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

1957

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to enacting the "New York clean election act", and to amend the state finance law, in relation to creating the New York clean election fund

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

Section 1. This act shall be known and may be cited as the "New York clean election act".

S 2. The election law is amended by adding a new article 18 to read as follows:

ARTICLE 18

NEW YORK CLEAN ELECTION ACT

SECTION 18-100. DEFINITIONS.
18-102. ALTERNATIVE CAMPAIGN FINANCING OPTION.
18-104. TERMS OF PARTICIPATION.
18-106. COMMISSION TO ADOPT RULES.
18-108. VIOLATIONS.
18-110. STUDY REPORT.

S 18-100. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE INDICATES, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

1. CERTIFIED CANDIDATE. "CERTIFIED CANDIDATE" MEANS A CANDIDATE RUNNING FOR GOVERNOR, STATE COMPTROLLER, ATTORNEY GENERAL, STATE SENATOR OR STATE ASSEMBLYMAN WHO CHOOSES TO PARTICIPATE IN THE NEW YORK CLEAN ELECTION ACT AND WHO IS CERTIFIED AS A NEW YORK CLEAN ELECTION ACT CANDIDATE PURSUANT TO SUBDIVISION FIVE OF SECTION 18-104 OF THIS ARTICLE.

2. COMMISSION. "COMMISSION" MEANS THE STATE ETHICS COMMISSION.

3. CONTRIBUTION. "CONTRIBUTION" HAS THE SAME MEANING AS SET FORTH IN SUBDIVISION NINE OF SECTION 14-100 OF THIS CHAPTER.

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

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4. FUND. "FUND" MEANS THE NEW YORK CLEAN ELECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-Q OF THE STATE FINANCE LAW.

5. NONPARTICIPATING CANDIDATE. "NONPARTICIPATING CANDIDATE" MEANS A CANDIDATE RUNNING FOR GOVERNOR, STATE COMPTROLLER, ATTORNEY GENERAL, STATE SENATOR OR STATE ASSEMBLYMAN WHO DOES NOT CHOOSE TO PARTICIPATE IN THE NEW YORK CLEAN ELECTION ACT AND WHO IS NOT SEEKING TO BE CERTIFIED AS A NEW YORK CLEAN ELECTION ACT CANDIDATE PURSUANT TO SUBDIVISION FIVE OF SECTION 18-104 OF THIS ARTICLE.

6. PARTICIPATING CANDIDATE. "PARTICIPATING CANDIDATE" MEANS A CANDIDATE WHO IS RUNNING FOR GOVERNOR, STATE COMPTROLLER, ATTORNEY GENERAL, STATE SENATOR OR STATE ASSEMBLYMAN WHO IS SEEKING TO BE CERTIFIED AS A NEW YORK CLEAN ELECTION ACT CANDIDATE PURSUANT TO SUBDIVISION FIVE OF SECTION 18-104 OF THIS ARTICLE.

7. QUALIFYING CONTRIBUTION. "QUALIFYING CONTRIBUTION" MEANS A DONATION:

A. OF TWENTY-FIVE DOLLARS IN THE FORM OF A CHECK OR A MONEY ORDER PAYABLE TO THE FUND IN SUPPORT OF A CANDIDATE;

B. MADE BY A REGISTERED VOTER WITHIN THE ELECTORAL DIVISION FOR THE OFFICE A CANDIDATE IS SEEKING;

C. MADE DURING THE DESIGNATED QUALIFYING PERIOD AND OBTAINED WITH THE KNOWLEDGE AND APPROVAL OF THE CANDIDATE; AND

D. THAT IS ACKNOWLEDGED BY A WRITTEN RECEIPT THAT IDENTIFIES THE NAME AND ADDRESS OF THE DONOR ON FORMS PROVIDED BY THE COMMISSION.

8. QUALIFYING PERIOD. "QUALIFYING PERIOD" MEANS THE FOLLOWING:

A. FOR A GUBERNATORIAL, STATE COMPTROLLER OR ATTORNEY GENERAL PARTICIPATING CANDIDATE, THE QUALIFYING PERIOD BEGINS NOVEMBER FIRST IMMEDIATELY PRECEDING THE ELECTION YEAR AND ENDS: (I) IN THE CASE OF PARTY CANDIDATES, ON MAY FIFTEENTH OF THE ELECTION YEAR; AND (II) IN THE CASE OF INDEPENDENT NOMINATIONS, ON AUGUST FIRST OF THE ELECTION YEAR.

