

2794

2011-2012 Regular Sessions

I N S E N A T E

February 1, 2011

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to establishing the executive ethics and compliance commission; to amend the legislative law, in relation to the creation of the New York state commission on lobbying ethics and compliance; to amend the legislative law, in relation to establishing the legislative office of ethics investigation and the joint legislative commission on ethics standards and to repeal certain provisions of such law relating to ethics; and to amend the public officers law, in relation to ethics reports; to amend the legislative law and the public officers law, in relation to financial disclosure of public officers; to amend the election law, in relation to a state board of elections enforcement unit and counsel, personal use of campaign funds, filing requirements, political communication, independent expenditure reporting, enforcement proceeding and penalties for violations; to repeal certain provisions of the election law relating to filing of statements; to repeal certain provisions of the legislative law relating to prohibited activities of legislative employees; and providing for the repeal of certain provisions upon the expiration thereof

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

1 Section 1. Section 94 of the executive law, as added by chapter 813 of
2 the laws of 1987, the section heading and subdivisions 1, 2, 3, 4, 5, 6,
3 7 and 8 as amended by section 2, subdivisions 9, 10, 11, 12, 13, 14, 16
4 and 17 as amended and subdivisions 13-a, 16-a and 18 as added by section
5 2-a, paragraph (l) of subdivision 9 as amended by section 3, paragraph
6 (c) of subdivision 12 as amended by section 4, subdivision 15 as amended
7 by section 5, and paragraphs (a) and (b) of subdivision 17 as amended by
8 section 6 of chapter 14 of the laws of 2007, is amended to read as
9 follows:

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

LBD07738-01-1

1 S 94. [Commission on public integrity; functions, powers and duties;
2 review of financial disclosure statements; advisory opinions; investi-
3 gation and enforcement] EXECUTIVE ETHICS AND COMPLIANCE COMMISSION. 1.
4 There is established within the department of state [a commission on
5 public integrity] AN EXECUTIVE ETHICS AND COMPLIANCE COMMISSION which
6 shall consist of [thirteen] SIX members and shall have and exercise the
7 powers and duties set forth in this section only with respect to state-
8 wide elected officials [and], state officers and employees, as defined
9 in sections seventy-three and seventy-three-a of the public officers
10 law, candidates for statewide elected office, [and the] A political
11 party chairman as [that term is] defined in PARAGRAPH (K) OF SUBDIVISION
12 ONE OF section [seventy-three-a] SEVENTY-THREE of the public officers
13 law, [lobbyists and the clients of lobbyists as such terms are defined
14 in article one-A of the legislative law], and individuals who have
15 formerly held such positions, [were lobbyists or clients of lobbyists,
16 as such terms are defined in article one-A of the legislative law,] or
17 who have formerly been such candidates. This section shall not revoke or
18 rescind any regulations or advisory opinions issued by the state ethics
19 commission [and], the temporary lobbying commission AND THE COMMISSION
20 ON PUBLIC INTEGRITY in effect upon the effective date of [a] THE chapter
21 of the laws of two thousand [seven] TEN which amended this section to
22 the extent that such regulations or opinions are not inconsistent with
23 any law of the state of New York, but such regulations and opinions
24 shall apply only to matters over which such commissions had jurisdiction
25 at the time such regulations and opinions were promulgated or issued.
26 The commission shall undertake a comprehensive review of all such regu-
27 lations and opinions, which will address the consistency of such regu-
28 lations and opinions among each other and with the [new] statutory
29 language. The commission shall, before April first, two thousand [eight]
30 ELEVEN, report to the governor and legislature regarding such review and
31 shall propose any regulatory changes and issue any advisory opinions
32 necessitated by such review.

33 2. The SIX members of the commission shall be appointed [by the gover-
34 nor provided, however, that one member shall be appointed on the nomi-
35 nation of the comptroller, one member shall be appointed on the nomi-
36 nation of the attorney general, one member shall be appointed on the
37 nomination of the temporary president of the senate, one member shall be
38 appointed on the nomination of the speaker of the assembly, one member
39 shall be appointed on the nomination of the minority leader of the
40 senate, and one member shall be appointed on the nomination of the
41 minority leader of the assembly. Of the seven members appointed by the
42 governor without prior nomination, no more than four members shall
43 belong to the same political party and no members shall be public offi-
44 cers or employees or hold any public office, elected or appointed.] AS
45 FOLLOWS: TWO BY THE GOVERNOR, TWO BY THE ATTORNEY GENERAL, AND TWO BY
46 THE COMPTROLLER. NO TWO APPOINTMENTS BY EACH OF THE FOREGOING OFFICERS
47 SHALL BE FROM THE SAME POLITICAL PARTY AS DEFINED IN SECTION 1-104 OF
48 THE ELECTION LAW. No member shall be OR SHALL HAVE BEEN WITHIN THE
49 PRECEDING FIVE YEARS a member of the legislature, a candidate for member
50 of the legislature, an employee of the legislature, a political party
51 chairman as defined in paragraph (k) of subdivision one of section
52 seventy-three of the public officers law, A STATE OFFICER OR EMPLOYEE AS
53 DEFINED BY PARAGRAPH (I) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF
54 THE PUBLIC OFFICERS LAW, or a lobbyist [as defined in subdivision (a) of
55 section one-c of the legislative law] REQUIRED TO REGISTER IN NEW YORK
56 STATE OR ANY OTHER JURISDICTION.

1 3. Members of the commission shall serve for terms of [five] FOUR
2 years; provided, however, that [of the members first appointed without
3 prior nomination, one shall serve for one year, one shall serve for two
4 years, one shall serve for three years, and one shall serve for four
5 years, as designated by the governor; the members first appointed on the
6 nominations of the comptroller and the temporary president of the senate
7 shall serve for four years and the members first appointed on the nomi-
8 nations of the attorney general and the speaker of the assembly shall
9 serve for two years] THE MEMBERS FIRST APPOINTED BY THE GOVERNOR SHALL
10 SERVE TWO YEAR TERMS, THE MEMBERS FIRST APPOINTED BY THE ATTORNEY GENER-
11 AL SHALL SERVE THREE YEAR TERMS AND THE MEMBERS FIRST APPOINTED BY THE
12 COMPTROLLER SHALL SERVE FOUR YEAR TERMS.

13 4. The [governor shall designate the chairman of the commission from
14 among the members thereof, who shall serve as chairman at the pleasure
15 of the governor] CHAIRPERSON OF THE COMMISSION SHALL BE ELECTED BY THE
16 MEMBERS OF THE COMMISSION BY A MAJORITY VOTE OF THE TOTAL NUMBER OF
17 MEMBERS OF THE COMMISSION. The [chairman] CHAIRPERSON or any [seven]
18 THREE members of the commission may call a meeting.

19 5. Any vacancy occurring on the commission shall be filled within
20 sixty days of its occurrence, by the governor, ATTORNEY GENERAL, OR
21 COMPTROLLER in the same manner as the member whose vacancy is being
22 filled was appointed. A person appointed to fill a vacancy occurring
23 other than by expiration of a term of office shall be appointed for the
24 unexpired term of the member he succeeds. IN THE EVENT OF A VACANCY,
25 THE APPOINTING AUTHORITY MUST APPOINT A MEMBER OF THE COMMISSION FROM A
26 POLITICAL PARTY OTHER THAN THAT OF THE APPOINTING AUTHORITY'S ALREADY
27 SEATED MEMBER OF THE COMMISSION.

28 6. [Seven] FOUR members of the commission shall constitute a quorum,
29 and the commission shall have power to act by majority vote of the total
30 number of members of the commission without vacancy.

31 7. Members of the commission may be removed by the [governor] APPOINT-
32 ING AUTHORITY for substantial neglect of duty, gross misconduct in
33 office, inability to discharge the powers or duties of office or
34 violation of this section, after written notice and opportunity for a
35 reply.

36 8. The members of the commission shall [not] receive [compensation
37 but] A PER DIEM ALLOWANCE IN THE SUM OF ONE HUNDRED DOLLARS FOR EACH DAY
38 ACTUALLY SPENT IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THIS ARTI-
39 CLE, NOT EXCEEDING, HOWEVER, THE SUM OF FIVE THOUSAND DOLLARS IN ANY
40 CALENDAR YEAR AND IN ADDITION THERETO shall be reimbursed for ALL
41 reasonable expenses ACTUALLY AND NECESSARILY incurred in the performance
42 of their official duties.

