFENDANT WAS CONVICTED OR WHICH
2 ARISE OUT OF SUCH CRIMINAL ACTION AND MAY BE PRESENTED ON APPEAL.

3 6. ALL DEFENDANTS IN A FORFEITURE ACTION BROUGHT PURSUANT TO THIS
4 ARTICLE SHALL HAVE THE RIGHT TO TRIAL BY JURY ON ANY ISSUE OF FACT.

5 7. THE BURDEN OF PROOF SHALL BE UPON THE DISTRICT ATTORNEY OR THE
6 ATTORNEY GENERAL, AS THE CASE MAY BE, TO PROVE BY CLEAR AND CONVINCING
7 EVIDENCE THE FACTS NECESSARY TO ESTABLISH A CLAIM OF PENSION FORFEITURE.

8 8. AT ANY TIME DURING THE PENDENCY OF A FORFEITURE ACTION, THE COURT
9 MAY DISMISS THE ACTION IF IT FINDS THAT SUCH RELIEF IS WARRANTED BY THE
10 EXISTENCE OF SOME COMPELLING FACTOR, CONSIDERATION OR CIRCUMSTANCE
11 INCLUDING, BUT NOT LIMITED TO, ONE OR MORE OF THE MITIGATING FACTORS SET
12 FORTH IN SUBDIVISION FOUR OF THIS SECTION, OR OTHER INFORMATION OR
13 EVIDENCE WHICH DEMONSTRATES THAT SUCH FORFEITURE WOULD NOT SERVE THE
14 ENDS OF JUSTICE. THE COURT SHALL ISSUE A WRITTEN DECISION STATING THE
15 BASIS FOR AN ORDER ISSUED PURSUANT TO THIS SUBDIVISION.

16 9. (A) UPON A FINDING BY THE COURT THAT THE DEFENDANT HAS COMMITTED A
17 FELONY IN CONNECTION WITH HIS OR HER OFFICIAL DUTIES AND RESPONSIBIL-
18 ITIES IN THIS STATE, THE COURT SHALL ISSUE AN ORDER TO THE APPROPRIATE
19 RETIREMENT SYSTEM FOR: (I) THE FORFEITURE OR RECOUPMENT OF ALL OR A
20 PORTION OF THE DEFENDANT'S RIGHTS AND BENEFITS AS A MEMBER OR RETIRED
21 MEMBER OF SUCH SYSTEM; (II) THE RECOUPMENT OF ALL OR A PORTION OF THE
22 RETIREMENT BENEFITS PAID TO THE DEFENDANT; AND (III) THE REFUND TO THE
23 DEFENDANT OF ANY CONTRIBUTIONS MADE BY THE DEFENDANT TO THE RETIREMENT
24 SYSTEM FOR ANY PERIOD FOR WHICH THE DEFENDANT'S RIGHTS AND BENEFITS AS A
25 MEMBER OR RETIRED MEMBER OF SUCH RETIREMENT SYSTEM HAVE BEEN ORDERED
26 FORFEIT.

27 (B) IN DETERMINING THE EXTENT OF THE FORFEITURE OR RECOUPMENT THAT IS
28 WARRANTED, THE COURT MAY CONSIDER ONE OR MORE OF THE MITIGATING FACTORS
29 SET FORTH IN SUBDIVISION FOUR OF THIS SECTION. ALL ORDERS AND FINDINGS
30 MADE BY THE COURT PURSUANT TO THIS SECTION SHALL BE SERVED UPON THE
31 COMPTROLLER.