B. FOR STATE SENATE OR STATE ASSEMBLY PARTICIPATING CANDIDATES, THE QUALIFYING PERIOD BEGINS JANUARY FIRST OF THE ELECTION YEAR AND ENDS: (I) IN THE CASE OF PARTY CANDIDATES, ON JULY FIRST OF THE ELECTION YEAR; AND (II) IN THE CASE OF INDEPENDENT NOMINATIONS, ON AUGUST FIRST OF THE ELECTION YEAR.

9. SEED MONEY CONTRIBUTION. "SEED MONEY CONTRIBUTION" MEANS A CONTRIBUTION OF NO MORE THAN ONE HUNDRED DOLLARS PER INDIVIDUAL MADE TO A CANDIDATE, INCLUDING A CONTRIBUTION FROM THE CANDIDATE OR THE CANDIDATE'S FAMILY. TO BE ELIGIBLE FOR CERTIFICATION, A CANDIDATE MAY COLLECT AND SPEND ONLY SEED MONEY CONTRIBUTIONS SUBSEQUENT TO BECOMING A CANDIDATE AND THROUGHOUT THE QUALIFYING PERIOD. A CANDIDATE MAY NOT COLLECT OR SPEND SEED MONEY CONTRIBUTIONS AFTER CERTIFICATION AS A NEW YORK CLEAN ELECTION ACT CANDIDATE. THE PRIMARY PURPOSE OF A SEED MONEY CONTRIBUTION IS TO ENABLE A PARTICIPATING CANDIDATE TO COLLECT QUALIFYING CONTRIBUTIONS. A SEED MONEY CONTRIBUTION MUST BE REPORTED ACCORDING TO PROCEDURES DEVELOPED BY THE COMMISSION.

S 18-102. ALTERNATIVE CAMPAIGN FINANCING OPTION. THERE IS HEREBY ESTABLISHED AN ALTERNATIVE CAMPAIGN FINANCING OPTION AVAILABLE TO CANDIDATES RUNNING FOR GOVERNOR, STATE COMPTROLLER, ATTORNEY GENERAL, STATE SENATOR AND STATE ASSEMBLYMAN. THIS ALTERNATIVE CAMPAIGN FINANCING OPTION IS AVAILABLE TO CANDIDATES FOR ELECTIONS TO BE HELD BEGINNING IN THE YEAR TWO THOUSAND TEN. THE COMMISSION SHALL ADMINISTER THIS ARTICLE AND THE FUND. CANDIDATES PARTICIPATING IN THE NEW YORK CLEAN ELECTION ACT SHALL ALSO COMPLY WITH ALL OTHER APPLICABLE ELECTION AND CAMPAIGN LAWS AND REGULATIONS.

S 18-104. TERMS OF PARTICIPATION. 1. DECLARATION OF INTENT. A PARTICIPATING CANDIDATE SHALL FILE A DECLARATION OF INTENT TO SEEK CERTIF-

ICATION AS A NEW YORK CLEAN ELECTION ACT CANDIDATE AND TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE. THE DECLARATION OF INTENT SHALL BE FILED WITH THE COMMISSION PRIOR TO OR DURING THE QUALIFYING PERIOD ACCORDING TO FORMS AND PROCEDURES DEVELOPED BY THE COMMISSION. A PARTICIPATING CANDIDATE SHALL SUBMIT A DECLARATION OF INTENT PRIOR TO COLLECTING QUALIFYING CONTRIBUTIONS PURSUANT TO THIS ARTICLE.