43 9. The commission shall:

44 (a) Appoint an executive director who shall act in accordance with the
45 policies of the commission. The commission may delegate authority to the
46 executive director to act in the name of the commission between meetings
47 of the commission provided such delegation is in writing and the specif-
48 ic powers to be delegated are enumerated. THE EXECUTIVE DIRECTOR SHALL
49 BE APPOINTED FOR A TERM OF THREE YEARS AND SHALL BE DISMISSED ONLY FOR
50 CAUSE BY A MAJORITY VOTE OF THE COMMISSION;

51 (b) Appoint such other staff as are necessary to carry out its duties
52 under this section;

53 (c) Adopt, amend, and rescind rules and regulations to govern proce-
54 dures of the commission, which shall include, but not be limited to, the
55 procedure whereby a person who is required to file an annual financial
56 disclosure statement with the commission may request an additional peri-

1 od of time within which to file such statement, due to justifiable cause
2 or undue hardship; such rules or regulations shall provide for a date
3 beyond which in all cases of justifiable cause or undue hardship no
4 further extension of time will be granted;

5 (d) Adopt, amend, and rescind rules and regulations to assist appoint-
6 ing authorities in determining which persons hold policy-making posi-
7 tions for purposes of section seventy-three-a of the public officers
8 law;

9 (e) Make available forms for annual statements of financial disclosure
10 required to be filed pursuant to section seventy-three-a of the public
11 officers law;

12 (f) Review financial disclosure statements in accordance with the
13 provisions of this section, provided however, that the commission may
14 delegate all or part of this review function to the executive director
15 who shall be responsible for completing staff review of such statements
16 in a manner consistent with the terms of the commission's delegation.
17 SUCH REVIEW SHALL REQUIRE THAT ALL STATEMENTS OF FINANCIAL DISCLOSURE
18 FILED WITH THE COMMISSION BE EXAMINED TO ENSURE THAT EACH STATEMENT IS
19 FACIALLY COMPLETE AND SIGNED BY THE REPORTING INDIVIDUAL;

20 (g) [Receive] INITIATE OR RECEIVE complaints and referrals alleging
21 violations of section seventy-three, seventy-three-a or seventy-four of
22 the public officers law[, article one-A of the legislative law] or
23 section one hundred seven of the civil service law;

24 (h) Permit any person subject to the jurisdiction of the commission
25 who is required to file a financial disclosure statement to request the
26 commission to delete from the copy thereof made available for public
27 inspection and copying one or more items of information which may be
28 deleted by the commission upon a finding by the commission that the
29 information which would otherwise be required to be made available for
30 public inspection and copying will have no material bearing on the
31 discharge of the reporting person's official duties. If such request for
32 deletion is denied, the commission, in its notification of denial, shall
33 inform the person of his or her right to appeal the commission's deter-
34 mination pursuant to its rules governing adjudicatory proceedings and
35 appeals adopted pursuant to subdivision thirteen of this section;

36 (i) Permit any person subject to the jurisdiction of the commission
37 who is required to file a financial disclosure statement to request an
38 exemption from any requirement to report one or more items of informa-
39 tion which pertain to such person's spouse or unemancipated children
40 which item or items may be exempted by the commission upon a finding by
41 the commission that the reporting individual's spouse, on his or her own
42 behalf or on behalf of an unemancipated child, objects to providing the
43 information necessary to make such disclosure and that the information
44 which would otherwise be required to be reported will have no material
45 bearing on the discharge of the reporting person's official duties. If
46 such request for exemption is denied, the commission, in its notifica-
47 tion of denial, shall inform the person of his or her right to appeal
48 the commission's determination pursuant to its rules governing adjudica-
49 tory proceedings and appeals adopted pursuant to subdivision thirteen of
50 this section;

51 (j) Advise and assist any state agency in establishing rules and regu-
52 lations relating to possible conflicts between private interests and
53 official duties of present or former statewide elected officials and
54 state officers and employees;

55 (k) Permit any person who has not been determined by his or her
56 appointing authority to hold a policy-making position but who is other-

1 wise required to file a financial disclosure statement to request an
2 exemption from such requirement in accordance with rules and regulations
3 governing such exemptions. Such rules and regulations shall provide for
4 exemptions to be granted either on the application of an individual or
5 on behalf of persons who share the same job title or employment classi-
6 fication which the commission deems to be comparable for purposes of
7 this section. Such rules and regulations may permit the granting of an
8 exemption where, in the discretion of the commission, the public inter-
9 est does not require disclosure and the applicant's duties do not
10 involve the negotiation, authorization or approval of:

11 (i) contracts, leases, franchises, revocable consents, concessions,
12 variances, special permits, or licenses as defined in section seventy-
13 three of the public officers law;

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

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

17 (iv) the adoption or repeal of any rule or regulation having the force
18 and effect of law;

19 (l) Prepare an annual report to the governor and legislature summariz-
20 ing the activities of the commission during the previous year and recom-
21 mending any changes in the laws governing the conduct of persons subject
22 to the jurisdiction of the commission, or the rules, regulations and
23 procedures governing the commission's conduct. Such report shall BE
24 POSTED ON THE COMMISSION'S WEBSITE AND SHALL include: (i) THE NUMBER OF
25 REPORTING INDIVIDUALS WHOSE FILES WERE REVIEWED PURSUANT TO SUBDIVISION
26 (O) OF THIS SECTION DURING THE PREVIOUS YEAR AND WHICH, IF ANY, CLASSES
27 OF REPORTING INDIVIDUALS WERE SELECTED FOR CLASS REVIEW RATHER THAN
28 RANDOM REVIEW; (II) a listing by assigned number of each complaint and
29 referral received which alleged a possible violation within its juris-
30 diction, including the current status of each complaint[,]; and [(ii)]
31 (III) where a matter has been resolved, the date and nature of the
32 disposition and any sanction imposed, subject to the confidentiality
33 requirements of this section, provided, however, that such annual report
34 shall not contain any information for which disclosure is not permitted
35 pursuant to subdivision seventeen of this section; [and]

36 (m) Determine a question common to a class or defined category of
37 persons or items of information required to be disclosed, where determi-
38 nation of the question will prevent undue repetition of requests for
39 exemption or deletion or prevent undue complication in complying with
40 the requirements of such section[.];

41 (N) PREPARE AND ISSUE A REPORT BY DECEMBER FIRST, TWO THOUSAND TWELVE
42 TO THE GOVERNOR AND THE LEGISLATURE RECOMMENDING ANY CHANGES TO THE LAW
43 GOVERNING THE FILING OF ANNUAL STATEMENTS OF FINANCIAL DISCLOSURE, WHICH
44 SHALL INCLUDE AN ANALYSIS OF THE STATUTES WHICH REQUIRE INDIVIDUALS TO
45 FILE FINANCIAL DISCLOSURE STATEMENTS, THE SCOPE OF DISCLOSURE REQUIRED,
46 AND ALTERNATIVE APPROACHES TO THE CURRENT SYSTEM, AND RECOMMENDATIONS AS
47 TO THE APPROPRIATE SCOPE OF DISCLOSURE FOR DIFFERENT CLASSES OF INDIVID-
48 UALS, INCLUDING THOSE WHO SERVE IN UNCOMPENSATED POSITIONS; AND

49 (O) PROMULGATE GUIDELINES FOR THE COMMISSION TO CONDUCT A PROGRAM OF
50 RANDOM REVIEWS, TO BE CARRIED OUT IN THE FOLLOWING MANNER: (I) ANNUAL
51 STATEMENTS OF FINANCIAL DISCLOSURE SHALL BE SELECTED FOR REVIEW IN A
52 MANNER PURSUANT TO WHICH THE IDENTITY OF ANY PARTICULAR PERSON WHOSE
53 STATEMENT IS SELECTED IS UNKNOWN TO THE COMMISSION AND ITS STAFF PRIOR
54 TO ITS SELECTION; (II) SUCH REVIEW SHALL INCLUDE A PRELIMINARY EXAMINA-
55 TION OF THE SELECTED STATEMENT FOR INTERNAL CONSISTENCY, A COMPARISON
56 WITH OTHER RECORDS MAINTAINED BY THE COMMISSION, INCLUDING PREVIOUSLY

1 FILED STATEMENTS AND REQUESTS FOR ADVISORY OPINIONS, AND AN EXAMINATION
2 OF RELEVANT PUBLIC INFORMATION, INCLUDING, BUT NOT LIMITED TO, RECORDS
3 FILED WITH THE COMMISSION ON LOBBYING ETHICS AND COMPLIANCE AND THE
4 DEPARTMENT OF STATE; (III) UPON COMPLETION OF THE PRELIMINARY EXAMINA-
5 TION, THE COMMISSION SHALL DETERMINE WHETHER FURTHER INQUIRY IS
6 WARRANTED, WHEREUPON IT SHALL NOTIFY THE REPORTING INDIVIDUAL IN WRITING
7 THAT THE STATEMENT IS UNDER REVIEW, ADVISE THE REPORTING INDIVIDUAL OF
8 THE SPECIFIC AREAS OF INQUIRY, AND PROVIDE THE REPORTING INDIVIDUAL WITH
9 THE OPPORTUNITY TO PROVIDE THE COMMISSION WITH ANY RELEVANT INFORMATION
10 RELATED TO THE SPECIFIC AREAS OF INQUIRY, AND THE OPPORTUNITY TO FILE
11 AMENDMENTS TO THE SELECTED STATEMENT ON FORMS PROVIDED BY THE COMMIS-
12 SION; AND (IV) IF THEREAFTER SUFFICIENT CAUSE EXISTS, THE COMMISSION
13 SHALL INITIATE AN INVESTIGATION TO DETERMINE WHETHER THE REPORTING INDI-
14 VIDUAL HAS FILED A DEFICIENT STATEMENT; PROVIDED, HOWEVER IF THE COMMIS-
15 SION CONDUCTS A REVIEW OF ALL STATEMENTS OF FINANCIAL DISCLOSURE FILED
16 BY A CLASS OF REPORTING INDIVIDUALS IN THE MANNER SET FORTH IN THIS
17 PARAGRAPH WITH RESPECT TO A GIVEN CALENDAR YEAR, THE INDIVIDUALS WITHIN
18 SUCH CLASS SHALL NOT BE SUBJECT TO RANDOM REVIEW. FOR THE PURPOSES OF
19 THIS PARAGRAPH, THE CLASSES OF REPORTING INDIVIDUALS ARE (A) STATEWIDE
20 ELECTED OFFICIALS, (B) CANDIDATES FOR STATEWIDE OFFICE, (C) HEADS OF
21 STATE DEPARTMENTS AND THEIR DEPUTIES AND ASSISTANTS PURSUANT TO SUBPARA-
22 GRAPH (I) OF PARAGRAPH (I) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE
23 OF THE PUBLIC OFFICERS LAW, AND (D) OTHER STATE OFFICERS AND EMPLOYEES.