32 10. UPON A FINAL DETERMINATION THAT REVERSES OR VACATES THE CONVICTION
33 OR CONVICTIONS OF A DESIGNATED OFFENSE OR OFFENSES, THE MEMBER OR
34 RETIRED MEMBER WHO HAS FORFEITED RETIREMENT RIGHTS AND BENEFITS PURSUANT
35 TO THIS SECTION SHALL HAVE SUCH RIGHTS AND BENEFITS RETROACTIVELY
36 RESTORED UPON APPLICATION TO THE COURT WITH JURISDICTION OVER THE
37 FORFEITURE ACTION, REGARDLESS OF ANY TEMPORARY RESTRAINING ORDER OR
38 PRELIMINARY INJUNCTION WHICH MAY BE OUTSTANDING OR ORDER WHICH MAY HAVE
39 BEEN ISSUED. SUCH COURT, UPON FINDING THAT SUCH A FINAL DETERMINATION
40 HAS OCCURRED, SHALL ISSUE AN ORDER RETROACTIVELY RESTORING SUCH RIGHTS
41 AND BENEFITS, TOGETHER WITH SUCH OTHER RELIEF DEEMED APPROPRIATE. AS A
42 CONDITION TO FULL RESTORATION OF RIGHTS AND BENEFITS AS PROVIDED IN THIS
43 SUBDIVISION, THE MEMBER OR RETIRED MEMBER SHALL REIMBURSE THE RETIREMENT
44 SYSTEM FOR ANY CONTRIBUTIONS THAT WERE REFUNDED TO THE MEMBER OR RETIRED
45 MEMBER PURSUANT TO THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION NINE
46 OF THIS SECTION.

47 11. EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE, THE CIVIL PRACTICE
48 LAW AND RULES SHALL GOVERN THE PROCEDURE IN ACTIONS COMMENCED UNDER THIS
49 ARTICLE, EXCEPT WHERE THE ACTION IS REGULATED BY ANY INCONSISTENT
50 PROVISIONS HEREIN. IN SUCH ACTIONS, THE COURT MAY NOT CONSIDER ANY
51 ISSUES PRESENTED TO THE COURT WHICH HEARD THE CRIMINAL ACTION IN WHICH
52 THE DEFENDANT WAS CONVICTED OR WHICH ARISE OUT OF SUCH CRIMINAL ACTION
53 AND MAY BE PRESENTED ON APPEAL.

54 S 157-C. MISCELLANEOUS. THE REMEDIES PROVIDED FOR IN THIS ARTICLE ARE
55 NOT INTENDED TO SUBSTITUTE FOR, LIMIT OR SUPERSEDE THE LAWFUL AUTHORITY

1 OF ANY PUBLIC OFFICER, AGENCY OR OTHER PERSON TO ENFORCE ANY OTHER RIGHT
2 OR REMEDY PROVIDED FOR BY LAW.

3 S 2. The opening paragraph of subdivision 2 of section 212 of the
4 retirement and social security law, as amended by chapter 74 of the laws
5 of 2006, is amended and a new subdivision 3 is added to read as follows:

6 [The] EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION, THE
7 earning limitations for retired persons in positions of public service
8 under this section shall be in accordance with the following table:

9 3. FOR RETIRED PERSONS OF ANY AGE WHO JOINED THE NEW YORK STATE AND
10 LOCAL EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JUNE FIRST, TWO THOUSAND
11 TEN, AND FOR WHOM ALL OR PART OF THEIR RETIREMENT BENEFIT IS BASED UPON
12 SERVICE AND SALARY EARNED WHILE SERVING IN AN ELECTIVE POSITION IN THE
13 NEW YORK STATE LEGISLATURE, THE EARNINGS LIMITATION FOR PURPOSES OF THIS
14 SECTION AND SECTION ONE HUNDRED FIFTY OF THE CIVIL SERVICE LAW FOR
15 SERVICE IN AN ELECTIVE POSITION IN THE NEW YORK STATE LEGISLATURE AFTER
16 THE DATE OF RETIREMENT SHALL BE \$0.

17 S 3. This act shall take effect immediately.

18 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
19 sion, section or part of this act shall be adjudged by any court of
20 competent jurisdiction to be invalid, such judgment shall not affect,
21 impair, or invalidate the remainder thereof, but shall be confined in
22 its operation to the clause, sentence, paragraph, subdivision, section
23 or part thereof directly involved in the controversy in which such judg-
24 ment shall have been rendered. It is hereby declared to be the intent of
25 the legislature that this act would have been enacted even if such
26 invalid provisions had not been included herein.

27 S 3. This act shall take effect immediately provided, however, that
28 the applicable effective date of Parts A through D of this act shall be
29 as specifically set forth in the last section of such Parts.