2. RESTRICTIONS ON CONTRIBUTIONS FOR PARTICIPATING CANDIDATES. SUBSEQUENT TO BECOMING A CANDIDATE AND PRIOR TO CERTIFICATION, A PARTICIPATING CANDIDATE MAY NOT ACCEPT CONTRIBUTIONS, EXCEPT FOR SEED MONEY CONTRIBUTIONS. A PARTICIPATING CANDIDATE SHALL LIMIT THE CANDIDATE'S SEED MONEY CONTRIBUTIONS TO THE FOLLOWING AMOUNTS:

A. ONE HUNDRED THOUSAND DOLLARS FOR A GUBERNATORIAL CANDIDATE;

B. FIFTY THOUSAND DOLLARS FOR A CANDIDATE FOR THE OFFICE OF STATE COMPTROLLER OR ATTORNEY GENERAL;

C. TEN THOUSAND DOLLARS FOR A CANDIDATE FOR THE STATE SENATE; OR

D. FIVE THOUSAND DOLLARS FOR A CANDIDATE FOR THE STATE ASSEMBLY.

THE COMMISSION MAY, BY RULE, REVISE THESE AMOUNTS TO ENSURE THE EFFECTIVE IMPLEMENTATION OF THIS ARTICLE.

3. QUALIFYING CONTRIBUTIONS. PARTICIPATING CANDIDATES MUST OBTAIN QUALIFYING CONTRIBUTIONS DURING THE QUALIFYING PERIOD AS FOLLOWS:

A. FOR A GUBERNATORIAL CANDIDATE, AT LEAST FIVE THOUSAND VERIFIED REGISTERED VOTERS OF THE STATE SHALL SUPPORT THE CANDIDACY BY PROVIDING A QUALIFYING CONTRIBUTION TO THAT CANDIDATE;

B. FOR A CANDIDATE FOR THE OFFICE OF STATE COMPTROLLER OR ATTORNEY GENERAL, AT LEAST TWO THOUSAND FIVE HUNDRED VERIFIED REGISTERED VOTERS OF THE STATE SHALL SUPPORT THE CANDIDACY BY PROVIDING A QUALIFYING CONTRIBUTION TO THAT CANDIDATE;

C. FOR A CANDIDATE FOR THE STATE SENATE, AT LEAST TWO HUNDRED FIFTY VERIFIED REGISTERED VOTERS FROM THE CANDIDATE'S ELECTORAL DISTRICT SHALL SUPPORT THE CANDIDACY BY PROVIDING A QUALIFYING CONTRIBUTION TO THAT CANDIDATE; OR

D. FOR A CANDIDATE FOR THE STATE ASSEMBLY, AT LEAST ONE HUNDRED VERIFIED REGISTERED VOTERS FROM THE CANDIDATE'S ELECTORAL DISTRICT SHALL SUPPORT THE CANDIDACY BY PROVIDING A QUALIFYING CONTRIBUTION TO THAT CANDIDATE.

A PAYMENT, GIFT OR ANYTHING OF VALUE MAY NOT BE GIVEN IN EXCHANGE FOR A QUALIFYING CONTRIBUTION.

4. FILING WITH COMMISSION. A PARTICIPATING CANDIDATE SHALL SUBMIT QUALIFYING CONTRIBUTIONS TO THE COMMISSION DURING THE QUALIFYING PERIOD ACCORDING TO PROCEDURES DEVELOPED BY THE COMMISSION.

5. CERTIFICATION OF NEW YORK CLEAN ELECTION ACT CANDIDATES. UPON RECEIPT OF A FINAL SUBMITTAL OF QUALIFYING CONTRIBUTIONS BY A PARTICIPATING CANDIDATE, THE COMMISSION SHALL DETERMINE WHETHER OR NOT THE CANDIDATE HAS:

A. SIGNED AND FILED A DECLARATION OF INTENT TO PARTICIPATE IN THIS ARTICLE;

B. SUBMITTED THE APPROPRIATE NUMBER OF VALID QUALIFYING CONTRIBUTIONS;

C. QUALIFIED AS A CANDIDATE BY PETITION OR OTHER MEANS;

D. NOT ACCEPTED CONTRIBUTIONS, EXCEPT FOR SEED MONEY CONTRIBUTIONS, AND OTHERWISE COMPLIED WITH SEED MONEY RESTRICTIONS; AND

E. OTHERWISE MET THE REQUIREMENTS FOR PARTICIPATING IN THIS ARTICLE.

THE COMMISSION SHALL CERTIFY A CANDIDATE COMPLYING WITH THE REQUIREMENTS OF THIS SECTION AS A NEW YORK CLEAN ELECTION ACT CANDIDATE AS SOON AS POSSIBLE AND NO LATER THAN THREE DAYS AFTER ALL REQUIREMENTS FOR PARTICIPATION AS PROVIDED BY THIS SUBDIVISION HAVE BEEN COMPLIED WITH.