24 10. The commission, or the executive director and staff of the
25 commission if responsibility therefor has been delegated, shall inspect
26 all financial disclosure statements filed with the commission to ascer-
27 tain whether any person subject to the reporting requirements of section
28 seventy-three-a of the public officers law has failed to file such a
29 statement, has filed a deficient statement or has filed a statement
30 which reveals a possible violation of section seventy-three, seventy-
31 three-a or seventy-four of the public officers law.

32 11. If a person required to file a financial disclosure statement
33 with the commission has failed to file a disclosure statement or has
34 filed a deficient statement, the commission shall notify the reporting
35 person in writing, state the failure to file or detail the deficiency,
36 provide the person with a fifteen day period to cure the deficiency, and
37 advise the person of the penalties for failure to comply with the
38 reporting requirements. Such notice shall be confidential. If the person
39 fails to make such filing or fails to cure the deficiency within the
40 specified time period, the commission shall send a notice of delinquen-
41 cy: (a) to the reporting person; (b) in the case of a statewide elected
42 official, to the temporary president of the senate and the speaker of
43 the assembly; and (c) in the case of a state officer or employee, to the
44 appointing authority for such person. Such notice of delinquency may be
45 sent at any time during the reporting person's service as a statewide
46 elected official, state officer or employee, political party chair or
47 while a candidate for statewide office, or within one year after termi-
48 nation of such service or candidacy. The jurisdiction of the commission,
49 when acting pursuant to subdivision thirteen of this section with
50 respect to financial disclosure, shall continue notwithstanding that the
51 reporting person separates from state service, or ceases to hold office
52 as a statewide elected official or political party chair, or ceases to
53 be a candidate, provided the commission notifies such person of the
54 alleged failure to file or deficient filing pursuant to this subdivi-
55 sion.

12. (a) If the commission receives a sworn complaint alleging a violation of section seventy-three, seventy-three-a or seventy-four of the public officers law[, OR section one hundred seven of the civil service law [or article one-A of the legislative law] by a person or entity subject to the jurisdiction of the commission, or if a reporting individual has filed a statement which reveals a possible violation of these provisions, or if the commission determines on its own initiative to investigate a possible violation, the commission shall notify the individual in writing, describe the possible or alleged violation of such laws and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. THE COMMISSION SHALL ALSO, AT THE TIME OF PROVIDING NOTICE, INFORM THE INDIVIDUAL OF ITS RULES REGARDING THE CONDUCT OF ADJUDICATORY PROCEEDINGS AND APPEALS AND THE DUE PROCESS PROCEDURAL MECHANISMS AVAILABLE TO SUCH INDIVIDUAL. If the commission thereafter makes a determination that further inquiry is justified, it shall give the individual an opportunity to be heard. [The commission shall also inform the individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual.] If the commission determines at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall [so advise the individual and the complainant, if any] ISSUE WRITTEN NOTICE TO THE INDIVIDUAL AND THE COMPLAINANT, IF ANY, STATING THE CIRCUMSTANCES UNDER WHICH THE MATTER HAS BEEN RECTIFIED AND THE COMPLAINT DISMISSED. All of the foregoing proceedings shall be confidential.

(b) If the commission determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause: (i) to the reporting person; (ii) to the complainant if any; (iii) in the case of a statewide elected official, to the temporary president of the senate and the speaker of the assembly; and (iv) in the case of a state officer or employee, to the appointing authority for such person.

(c) The jurisdiction of the commission when acting pursuant to this section shall continue notwithstanding that a statewide elected official or a state officer or employee separates from state service, or a political party chair ceases to hold such office, or a candidate ceases to be a candidate, [or a lobbyist or client of a lobbyist ceases to act as such,] provided that the commission notifies such individual or entity of the alleged violation of law pursuant to paragraph (a) of this subdivision within one year from his or her separation from state service or his or her termination of party service or candidacy[, or from his, her or its last report filed pursuant to article one-A of the legislative law]. Nothing in this section shall serve to limit the jurisdiction of the commission in enforcement of subdivision eight of section seventy-three of the public officers law.

13. An individual subject to the jurisdiction of the commission who knowingly and intentionally violates the provisions of subdivisions two through [five,] FIVE-A, seven, eight, twelve [or], fourteen through [seventeen] SIXTEEN OR EIGHTEEN of section seventy-three of the public officers law, section one hundred seven of the civil service law, or a reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or fraudulent omission or gives information which such individual knows to be false on such state-

1 ment of financial disclosure filed pursuant to section seventy-three-a
2 of the public officers law shall be subject to a civil penalty in an
3 amount not to exceed forty thousand dollars and the value of any gift,
4 compensation or benefit received as a result of such violation. An indi-
5 vidual who knowingly and intentionally violates the provisions of para-
6 graph b, c, d or i of subdivision three of section seventy-four of the
7 public officers law shall be subject to a civil penalty in an amount not
8 to exceed ten thousand dollars and the value of any gift, compensation
9 or benefit received as a result of such violation. An individual who
10 knowingly and intentionally violates the provisions of paragraph a, e or
11 g of subdivision three of section seventy-four of the public officers
12 law shall be subject to a civil penalty in an amount not to exceed the
13 value of any gift, compensation or benefit received as a result of such
14 violation. [An individual subject to the jurisdiction of the commission
15 who knowingly and willfully violates article one-A of the legislative
16 law shall be subject to civil penalty as provided for in that article.]
17 Assessment of a civil penalty hereunder shall be made by the commission
18 with respect to persons subject to its jurisdiction. In assessing the
19 amount of the civil penalties to be imposed, the commission shall
20 consider the seriousness of the violation, the amount of gain to the
21 individual and whether the individual previously had any civil or crimi-
22 nal penalties imposed pursuant to this section, and any other factors
23 the commission deems appropriate. For a violation of this subdivision,
24 other than for conduct which constitutes a violation of section one
25 hundred seven of the civil service law, subdivisions twelve or fourteen
26 through [seventeen] SIXTEEN OR EIGHTEEN of section seventy-three or
27 section seventy-four of the public officers law [or article one-A of the
28 legislative law,] the commission may, in lieu of a civil penalty, refer
29 a violation to the appropriate prosecutor and upon such conviction, such
30 violation shall be punishable as a class A misdemeanor. A civil penalty
31 for false filing may not be imposed hereunder in the event a category of
32 "value" or "amount" reported hereunder is incorrect unless such reported
33 information is falsely understated. Notwithstanding any other provision
34 of law to the contrary, no other penalty, civil or criminal may be
35 imposed for a failure to file, or for a false filing, of such statement,
36 or a violation of section seventy-three of the public officers law,
37 except that the appointing authority may impose disciplinary action as
38 otherwise provided by law. The commission may refer violations of this
39 subdivision to the appointing authority for disciplinary action as
40 otherwise provided by law. The commission shall be deemed to be an agen-
41 cy within the meaning of article three of the state administrative
42 procedure act and shall adopt rules governing the conduct of adjudicato-
43 ry proceedings and appeals taken pursuant to a proceeding commenced
44 under article seventy-eight of the civil practice law and rules relating
45 to the assessment of the civil penalties herein authorized and commis-
46 sion denials of requests for certain deletions or exemptions to be made
47 from a financial disclosure statement as authorized in paragraph (h) or
48 paragraph (i) of subdivision nine of this section. Such rules, which
49 shall not be subject to the approval requirements of the state adminis-
50 trative procedure act, shall provide for due process procedural mech-
51 anisms substantially similar to those set forth in article three of the
52 state administrative procedure act but such mechanisms need not be iden-
53 tical in terms or scope. Assessment of a civil penalty or commission
54 denial of such a request shall be final unless modified, suspended or
55 vacated within thirty days of imposition, with respect to the assessment
56 of such penalty, or unless such denial of request is reversed within

1 such time period, and upon becoming final shall be subject to review at
2 the instance of the affected reporting individuals in a proceeding
3 commenced against the commission, pursuant to article seventy-eight of
4 the civil practice law and rules.

5 13-a. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF the commis-
6 sion has a reasonable basis to believe that any person subject to the
7 jurisdiction of the [legislative ethics] commission ON LOBBYING ETHICS
8 AND COMPLIANCE may have violated any provisions of [section seventy-
9 three or seventy-four] ARTICLE ONE-A of the [public officers] LEGISLA-
10 TIVE law OR THAT ANY PERSON SUBJECT TO THE JURISDICTION OF THE STATE
11 BOARD OF ELECTIONS MAY HAVE VIOLATED ARTICLE FOURTEEN OF THE ELECTION
12 LAW, it shall refer such violation to the [legislative ethics commis-
13 sion] COMMISSION ON LOBBYING ETHICS AND COMPLIANCE OR TO THE BOARD OF
14 ELECTIONS, AS APPROPRIATE, unless the commission determines that such a
15 referral would compromise the prosecution or confidentiality of its
16 investigations and, if so, shall make such a referral as soon as practi-
17 cable. The referral by the commission to the [legislative ethics commis-
18 sion] COMMISSION ON LOBBYING ETHICS AND COMPLIANCE OR TO THE BOARD OF
19 ELECTIONS, AS APPROPRIATE, shall include any information relating there-
20 to coming into the custody or under the control of the commission at any
21 time prior or subsequent to the time of the referral.

22 14. A copy of any notice of delinquency or notice of reasonable cause
23 sent pursuant to subdivisions eleven and twelve of this section shall be
24 included in the reporting person's file and be available for public
25 inspection and copying.

26 15. Upon written request from any person who is subject to the juris-
27 diction of the commission and the requirements of sections seventy-
28 three, seventy-three-a or seventy-four of the public officers law, the
29 commission shall render advisory opinions on the requirements of said
30 provisions. An opinion rendered by the commission, until and unless
31 amended or revoked, shall be binding on the commission in any subsequent
32 proceeding concerning the person who requested the opinion and who acted
33 in good faith, unless material facts were omitted or misstated by the
34 person in the request for an opinion. Such opinion may also be relied
35 upon by such person, and may be introduced and shall be a defense, in
36 any criminal or civil action. Such requests shall be confidential but
37 the commission may publish such opinions provided that the name of the
38 requesting person and other identifying details shall not be included in
39 the publication.

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

42 (a) Promulgate rules concerning restrictions on outside activities and
43 limitations on the receipt of gifts and honoraria by persons subject to
44 its jurisdiction, provided, however, a violation of such rules in and of
45 itself shall not be punishable pursuant to subdivision thirteen of this
46 section unless the conduct constituting the violation would otherwise
47 constitute a violation of this section; and

48 (b) Conduct training programs in cooperation with the governor's
49 office of employee relations to provide education to individuals subject
50 to its jurisdiction; and

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

52 (d) Conduct any investigation necessary to carry out the provisions of
53 this section. Pursuant to this power and duty, the commission may admin-
54 ister oaths or affirmations, subpoena witnesses, compel their attendance
55 and require the production of any books or records which it may deem
56 relevant or material[;].

1 16-a. Within one hundred twenty days of the effective date of this
2 subdivision, the commission shall create and thereafter maintain a
3 publicly accessible website which shall set forth the procedure for
4 filing a complaint with the commission, and which shall contain the
5 documents identified in subdivision seventeen of this section, other
6 than financial disclosure statements OF STATE OFFICERS AND EMPLOYEES,
7 and any other records or information which the commission determines to
8 be appropriate.

9 16-B. (A) WHEN AN INDIVIDUAL BECOMES A MEMBER OF THE COMMISSION OR
10 STAFF OF THE COMMISSION, THAT INDIVIDUAL SHALL BE REQUIRED TO SIGN A
11 NON-DISCLOSURE STATEMENT.

12 (B) NO TESTIMONY RECEIVED OR ANY OTHER INFORMATION OBTAINED BY A
13 MEMBER OF THE COMMISSION OR STAFF OF THE COMMISSION SHALL BE DISCLOSED
14 BY ANY SUCH INDIVIDUAL TO ANY PERSON OR ENTITY OUTSIDE THE COMMISSION.
15 ANY CONFIDENTIAL COMMUNICATION TO ANY PERSON OR ENTITY OUTSIDE THE
16 COMMISSION RELATED TO THE MATTERS BEFORE THE COMMISSION MAY OCCUR ONLY
17 AS AUTHORIZED BY THE COMMISSION AS NECESSARY TO CONDUCT OFFICIAL BUSI-
18 NESS OR PURSUANT TO COMMISSION RULES OR AS REQUIRED BY LAW.

19 (C) THE COMMISSION SHALL ESTABLISH PROCEDURES NECESSARY TO PREVENT THE
20 UNAUTHORIZED DISCLOSURE OF ANY INFORMATION RECEIVED BY ANY MEMBER OF THE
21 COMMISSION OR STAFF OF THE COMMISSION. ANY BREACHES OF CONFIDENTIALITY
22 SHALL BE INVESTIGATED BY THE COMMISSION AND APPROPRIATE ACTION SHALL BE
23 TAKEN.

24 17. (a) Notwithstanding the provisions of article six of the public
25 officers law, the only records of the commission which shall be avail-
26 able for public inspection and copying are:

27 (1) the information set forth in an annual statement of financial
28 disclosure filed pursuant to section seventy-three-a of the public offi-
29 cers law except [the categories of value or amount, which shall remain
30 confidential, and] any [other] item of information deleted pursuant to
31 paragraph (h) of subdivision nine of this section;

32 (2) notices of delinquency sent under subdivision eleven of this
33 section;

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

36 (4) notices of civil assessments imposed under this section which
37 shall include a description of the nature of the alleged wrongdoing, the
38 procedural history of the complaint, the findings and determinations
39 made by the commission, and any sanction imposed; AND

40 (5) the terms of any settlement or compromise of a complaint or refer-
41 ral which includes a fine, penalty or other remedy[; and

42 (6) those required to be held or maintained publicly available pursu-
43 ant to article one-A of the legislative law].

44 (b) Notwithstanding the provisions of article seven of the public
45 officers law, no meeting or proceeding, including any such proceeding
46 contemplated under paragraph (h) or (i) of subdivision nine of this
47 section, of the commission shall be open to the public, except if
48 expressly provided otherwise by the commission [or as is required by
49 article one-A of the legislative law], PROVIDED HOWEVER THAT THE COMMIS-
50 SION SHALL MEET PUBLICLY WHENEVER IT ADOPTS, AMENDS OR RESCINDS ITS
51 POLICIES, RULES OR REGULATIONS, PROMULGATES ITS GUIDELINES, APPROVES
52 EDUCATIONAL MATERIAL, OR ADOPTS ITS ANNUAL REPORT.

53 (c) Pending any application for deletion or exemption to the commis-
54 sion, all information which is the subject or a part of the application
55 shall remain confidential. Upon an adverse determination by the commis-
56 sion, the reporting individual may request, and upon such request the

1 commission shall provide, that any information which is the subject or
2 part of the application remain confidential for a period of thirty days
3 following notice of such determination. In the event that the reporting
4 individual resigns his office and holds no other office subject to the
5 jurisdiction of the commission, the information shall not be made public
6 and shall be expunged in its entirety.

7 18. IF THE COMMISSION BECOMES AWARE OR IS AWARE THAT ALLEGED CRIMINAL
8 CONDUCT THAT MIGHT ALSO VIOLATE SECTION SEVENTY-THREE, SEVENTY-THREE-A
9 OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW IS UNDER INVESTIGATION BY A
10 FEDERAL, STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR IS BEING PROSECUTED
11 IN LOCAL, STATE OR FEDERAL COURT, THE COMMISSION SHALL HOLD THE MATTER
12 IN ABEYANCE UNTIL THE CRIMINAL MATTER IS RESOLVED.

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

19 S 2. Section 1-b of the legislative law, as added by chapter 2 of the
20 laws of 1999, is amended to read as follows:

21 S 1-b. Short title. This article shall be known and may be cited as
22 the "ETHICAL STANDARDS IN Lobbying act OF 2010".