UPON CERTIFICATION, A CANDIDATE SHALL TRANSFER TO THE FUND ANY UNSPENT SEED MONEY CONTRIBUTIONS. A CERTIFIED CANDIDATE MUST COMPLY WITH ALL REQUIREMENTS OF THIS ARTICLE AFTER CERTIFICATION AND THROUGHOUT THE PRIMARY AND GENERAL ELECTION PERIODS. FAILURE TO DO SO IS A VIOLATION OF THIS ARTICLE.

6. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES FOR CERTIFIED CANDIDATES. AFTER CERTIFICATION, A CANDIDATE SHALL LIMIT THE CANDIDATE'S CAMPAIGN EXPENDITURES AND OBLIGATIONS, INCLUDING OUTSTANDING OBLIGATIONS, TO THE REVENUES DISTRIBUTED TO THE CANDIDATE FROM THE FUND AND MAY NOT ACCEPT ANY CONTRIBUTIONS UNLESS SPECIFICALLY AUTHORIZED BY THE COMMISSION. ALL REVENUES DISTRIBUTED TO CERTIFIED CANDIDATES FROM THE FUND SHALL BE USED FOR CAMPAIGN-RELATED PURPOSES. THE COMMISSION SHALL PUBLISH GUIDELINES OUTLINING PERMISSIBLE CAMPAIGN-RELATED EXPENDITURES.

7. TIMING OF FUND DISTRIBUTION. THE COMMISSION SHALL DISTRIBUTE TO CERTIFIED CANDIDATES REVENUES FROM THE FUND IN AMOUNTS DETERMINED UNDER SUBDIVISION EIGHT OF THIS SECTION IN THE FOLLOWING MANNER:

A. WITHIN THREE DAYS AFTER CERTIFICATION, REVENUES FROM THE FUND SHALL BE DISTRIBUTED ACCORDING TO WHETHER THE CANDIDATE IS IN A CONTESTED OR UNCONTESTED PRIMARY ELECTION.

B. WITHIN THREE DAYS AFTER THE PRIMARY ELECTION, FOR GENERAL ELECTION CERTIFIED CANDIDATES, REVENUES FROM THE FUND SHALL BE DISTRIBUTED ACCORDING TO WHETHER THE CANDIDATE IS IN A CONTESTED GENERAL ELECTION. FUNDS MAY NOT BE DISTRIBUTED FOR UNCONTESTED GENERAL ELECTIONS.

FUNDS MAY BE DISTRIBUTED TO CERTIFIED CANDIDATES UNDER THIS SECTION BY ANY MECHANISM THAT IS EXPEDITIOUS, ENSURES ACCOUNTABILITY AND SAFEGUARDS THE INTEGRITY OF THE FUND.

8. AMOUNT OF FUND DISTRIBUTION. BY JULY FIRST, TWO THOUSAND NINE, AND AT LEAST EVERY FOUR YEARS AFTER SUCH DATE, THE COMMISSION SHALL DETERMINE THE AMOUNT OF FUNDS TO BE DISTRIBUTED TO PARTICIPATING CANDIDATES BASED ON THE TYPE OF ELECTION AND OFFICE AS FOLLOWS:

A. FOR CONTESTED PRIMARY ELECTIONS, THE AMOUNT OF REVENUES TO BE DISTRIBUTED IS THE AVERAGE AMOUNT OF CAMPAIGN EXPENDITURES MADE BY EACH CANDIDATE DURING ALL CONTESTED PRIMARY ELECTION RACES FOR THE IMMEDIATELY PRECEDING TWO PRIMARY ELECTIONS AS REPORTED IN THE INITIAL FILING PERIOD SUBSEQUENT TO THE PRIMARY ELECTION FOR THE RESPECTIVE OFFICES OF GOVERNOR, STATE COMPTROLLER, ATTORNEY GENERAL, STATE SENATE AND STATE ASSEMBLY.