23 S 3. Paragraph (i) of subdivision (c) and subdivision (j) of section
24 1-c of the legislative law, paragraph (i) of subdivision (c) as added by
25 chapter 1 of the laws of 2005 and subdivision (j) as added by chapter 14
26 of the laws of 2007, are amended and a new subdivision (w) is added to
27 read as follows:

28 (i) the passage or defeat of any legislation OR RESOLUTION by either
29 house of the state legislature or approval or disapproval of any legis-
30 lation by the governor;

31 (j) The term "gift" shall mean anything of more than nominal value
32 given to a public official in any form including, but not limited to
33 money, service, loan, travel, lodging, meals, refreshments, enter-
34 tainment, discount, forbearance, or promise, having a monetary value.
35 The following are excluded from the definition of a gift:

36 (i) complimentary attendance, including food and beverage, at bona
37 fide charitable or political events[, and food and beverage of a nominal
38 value offered other than as part of a meal];

39 (ii) complimentary attendance, food and beverage offered by the spon-
40 sor of [an event that is] A widely attended [or was in good faith
41 intended to be widely attended, when attendance at the event is related
42 to the attendee's duties or responsibilities as a public official or
43 allows the public official to perform a ceremonial function appropriate
44 to his or her position] EVENT. THE TERM "WIDELY ATTENDED EVENT" SHALL
45 MEAN AN EVENT: (A) WHICH AT LEAST TWENTY-FIVE INDIVIDUALS OTHER THAN
46 MEMBERS, OFFICERS, OR EMPLOYEES FROM THE GOVERNMENTAL ENTITY IN WHICH
47 THE PUBLIC OFFICIAL SERVES ATTEND OR WERE, IN GOOD FAITH, INTENDED TO
48 ATTEND, AND (B) WHICH IS RELATED TO THE ATTENDEE'S DUTIES OR RESPONSI-
49 BILITIES AS DETERMINED IN ACCORDANCE WITH STANDARDS AND GUIDANCE ISSUED
50 BY THE ETHICS OVERSIGHT BODY THAT HAS JURISDICTION OVER THE ATTENDEE OR
51 WHICH ALLOWS THE PUBLIC OFFICIAL TO PERFORM A CEREMONIAL FUNCTION APPRO-
52 PRIATE TO HIS OR HER POSITION;

53 (iii) awards, plaques, and other ceremonial items which are publicly
54 presented, or intended to be publicly presented, in recognition of
55 public service, provided that the item or items are of the type custom-
56 arily bestowed at such or similar ceremonies and are otherwise reason-

1 able under the circumstances, and further provided that the functional-
2 ty of such items shall not determine whether such items are permitted
3 under this paragraph;

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

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

9 (vi) goods and services, or discounts for goods and services, offered
10 to the general public or a segment of the general public defined on a
11 basis other than status as a public official and offered on the same
12 terms and conditions as the goods or services are offered to the general
13 public or segment thereof;

14 (vii) gifts from a family member, member of the same household, or
15 person with a personal relationship with the public official, including
16 invitations to attend personal or family social events, when the circum-
17 stances establish that it is the family, household, or personal
18 relationship that is the primary motivating factor; in determining moti-
19 vation, the following factors shall be among those considered: (A) the
20 history and nature of the relationship between the donor and the recipi-
21 ent, including whether or not items have previously been exchanged; (B)
22 whether the item was purchased by the donor; and (C) whether or not the
23 donor at the same time gave similar items to other public officials; the
24 transfer shall not be considered to be motivated by a family, household,
25 or personal relationship if the donor seeks to charge or deduct the
26 value of such item as a business expense or seeks reimbursement from a
27 client;

28 (viii) contributions reportable under article fourteen of the election
29 law;

30 (ix) travel reimbursement or payment for transportation, meals and
31 accommodations for an attendee, panelist or speaker at an informational
32 event when such reimbursement or payment is made by a governmental enti-
33 ty or by an in-state accredited public or private institution of higher
34 education that hosts the event on its campus, provided, however, that
35 the public official may only accept lodging from an institution of high-
36 er education: (A) at a location on or within close proximity to the host
37 campus; and (B) for the night preceding and the nights of the days on
38 which the attendee, panelist or speaker actually attends the event;

39 (x) provision of local transportation to inspect or tour facilities,
40 operations or property [owned or operated by the entity providing such
41 transportation] LOCATED IN NEW YORK STATE, provided, however, THAT SUCH
42 INSPECTION OR TOUR IS RELATED TO THE INDIVIDUAL'S OFFICIAL DUTIES OR
43 RESPONSIBILITIES AS DETERMINED IN ACCORDANCE WITH STANDARDS AND GUIDANCE
44 ISSUED BY THE ETHICS OVERSIGHT BOARD THAT HAS JURISDICTION OVER THE
45 INDIVIDUAL AND that payment or reimbursement of lodging, meals or travel
46 expenses to and from the locality where such facilities, operations or
47 property are located shall be considered to be gifts unless otherwise
48 permitted under this subdivision; [and]

49 (xi) meals or refreshments when participating in a professional or
50 educational program and the meals or refreshments are provided to all
51 participants; AND

52 (XII) FOOD OR BEVERAGE VALUED AT TEN DOLLARS OR LESS OFFERED OTHER
53 THAN AS PART OF A MEAL.

54 (W) THE TERM "REPORTABLE BUSINESS RELATIONSHIP" SHALL MEAN A RELATION-
55 SHIP IN WHICH COMPENSATION IS PAID BY A LOBBYIST OR BY A CLIENT OF A
56 LOBBYIST, IN EXCHANGE FOR ANY GOODS, SERVICES OR ANYTHING OF VALUE, THE

1 TOTAL VALUE OF WHICH IS IN EXCESS OF ONE THOUSAND DOLLARS ANNUALLY, TO
2 BE PERFORMED OR PROVIDED BY OR INTENDED TO BE PERFORMED OR PROVIDED BY
3 (I) ANY STATEWIDE ELECTED OFFICIAL, STATE OFFICER, STATE EMPLOYEE,
4 MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE OR (II) ANY ENTITY IN
5 WHICH THE LOBBYIST OR THE CLIENT OF A LOBBYIST KNOWS OR HAS REASON TO
6 KNOW THE STATEWIDE ELECTED OFFICIAL, STATE OFFICER, STATE EMPLOYEE,
7 MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE IS A PROPRIETOR, PART-
8 NER, DIRECTOR, OFFICER OR MANAGER, OR OWNS OR CONTROLS TEN PERCENT OR
9 MORE OF THE STOCK OF SUCH ENTITY (OR ONE PERCENT IN THE CASE OF A CORPO-
10 RATION WHOSE STOCK IS REGULARLY TRADED ON AN ESTABLISHED SECURITIES
11 EXCHANGE).

12 S 3-a. Subdivision (f) of section 1-c of the legislative law, as
13 amended by chapter 14 of the laws of 2007, is amended to read as
14 follows:

15 (f) The term "commission" shall mean the [commission on public integ-
16 rity created by section ninety-four of the executive law] NEW YORK STATE
17 COMMISSION ON LOBBYING ETHICS AND COMPLIANCE CREATED BY SECTION ONE-D OF
18 THIS ARTICLE.

19 S 4. Section 1-d of the legislative law, as amended by chapter 14 of
20 the laws of 2007, is amended to read as follows:

21 S 1-d. [Lobby-related powers of the commission] THE NEW YORK STATE
22 COMMISSION ON LOBBYING ETHICS AND COMPLIANCE. (A) (I) THERE SHALL BE
23 ESTABLISHED A COMMISSION TO BE KNOWN AS THE NEW YORK STATE COMMISSION ON
24 LOBBYING ETHICS AND COMPLIANCE WHICH SHALL CONSIST OF SIX MEMBERS. THE
25 MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS FOLLOWS:

- 26 (1) TWO BY THE GOVERNOR;
27 (2) ONE BY THE TEMPORARY PRESIDENT OF THE SENATE;
28 (3) ONE BY THE SPEAKER OF THE ASSEMBLY;
29 (4) ONE BY THE MINORITY LEADER OF THE SENATE; AND
30 (5) ONE BY THE MINORITY LEADER OF THE ASSEMBLY.

31 (II) OF THE TWO MEMBERS APPOINTED BY THE GOVERNOR, ONE SHALL BE A
32 MEMBER OF THE SAME POLITICAL PARTY AS THE SPEAKER OF THE ASSEMBLY AND
33 ONE SHALL BE A MEMBER OF THE SAME POLITICAL PARTY AS THE MINORITY LEADER
34 OF THE ASSEMBLY.

35 (B) THE TERM OF OFFICE OF THE MEMBERS SHALL BE FOR FOUR YEARS COMMENC-
36 ING WITH THE FIRST DAY OF AUGUST, TWO THOUSAND ELEVEN, PROVIDED, HOWEV-
37 ER, THAT OF THE INITIAL MEMBERS SO APPOINTED: ONE MEMBER APPOINTED BY
38 THE GOVERNOR SHALL SERVE A TERM OF ONE YEAR; THE MEMBER APPOINTED BY THE
39 TEMPORARY PRESIDENT OF THE SENATE AND THE MEMBER APPOINTED BY THE MINOR-
40 ITY LEADER OF THE SENATE SHALL SERVE A TERM OF TWO YEARS; AND THE MEMBER
41 APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND THE MEMBER APPOINTED BY THE
42 MINORITY LEADER OF THE ASSEMBLY SHALL SERVE A TERM OF THREE YEARS. NO
43 MEMBER OF THE COMMISSION SHALL HOLD OR SHALL HAVE HELD WITHIN THE
44 PRECEDING FIVE YEARS ANY STATE OR LOCAL ELECTED OFFICE; AND NO MEMBER OF
45 THE COMMISSION SHALL BE OR HAVE BEEN WITHIN THE PRECEDING FIVE YEARS
46 EMPLOYED BY THE STATE OR BY ANY LOCAL POLITICAL SUBDIVISION SUBJECT TO
47 THIS ARTICLE. NO PERSON SUBJECT TO THE JURISDICTION OF THE COMMISSION
48 AND THE PROVISIONS OF THIS ARTICLE OR REGISTERED AS A LOBBYIST IN ANY
49 OTHER JURISDICTION WITHIN THE PRECEDING FIVE YEARS MAY SERVE ON THE
50 COMMISSION.