B. FOR UNCONTESTED PRIMARY ELECTIONS, THE AMOUNT OF REVENUES DISTRIBUTED IS THE AVERAGE AMOUNT OF CAMPAIGN EXPENDITURES MADE BY EACH CANDIDATE DURING ALL UNCONTESTED PRIMARY ELECTION RACES, OR FOR CONTESTED RACES IF THAT AMOUNT IS LOWER, FOR THE IMMEDIATELY PRECEDING TWO PRIMARY ELECTIONS AS REPORTED IN THE INITIAL FILING PERIOD SUBSEQUENT TO THE PRIMARY ELECTION FOR THE RESPECTIVE OFFICES OF GOVERNOR, STATE COMPTROLLER, ATTORNEY GENERAL, STATE SENATE AND STATE ASSEMBLY.

C. FOR CONTESTED GENERAL ELECTIONS, THE AMOUNT OF REVENUES DISTRIBUTED IS THE AVERAGE AMOUNT OF CAMPAIGN EXPENDITURES MADE BY EACH CANDIDATE DURING ALL CONTESTED GENERAL ELECTION RACES FOR THE IMMEDIATELY PRECEDING TWO GENERAL ELECTIONS AS REPORTED IN THE INITIAL FILING PERIOD SUBSEQUENT TO THE GENERAL ELECTION FOR THE RESPECTIVE OFFICES OF GOVERNOR, STATE SENATE AND STATE ASSEMBLY.

D. REVENUES MAY NOT BE DISTRIBUTED FOR UNCONTESTED GENERAL ELECTIONS.

IF THE IMMEDIATELY PRECEDING TWO ELECTION CYCLES DO NOT CONTAIN SUFFICIENT ELECTORAL DATA, THE COMMISSION SHALL USE INFORMATION FROM THE MOST RECENT APPLICABLE ELECTIONS. FOR ONLY THE INITIAL COMPUTATIONS UNDER PARAGRAPHS A, B AND C OF THIS SUBDIVISION THAT ARE CONDUCTED BY JULY

FIRST, TWO THOUSAND NINE, THE COMMISSION SHALL REDUCE THE AMOUNTS TO BE DISTRIBUTED BY TWENTY-FIVE PERCENT.

9. MATCHING FUNDS. WHEN ANY CAMPAIGN, FINANCE OR ELECTION REPORT SHOWS THAT THE SUM OF A CANDIDATE'S EXPENDITURES OR OBLIGATIONS, OR FUNDS RAISED OR BORROWED, WHICHEVER IS GREATER, ALONE OR IN CONJUNCTION WITH INDEPENDENT EXPENDITURES EXCEEDS THE DISTRIBUTION AMOUNT CALCULATED PURSUANT TO SUBDIVISION EIGHT OF THIS SECTION, THE COMMISSION SHALL ISSUE IMMEDIATELY TO ANY OPPOSING NEW YORK CLEAN ELECTION ACT CANDIDATE AN ADDITIONAL AMOUNT EQUIVALENT TO THE REPORTED EXCESS. MATCHING FUNDS ARE LIMITED TO TWO TIMES THE AMOUNT ORIGINALLY DISTRIBUTED UNDER PARAGRAPH A OR C OF SUBDIVISION EIGHT OF THIS SECTION, WHICHEVER IS APPLICABLE.

10. INDEPENDENT CANDIDATES. A CANDIDATE NOMINATED BY AN INDEPENDENT BODY CERTIFIED AS PROVIDED BY THIS SECTION IS ELIGIBLE FOR REVENUES FROM THE FUND IN THE SAME AMOUNTS AS AN UNCONTESTED PRIMARY ELECTION CANDIDATE AND A GENERAL ELECTION CANDIDATE AS SPECIFIED IN SUBDIVISIONS SEVEN AND EIGHT OF THIS SECTION.

11. OTHER PROCEDURES. THE COMMISSION SHALL ESTABLISH BY RULE PROCEDURES FOR QUALIFICATION, CERTIFICATION, DISBURSEMENT OF FUND REVENUES AND RETURN OF UNSPENT FUND REVENUES FOR RACES INVOLVING SPECIAL ELECTIONS, RECOUNTS, VACANCIES, WITHDRAWALS OR REPLACEMENT CANDIDATES.

12. REPORTING; UNSPENT REVENUE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PARTICIPATING AND CERTIFIED CANDIDATES SHALL REPORT ANY MONEY COLLECTED, ALL CAMPAIGN EXPENDITURES, OBLIGATIONS AND RELATED ACTIVITIES TO THE COMMISSION ACCORDING TO PROCEDURES DEVELOPED BY THE COMMISSION. UPON THE FILING OF A FINAL REPORT FOR ANY PRIMARY ELECTION IN WHICH THE CANDIDATE WAS DEFEATED AND FOR ALL GENERAL ELECTIONS THAT CANDIDATE SHALL RETURN ALL UNSPENT FUND REVENUES TO THE COMMISSION. IN DEVELOPING THESE PROCEDURES, THE COMMISSION SHALL UTILIZE EXISTING CAMPAIGN REPORTING PROCEDURES WHENEVER PRACTICABLE. THE COMMISSION SHALL ENSURE TIMELY PUBLIC ACCESS TO CAMPAIGN FINANCE DATA AND MAY UTILIZE ELECTRONIC MEANS OF REPORTING AND STORING INFORMATION.

13. DISTRIBUTIONS NOT TO EXCEED AMOUNT IN FUND. THE COMMISSION MAY NOT DISTRIBUTE REVENUES TO CERTIFIED CANDIDATES IN EXCESS OF THE TOTAL AMOUNT OF MONEY DEPOSITED IN THE FUND AS ESTABLISHED IN SECTION NINETY-NINE-Q OF THE STATE FINANCE LAW. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, IF THE COMMISSION DETERMINES THAT THE REVENUES IN THE FUND ARE INSUFFICIENT TO MEET DISTRIBUTIONS UNDER SUBDIVISION EIGHT OR NINE OF THIS SECTION, THE COMMISSION MAY PERMIT CERTIFIED CANDIDATES TO ACCEPT AND SPEND CONTRIBUTIONS, REDUCED BY ANY SEED MONEY CONTRIBUTIONS, AGGREGATING NO MORE THAN FIVE HUNDRED DOLLARS PER DONOR PER ELECTION FOR GUBERNATORIAL, STATE COMPTROLLER, ATTORNEY GENERAL CANDIDATES AND TWO HUNDRED FIFTY DOLLARS PER DONOR PER ELECTION FOR STATE SENATE AND STATE ASSEMBLY CANDIDATES, UP TO THE APPLICABLE AMOUNTS SET FORTH IN SUBDIVISIONS EIGHT AND NINE OF THIS SECTION ACCORDING TO RULES ADOPTED BY THE COMMISSION.

14. APPEALS. A CANDIDATE WHO HAS BEEN DENIED CERTIFICATION AS A NEW YORK CLEAN ELECTION ACT CANDIDATE OR THE OPPONENT OF A CANDIDATE WHO HAS BEEN GRANTED CERTIFICATION AS A NEW YORK CLEAN ELECTION ACT CANDIDATE MAY CHALLENGE A CERTIFICATION DECISION BY THE COMMISSION AS FOLLOWS:

A. A CHALLENGER MAY APPEAL TO THE FULL COMMISSION WITHIN THREE DAYS OF THE CERTIFICATION DECISION. THE APPEAL SHALL BE IN WRITING AND SHALL SET FORTH THE REASONS FOR THE APPEAL.

B. WITHIN FIVE DAYS AFTER AN APPEAL IS PROPERLY MADE AND AFTER NOTICE IS GIVEN TO THE CHALLENGER AND ANY OPPONENT, THE COMMISSION SHALL HOLD A HEARING. THE APPELLANT HAS THE BURDEN OF PROVIDING EVIDENCE TO DEMON-

STRATE THAT THE COMMISSION DECISION WAS IMPROPER. THE COMMISSION SHALL RULE ON THE APPEAL WITHIN THREE DAYS AFTER THE COMPLETION OF THE HEARING.

C. A CHALLENGER MAY APPEAL THE DECISION OF THE COMMISSION IN PARAGRAPH B OF THIS SUBDIVISION BY COMMENCING AN ACTION IN SUPREME COURT.