51 (C) THE CHAIR AND THE VICE-CHAIR OF THE COMMISSION SHALL BE ELECTED BY
52 A MAJORITY OF THE MEMBERS OF THE COMMISSION TO SERVE A ONE YEAR TERM.
53 THE CHAIR SHALL BE A MEMBER OF A DIFFERENT POLITICAL PARTY THAN THE
54 CHAIR OF THE COMMISSION DURING THE PRECEDING TERM. THE CHAIR AND VICE-
55 CHAIR SHALL EACH BE A MEMBER OF A DIFFERENT MAJOR POLITICAL PARTY AS
56 SUCH TERM IS DEFINED IN THE ELECTION LAW.

(D) ANY MATTER UPON WHICH THE COMMISSION MUST ACT BY A VOTE OF THE MEMBERSHIP MUST BE BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS OF THE COMMISSION WITHOUT VACANCY. EACH MEMBER SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR IS APPOINTED IN THE MANNER PROVIDED IN THIS SECTION.

(E) EACH OF THE MEMBERS OF THE COMMISSION SHALL RECEIVE, AS COMPENSATION FOR HIS OR HER SERVICES UNDER THIS ARTICLE, A PER DIEM ALLOWANCE IN THE SUM OF ONE HUNDRED DOLLARS FOR EACH DAY ACTUALLY SPENT IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THIS ARTICLE, NOT EXCEEDING, HOWEVER, THE SUM OF FIVE THOUSAND DOLLARS IN ANY CALENDAR YEAR, AND, IN ADDITION THERETO, SHALL BE REIMBURSED FOR ALL REASONABLE EXPENSES ACTUALLY AND NECESSARILY INCURRED BY HIM OR HER IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THIS ARTICLE.

(F) VACANCIES IN THE MEMBERSHIP OF THE COMMISSION OCCURRING FOR ANY CAUSE SHALL BE FILLED FOR THE BALANCE OF THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT OF THE MEMBER WHOSE OFFICE BECOMES VACANT.

(G) MEMBERS OF THE COMMISSION MAY BE REMOVED BY THE APPOINTING AUTHORITY FOR SUBSTANTIAL NEGLECT OF DUTY, GROSS MISCONDUCT IN OFFICE, INABILITY TO DISCHARGE THE POWERS OR DUTIES OF OFFICE OR VIOLATION OF THIS SECTION, AFTER WRITTEN NOTICE AND OPPORTUNITY FOR A REPLY.

(H) STRUCTURE OF THE COMMISSION:

(I) THE CHIEF ADMINISTRATIVE OFFICER OF THE COMMISSION SHALL BE THE EXECUTIVE DIRECTOR, WHO SHALL BE APPOINTED BY A MAJORITY VOTE OF THE COMMISSION AND SHALL SERVE A THREE YEAR TERM, EXCEPT THAT HE OR SHE SHALL BE DISMISSED ONLY FOR CAUSE BY A MAJORITY VOTE OF THE COMMISSION.

[In addition to any other powers and duties provided by section ninety-four of the executive law, the] (II) THE commission shall[, with respect to its lobbying-related functions only,] have the power and duty to:

[(a)] (1) administer and enforce all the provisions of this article;
[(b)] (2) conduct a program of random audits subject to the terms and conditions of this section. Any such program shall be carried out in the following manner:

[(i)] A. The commission may randomly select reports or registration statements required to be filed by lobbyists or clients pursuant to this article for audit. Any such selection shall be done in a manner pursuant to which the identity of any particular lobbyist or client whose statement or report is selected for audit is unknown to the commission, its staff or any of their agents prior to selection.

[(ii)] B. The commission shall develop protocols for the conduct of such random audits. Such random audits may require the production of books, papers, records or memoranda relevant and material to the preparation of the selected statements or reports, for examination by the commission. Any such protocols shall ensure that similarly situated statements or reports are audited in a uniform manner.

[(iii)] C. The commission shall contract with an outside accounting entity, which shall monitor the process pursuant to which the commission selects statements or reports for audit and carries out the provisions of [paragraphs (i) and (ii) of this subdivision] CLAUSES A AND B OF THIS SUBPARAGRAPH and [certifies] CERTIFY that such process complies with the provisions of such [paragraphs] CLAUSES.

[(iv)] D. Upon completion of a random audit conducted in accordance with the provisions of [paragraphs (i), (ii) and (iii) of this subdivision] CLAUSES A, B AND C OF THIS SUBPARAGRAPH, the commission shall determine whether there is reasonable cause to believe that any such statement or report is inaccurate or incomplete. Upon a determination

1 that such reasonable cause exists, the commission may require the
2 production of further books, records or memoranda, subpoena witnesses,
3 compel their attendance and testimony and administer oaths or affirma-
4 tions, to the extent the commission determines such actions are neces-
5 sary to obtain information relevant and material to investigating such
6 inaccuracies or omissions;

7 [(c)] (3) conduct hearings pursuant to article seven of the public
8 officers law. Any hearing may be conducted as a video conference in
9 accordance with the provisions of subdivision four of section one
10 hundred four of the public officers law;

11 [(d)] (4) prepare uniform forms for the statements and reports
12 required by this article;

13 [(e)] (5) meet at least once during each bi-monthly reporting period
14 of the year as established by subdivision (a) of section one-h of this
15 article and may meet at such other times as the commission, or the chair
16 and vice-chair jointly, shall determine;

17 [(f)] (6) issue advisory opinions to those under its jurisdiction.
18 Such advisory opinions, which shall be published and made available to
19 the public, shall not be binding upon such commission except with
20 respect to the person to whom such opinion is rendered, provided, howev-
21 er, that a subsequent modification by such commission of such an advi-
22 sory opinion shall operate prospectively only; and

23 [(g)] (7) submit by the first day of March next following the year for
24 which such report is made to the governor and the members of the legis-
25 lature an annual report summarizing the commission's work, listing the
26 lobbyists and clients required to register pursuant to this article and
27 the expenses and compensation reported pursuant to this article and
28 making recommendations with respect to this article. The commission
29 shall make this report available free of charge to the public.

30 (I) THE COMMISSION SHALL UNDERTAKE A COMPREHENSIVE REVIEW OF ALL
31 APPLICABLE REGULATIONS AND OPINIONS ISSUED BY THE TEMPORARY LOBBYING
32 COMMISSION AND THE COMMISSION ON PUBLIC INTEGRITY, WHICH REVIEWS WILL
33 ADDRESS THE CONSISTENCY OF SUCH REGULATIONS AND OPINIONS AMONG EACH
34 OTHER AND WITH THE STATUTORY LANGUAGE. THE COMMISSION SHALL, BEFORE
35 DECEMBER FIRST, TWO THOUSAND TWELVE, REPORT TO THE GOVERNOR AND LEGISLA-
36 TURE REGARDING SUCH REVIEW AND SHALL PROPOSE ANY REGULATORY CHANGES AND
37 ISSUE ANY ADVISORY OPINIONS NECESSITATED BY SUCH REVIEW.

38 S 5. Subdivision (b) and paragraph 3 of subdivision (c) of section 1-e
39 of the legislative law, subdivision (b) as amended by section 1 of part
40 S of chapter 62 of the laws of 2003 and paragraph 3 of subdivision (c)
41 as amended by chapter 1 of the laws of 2005, are amended to read as
42 follows:

43 (b) (i) Such statements of registration shall be kept on file for a
44 period of [three] FOUR years for those filing periods where annual
45 statements are required, and shall be open to public inspection during
46 such period; (ii) Biennial statements of registration shall be kept on
47 file for a period of [three] TWO biennial filing periods where biennial
48 statements are required, and shall be open to public inspection during
49 such period.

50 (3) if such lobbyist is retained or employed pursuant to a written
51 agreement of retainer or employment, a copy of such shall also be
52 attached and if such retainer or employment is oral, a statement of the
53 substance thereof; such written retainer, or if it is oral, a statement
54 of the substance thereof, and any amendment thereto, shall be retained
55 for a period of [three] FOUR years;

1 S 5-a. Subdivision (c) of section 1-e of the legislative law is
2 amended by adding a new paragraph 8 to read as follows:

3 (8) (I) THE NAME AND PUBLIC OFFICE ADDRESS OF ANY STATEWIDE ELECTED
4 OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGIS-
5 LATIVE EMPLOYEE AND ENTITY WITH WHOM THE LOBBYIST HAS A REPORTABLE BUSI-
6 NESS RELATIONSHIP;

7 (II) A DESCRIPTION OF THE GENERAL SUBJECT OR SUBJECTS OF THE TRANS-
8 ACTIONS BETWEEN THE LOBBYIST OR LOBBYISTS AND THE STATEWIDE ELECTED
9 OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGIS-
10 LATIVE EMPLOYEE AND ENTITY; AND

11 (III) THE COMPENSATION, INCLUDING EXPENSES, TO BE PAID BY VIRTUE OF
12 THE BUSINESS RELATIONSHIP.