D. A CANDIDATE WHOSE CERTIFICATION BY THE COMMISSION AS A NEW YORK CLEAN ELECTION ACT CANDIDATE IS REVOKED ON APPEAL MUST RETURN TO THE COMMISSION ANY UNSPENT REVENUES DISTRIBUTED FROM THE FUND. IF THE COMMISSION OR COURT FIND THAT AN APPEAL WAS MADE FRIVOLOUSLY OR TO CAUSE DELAY OR HARDSHIP, THE COMMISSION OR COURT MAY REQUIRE THE MOVING PARTY TO PAY COSTS OF THE COMMISSION, COURT AND OPPOSING PARTIES, IF ANY.

S 18-106. COMMISSION TO ADOPT RULES. THE COMMISSION SHALL ADOPT RULES TO ENSURE EFFECTIVE ADMINISTRATION OF THIS ARTICLE. SUCH RULES SHALL INCLUDE, BUT NOT BE LIMITED TO, PROCEDURES FOR OBTAINING QUALIFYING CONTRIBUTIONS, CERTIFICATION AS A NEW YORK CLEAN ELECTION ACT CANDIDATE, CIRCUMSTANCES INVOLVING SPECIAL ELECTIONS, VACANCIES, RECOUNTS, WITHDRAWALS OR REPLACEMENTS, COLLECTION OF REVENUES FOR THE FUND, DISTRIBUTION OF FUND REVENUE TO CERTIFIED CANDIDATES, RETURN OF UNSPENT FUND DISBURSEMENTS AND COMPLIANCE WITH THE NEW YORK CLEAN ELECTION ACT.

S 18-108. VIOLATIONS. 1. CIVIL PENALTY. IN ADDITION TO ANY OTHER PENALTIES THAT MAY BE APPLICABLE, A PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS PER VIOLATION PAYABLE TO THE FUND. THIS PENALTY IS RECOVERABLE IN A CIVIL ACTION. IN ADDITION TO ANY FINE, FOR GOOD CAUSE SHOWN, A CANDIDATE FOUND IN VIOLATION OF THIS ARTICLE MAY BE REQUIRED TO RETURN TO THE FUND ALL AMOUNTS DISTRIBUTED TO THE CANDIDATE FROM THE FUND. IF THE COMMISSION MAKES A DETERMINATION THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, THE COMMISSION SHALL ASSESS A FINE OR TRANSMIT THE FINDING TO THE ATTORNEY GENERAL FOR PROSECUTION. FINES PAID UNDER THIS SECTION SHALL BE DEPOSITED IN THE FUND. IN DETERMINING WHETHER OR NOT A CANDIDATE IS IN VIOLATION OF THE EXPENDITURE LIMITS OF THIS ARTICLE, THE COMMISSION MAY CONSIDER AS A MITIGATING FACTOR ANY CIRCUMSTANCES OUT OF THE CANDIDATE'S CONTROL.

2. CLASS E FELONY. A PERSON WHO WILLFULLY OR KNOWINGLY VIOLATES THIS ARTICLE OR RULES OF THE COMMISSION OR WHO WILLFULLY OR KNOWINGLY MAKES A FALSE STATEMENT IN ANY REPORT REQUIRED BY THIS ARTICLE SHALL BE GUILTY OF A CLASS E FELONY AND, IF CERTIFIED AS A NEW YORK CLEAN ELECTION ACT CANDIDATE, SHALL RETURN TO THE FUND ALL AMOUNTS DISTRIBUTED TO THE CANDIDATE.

S 18-110. STUDY REPORT. ON OR BEFORE JANUARY THIRTIETH, TWO THOUSAND TEN AND EVERY FOUR YEARS AFTER THAT DATE, THE COMMISSION SHALL PREPARE FOR THE JOINT STANDING COMMITTEE OF THE LEGISLATURE HAVING JURISDICTION OVER LEGAL AFFAIRS A REPORT DOCUMENTING, EVALUATING AND MAKING RECOMMENDATIONS RELATING TO THE ADMINISTRATION, IMPLEMENTATION AND ENFORCEMENT OF THE NEW YORK CLEAN ELECTION ACT AND THE NEW YORK CLEAN ELECTION FUND, AS ESTABLISHED IN SECTION NINETY-NINE-Q OF THE STATE FINANCE LAW.