13 S 5-b. Subdivision (b) of section 1-j of the legislative law is
14 amended by adding a new paragraph 6 to read as follows:

15 (6) (I) THE NAME AND PUBLIC OFFICE ADDRESS OF ANY STATEWIDE ELECTED
16 OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGIS-
17 LATIVE EMPLOYEE AND ENTITY WITH WHOM THE CLIENT OF A LOBBYIST HAS A
18 REPORTABLE BUSINESS RELATIONSHIP;

19 (II) A DESCRIPTION OF THE GENERAL SUBJECT OR SUBJECTS OF THE TRANS-
20 ACTIONS BETWEEN THE CLIENT OF THE LOBBYIST OR LOBBYISTS AND THE STATE-
21 WIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLA-
22 TURE OR LEGISLATIVE EMPLOYEE AND ENTITY;

23 (III) THE COMPENSATION, INCLUDING EXPENSES, TO BE PAID BY VIRTUE OF
24 THE BUSINESS RELATIONSHIP.

25 S 6. Subparagraph (v) of paragraph 5 of subdivision (b) and paragraph
26 2 of subdivision (c) of section 1-h of the legislative law, as added by
27 chapter 2 of the laws of 1999, are amended to read as follows:

28 (v) expenses of more than fifty dollars shall be paid by check or
29 substantiated by receipts and such checks and receipts shall be kept on
30 file by the lobbyist for a period of [three] FOUR years.

31 (2) Such bi-monthly reports shall be kept on file for [three] FOUR
32 years and shall be open to public inspection during such time.

33 S 7. Subparagraph (v) of paragraph 6 of subdivision (b) and paragraph
34 2 of subdivision (c) of section 1-i of the legislative law, as added by
35 chapter 2 of the laws of 1999, are amended to read as follows:

36 (v) expenses of more than fifty dollars must be paid by check or
37 substantiated by receipts and such checks and receipts shall be kept on
38 file by such public corporation for a period of [three] FOUR years.

39 (2) Such bi-monthly reports shall be kept on file for a period of
40 [three] FOUR years and shall be open to public inspection during such
41 period.

42 S 8. Subparagraph (v) of paragraph 5 of subdivision (b) and paragraph
43 2 of subdivision (c) of section 1-j of the legislative law, as amended
44 by chapter 1 of the laws of 2005, are amended to read as follows:

45 (v) expenses of more than fifty dollars must be paid by check or
46 substantiated by receipts and such checks and receipts shall be kept on
47 file by such client for a period of [three] FOUR years.

48 (2) Such semi-annual reports shall be kept on file for a period of
49 [three] FOUR years and shall be open to public inspection during such
50 period.

51 S 8-a. Subdivision (a) of section 1-o of the legislative law, as added
52 by chapter 14 of the laws of 2007, is amended to read as follows:

53 (a) (i) Any lobbyist, public corporation, or client who knowingly and
54 wilfully fails to file timely a report or statement required by this
55 [section] ARTICLE or knowingly and wilfully files false information or

1 knowingly and wilfully violates section one-m of this article shall be
2 guilty of a class A misdemeanor; and

3 (ii) any lobbyist, public corporation, or client who knowingly and
4 wilfully fails to file timely a report or statement required by this
5 [section] ARTICLE or knowingly and wilfully files false information or
6 knowingly and wilfully violates section one-m of this article, after
7 having previously been convicted in the preceding five years of the
8 crime described in paragraph (i) of this subdivision, shall be guilty of
9 a class E felony. Any lobbyist convicted of or pleading guilty to a
10 felony under the provisions of this section may be barred from acting as
11 a lobbyist for a period of one year from the date of the conviction. For
12 the purposes of this subdivision, the chief administrative officer of
13 any organization required to file a statement or report shall be the
14 person responsible for making and filing such statement or report unless
15 some other person prior to the due date thereof has been duly designated
16 to make and file such statement or report.

17 S 8-b. Section 1-p of the legislative law is amended by adding a new
18 subdivision (d) to read as follows:

19 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE COMMISSION HAS
20 A REASONABLE BASIS TO BELIEVE THAT ANY PERSON SUBJECT TO THE JURISDIC-
21 TION OF THE EXECUTIVE ETHICS AND COMPLIANCE COMMISSION OR THE JOINT
22 LEGISLATIVE COMMISSION ON ETHICS STANDARDS MAY HAVE VIOLATED ANY
23 PROVISION OF SECTION SEVENTY-THREE OR SEVENTY-FOUR OF THE PUBLIC OFFI-
24 CERS LAW OR THAT ANY PERSON SUBJECT TO THE JURISDICTION OF THE STATE
25 BOARD OF ELECTIONS MAY HAVE VIOLATED ARTICLE FOURTEEN OF THE ELECTION
26 LAW, IT SHALL REFER SUCH VIOLATION TO THE EXECUTIVE ETHICS AND COMPLI-
27 ANCE COMMISSION OR THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS,
28 AS APPROPRIATE, UNLESS THE COMMISSION DETERMINES THAT SUCH A REFERRAL
29 WOULD COMPROMISE THE PROSECUTION OR CONFIDENTIALITY OF ITS INVESTI-
30 GATIONS AND, IF SO, SHALL MAKE A REFERRAL AS SOON AS PRACTICABLE. THE
31 REFERRAL BY THE COMMISSION TO SUCH ENTITIES SHALL INCLUDE ANY INFORMA-
32 TION RELATING THERETO COMING INTO THE CUSTODY OR CONTROL OF THE COMMIS-
33 SION AT ANY TIME PRIOR OR SUBSEQUENT TO THE REFERRAL.

34 S 9. Section 80 of the legislative law is REPEALED and two new
35 sections 80 and 81 are added to read as follows:

36 S 80. LEGISLATIVE OFFICE OF ETHICS INVESTIGATIONS. 1. OFFICE ESTAB-
37 LISHED. THERE IS ESTABLISHED A LEGISLATIVE OFFICE OF ETHICS INVESTI-
38 GATIONS FOR THE PURPOSE OF ASSISTING THE LEGISLATURE IN CARRYING OUT ITS
39 INVESTIGATORY AND ENFORCEMENT RESPONSIBILITIES WITH REGARD TO ITS
40 ETHICAL STANDARDS AND RECEIVING REFERRALS OF COMPLAINTS FOR INVESTI-
41 GATION FROM THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS AND
42 FROM THE STANDING COMMITTEES ON ETHICS OF THE SENATE AND ASSEMBLY, AND
43 RECEIVING COMPLAINTS FROM THE PUBLIC.

44 2. THE GOVERNING BOARD. (A) THE OFFICE SHALL BE GOVERNED BY A BOARD
45 CONSISTING OF EIGHT INDIVIDUALS OF WHOM TWO SHALL BE APPOINTED BY THE
46 SPEAKER OF THE ASSEMBLY; TWO SHALL BE APPOINTED BY THE MINORITY LEADER
47 OF THE ASSEMBLY; TWO SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF
48 THE SENATE; AND TWO SHALL BE APPOINTED BY THE MINORITY LEADER OF THE
49 SENATE.

50 (B) THE LEGISLATIVE LEADERS EACH SHALL APPOINT INDIVIDUALS WHO ARE
51 QUALIFIED TO SERVE ON THE BOARD BY VIRTUE OF THEIR EDUCATION, TRAINING
52 OR EXPERIENCE IN ONE OR MORE OF THE FOLLOWING DISCIPLINES OR PROCESSES:
53 LEGISLATIVE, JUDICIAL, ADMINISTRATIVE, PROFESSIONAL ETHICS, BUSINESS,
54 LEGAL, AND ACADEMIC.

55 (C) THE SPEAKER AND THE TEMPORARY PRESIDENT OF THE SENATE SHALL EACH
56 DESIGNATE ONE MEMBER OF THE BOARD AS CO-CHAIRPERSON.

1 (D) NO INDIVIDUAL SHALL BE ELIGIBLE FOR APPOINTMENT TO, OR SERVICE ON,
2 THE BOARD WHO CURRENTLY OR WITHIN THE LAST FIVE YEARS:

3 (I) IS REQUIRED TO REGISTER AS A LOBBYIST OR HAS BEEN A LOBBYIST IN
4 NEW YORK STATE OR IN ANY OTHER JURISDICTION;

5 (II) IS OR HAS BEEN A CANDIDATE FOR A POSITION IN THE NEW YORK STATE
6 LEGISLATURE;

7 (III) IS OR HAS BEEN A MEMBER, OFFICER, OR EMPLOYEE OF THE NEW YORK
8 STATE LEGISLATURE; OR

9 (IV) IS OR HAS BEEN A POLITICAL PARTY CHAIRMAN, AS DEFINED IN PARA-
10 GRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC
11 OFFICERS LAW.

12 (E) NO BOARD MEMBER SHALL BE CURRENTLY A STATEWIDE ELECTED OFFICIAL OR
13 AN OFFICER OR EMPLOYEE OF THE NEW YORK STATE GOVERNMENT.