S 3. The state finance law is amended by adding a new section 99-q to read as follows:

S 99-Q. NEW YORK CLEAN ELECTION FUND. 1. ESTABLISHED. THE NEW YORK CLEAN ELECTION FUND IS HEREBY ESTABLISHED TO FINANCE THE ELECTION CAMPAIGNS OF CERTIFIED NEW YORK CLEAN ELECTION ACT CANDIDATES RUNNING FOR GOVERNOR, STATE SENATOR AND STATE ASSEMBLYMAN AND TO PAY ADMINISTRATIVE AND ENFORCEMENT COSTS OF THE STATE ETHICS COMMISSION RELATED TO ARTICLE EIGHTEEN OF THE ELECTION LAW. THE FUND IS A SPECIAL, DEDICATED FUND AND ANY INTEREST GENERATED BY THE FUND IS CREDITED TO THE FUND. THE STATE ETHICS COMMISSION SHALL ADMINISTER THE FUND.

2. SOURCES OF FUNDING. THE FOLLOWING SHALL BE DEPOSITED IN THE FUND:

A. THE QUALIFYING CONTRIBUTIONS REQUIRED PURSUANT TO SECTION 18-104 OF THE ELECTION LAW WHEN THOSE CONTRIBUTIONS ARE SUBMITTED TO THE STATE ETHICS COMMISSION;

B. TWO MILLION DOLLARS, TRANSFERRED TO THE FUND BY THE COMMISSIONER OF TAXATION AND FINANCE ON OR BEFORE JANUARY FIRST OF EACH YEAR, BEGINNING JANUARY FIRST, TWO THOUSAND NINE. THESE REVENUES SHALL BE OFFSET IN AN EQUITABLE MANNER BY AN EQUIVALENT REDUCTION WITHIN THE ADMINISTRATIVE DIVISIONS OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH AGENCIES;

C. REVENUE FROM A TAX CHECKOFF PROGRAM ALLOWING A RESIDENT OF THE STATE WHO FILES A STATE INCOME TAX RETURN TO DESIGNATE THAT THREE DOLLARS BE PAID INTO THE FUND. IF A HUSBAND AND WIFE FILE A JOINT RETURN, EACH SPOUSE MAY DESIGNATE THAT THREE DOLLARS BE PAID. THE COMMISSIONER OF TAXATION AND FINANCE SHALL REPORT ANNUALLY THE AMOUNTS DESIGNATED FOR THE FUND TO THE STATE COMPTROLLER, WHO SHALL TRANSFER THAT AMOUNT TO THE FUND;

D. SEED MONEY CONTRIBUTIONS REMAINING UNSPENT AFTER A CANDIDATE HAS BEEN CERTIFIED AS A NEW YORK CLEAN ELECTION ACT CANDIDATE;

E. FUND REVENUES THAT WERE DISTRIBUTED TO A NEW YORK CLEAN ELECTION ACT CANDIDATE AND THAT REMAIN UNSPENT AFTER THE CANDIDATE HAS LOST A PRIMARY ELECTION OR AFTER ALL GENERAL ELECTIONS;

F. OTHER UNSPENT FUND REVENUES DISTRIBUTED TO ANY NEW YORK CLEAN ELECTION ACT CANDIDATE WHO DOES NOT REMAIN A CANDIDATE THROUGHOUT A PRIMARY OR GENERAL ELECTION CYCLE;

G. VOLUNTARY DONATIONS MADE DIRECTLY TO THE FUND; AND

H. FINES COLLECTED PURSUANT TO SECTION 18-108 OF THE ELECTION LAW.

3. DETERMINATION OF FUND AMOUNT. BY SEPTEMBER FIRST PRECEDING EACH ELECTION YEAR, THE STATE ETHICS COMMISSION SHALL PUBLISH AN ESTIMATE OF REVENUE IN THE FUND AVAILABLE FOR DISTRIBUTION TO CERTIFIED CANDIDATES DURING THE UPCOMING YEAR'S ELECTIONS.

S 4. This act shall take effect immediately.