14 (F) THE TERM OF A BOARD MEMBER SHALL BE FOUR YEARS.

15 (G) BOARD MEMBERS SHALL RECEIVE A PER DIEM ALLOWANCE IN THE SUM OF ONE
16 HUNDRED DOLLARS FOR EACH DAY ACTUALLY SPENT IN THE PERFORMANCE OF HIS OR
17 HER DUTIES UNDER THIS ARTICLE, NOT EXCEEDING, HOWEVER, THE SUM OF FIVE
18 THOUSAND DOLLARS IN ANY CALENDAR YEAR, AND, IN ADDITION THERETO, SHALL
19 BE REIMBURSED FOR ALL REASONABLE EXPENSES ACTUALLY AND NECESSARILY
20 INCURRED BY HIM OR HER IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER
21 THIS ARTICLE.

22 (H) A MAJORITY OF THE MEMBERS OF THE BOARD WITHOUT VACANCY SHALL
23 CONSTITUTE A QUORUM.

24 (I) THE BOARD SHALL MEET AT THE CALL OF THE CHAIRPERSONS OR FOUR OF
25 ITS MEMBERS PURSUANT TO ITS RULES.

26 (J) ANY VACANCY OCCURRING ON THE BOARD SHALL BE FILLED WITHIN SIXTY
27 DAYS BY THE APPOINTING AUTHORITY.

28 3. POWERS AND DUTIES OF THE BOARD. THE BOARD IS AUTHORIZED AND
29 DIRECTED TO:

30 (A) APPOINT AN EXECUTIVE DIRECTOR FOR A TERM OF THREE YEARS, WHO SHALL
31 BE DISMISSED ONLY FOR CAUSE BY A MAJORITY VOTE OF THE BOARD, APPOINT
32 SUCH OTHER STAFF AS ARE NECESSARY TO ASSIST IT TO CARRY OUT ITS DUTIES
33 UNDER THIS SECTION AND ENTER INTO CONTRACTS FOR SERVICES AS ARE NECES-
34 SARY TO ASSIST IT TO CARRY OUT ITS DUTIES UNDER THIS SECTION;

35 (B) RECEIVE AND ACT ON SWORN COMPLAINTS REGARDING PERSONS SUBJECT TO
36 ITS JURISDICTION ALLEGING A POSSIBLE VIOLATION OF SECTION SEVENTY-THREE,
37 SEVENTY-THREE-A, OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, AND CONDUCT
38 SUCH INVESTIGATIONS AND PROCEEDINGS AS ARE AUTHORIZED AND NECESSARY TO
39 CARRY OUT THE PROVISIONS OF THIS SECTION. IN CONNECTION WITH SUCH INVES-
40 TIGATIONS, THE BOARD MAY ADMINISTER OATHS OR AFFIRMATIONS, SUBPOENA
41 WITNESSES, COMPEL THEIR ATTENDANCE AND REQUIRE THE PRODUCTION OF ANY
42 BOOKS OR RECORDS WHICH IT MAY DEEM RELEVANT OR MATERIAL;

43 (C) RECEIVE AND ACT ON, AS IF IT WERE A SWORN COMPLAINT, ANY REFERRALS
44 FROM THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS OR THE STAND-
45 ING COMMITTEES ON ETHICS OF THE SENATE AND ASSEMBLY;

46 (D) RECEIVE AND ACT ON, AS IF IT WERE A SWORN COMPLAINT, ANY REFERRAL
47 FROM ANOTHER OVERSIGHT BODY INDICATING THAT A VIOLATION OF SECTION
48 SEVENTY-THREE OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW MAY HAVE
49 OCCURRED INVOLVING PERSONS SUBJECT TO THE JURISDICTION OF THE LEGISLA-
50 TIVE OFFICE OF ETHICS INVESTIGATIONS;

51 (E) DELIVER TO THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS A
52 REPORT ON THE BOARD'S FINDINGS AND DETERMINATIONS REGARDING ANY ALLEGED
53 VIOLATIONS OF SECTIONS SEVENTY-THREE, SEVENTY-THREE-A, AND SEVENTY-FOUR
54 OF THE PUBLIC OFFICERS LAW AND DELIVER TO THE STANDING COMMITTEES ON
55 ETHICS OF THE SENATE OR ASSEMBLY, AS APPROPRIATE, A REPORT ON THE

1 BOARD'S FINDINGS AND DETERMINATIONS REGARDING ANY COMPLAINT REFERRED TO
2 IT BY THE COMMITTEES; AND

3 (F) ADOPT RULES TO CARRY OUT ITS DUTIES CONSISTENT WITH THE PROVISIONS
4 OF SUBDIVISION FOUR OF THIS SECTION.

5 4. PROCEDURE. (A) PRELIMINARY REVIEW. (I) UPON RECEIPT OF A WRITTEN
6 SWORN COMPLAINT OR REFERRAL PURSUANT TO SUBDIVISION THREE OF THIS
7 SECTION, THE GOVERNING BOARD SHALL, WITHIN TEN CALENDAR DAYS:

8 (A) INITIATE A PRELIMINARY REVIEW OF ANY ALLEGED VIOLATION BY A MEMBER
9 OF THE LEGISLATURE, OFFICER, OR LEGISLATIVE EMPLOYEE OF SECTION SEVEN-
10 TY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW,
11 AND ANY OTHER MATTER REFERRED TO IT BY THE ASSEMBLY OR SENATE STANDING
12 COMMITTEE ON ETHICS OR THE JOINT LEGISLATIVE COMMISSION ON ETHICS STAND-
13 ARDS PURSUANT TO SUBDIVISION THREE OF THIS SECTION;

14 (B) NOTIFY IN WRITING THE JOINT LEGISLATIVE COMMISSION ON ETHICS STAND-
15 DARDS OR THE APPROPRIATE STANDING COMMITTEE ON ETHICS AND THE COMPLAIN-
16 ANT, IF THERE IS ONE, THAT THE PRELIMINARY REVIEW HAS COMMENCED; AND

17 (C) NOTIFY IN WRITING ANY INDIVIDUAL WHO IS THE SUBJECT OF SUCH
18 PRELIMINARY REVIEW AND PROVIDE SUCH INDIVIDUAL WITH A DESCRIPTION OF THE
19 POSSIBLE OR ALLEGED VIOLATION AND A COPY OF ITS RULES AND PROCEDURES,
20 WHICH SHALL INCLUDE THE DUE PROCESS PROCEDURAL MECHANISMS AVAILABLE TO
21 SUCH INDIVIDUAL AND THE OPPORTUNITY FOR SUCH INDIVIDUAL TO SUBMIT A
22 WRITTEN RESPONSE IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH.

23 (II) THE INDIVIDUAL WHO IS THE SUBJECT OF THE PRELIMINARY REVIEW SHALL
24 HAVE THE OPPORTUNITY TO SUBMIT WITHIN FIFTEEN CALENDAR DAYS OF RECEIPT
25 OF NOTICE PURSUANT TO CLAUSE (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH,
26 A WRITTEN RESPONSE SETTING FORTH INFORMATION RELATING TO THE ACTIVITIES
27 CITED AS A POSSIBLE OR ALLEGED VIOLATION OF LAW.

28 (III) THE GOVERNING BOARD SHALL, WITHIN FORTY-FIVE CALENDAR DAYS AFTER
29 RECEIPT OF A WRITTEN COMPLAINT OR REFERRAL UNDER SUBPARAGRAPH (I) OF
30 THIS PARAGRAPH, COMPLETE ITS PRELIMINARY REVIEW AND SHALL VOTE ON WHETH-
31 ER TO COMMENCE A SECOND PHASE REVIEW OF THE MATTER UNDER CONSIDERATION.

32 (IV) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPHS (I), (II) AND
33 (III) OF THIS PARAGRAPH, THE GOVERNING BOARD MAY TERMINATE A PRELIMINARY
34 REVIEW BY AN AFFIRMATIVE VOTE OF NOT LESS THAN FIVE MEMBERS AT ANY TIME
35 WITHIN THE APPLICABLE FORTY-FIVE CALENDAR DAYS UPON ITS DETERMINATION
36 THAT THE ALLEGED VIOLATION UNDER REVIEW IS DE MINIMIS IN NATURE OR
37 CURED. UPON THE TERMINATION OF A PRELIMINARY REVIEW PURSUANT TO THIS
38 SUBPARAGRAPH OR SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE GOVERNING
39 BOARD SHALL NOTIFY, IN WRITING, THE JOINT LEGISLATIVE COMMISSION ON
40 ETHICS STANDARDS OR THE APPROPRIATE STANDING COMMITTEE ON ETHICS, THE
41 COMPLAINANT, IF THERE IS ONE, AND THE INDIVIDUAL WHO WAS THE SUBJECT OF
42 SUCH PRELIMINARY REVIEW, OF SUCH TERMINATION. UPON SUCH TERMINATION, THE
43 GOVERNING BOARD SHALL NOT DISCLOSE ANY MATERIALS OR INFORMATION RELATED
44 TO SUCH PRELIMINARY REVIEW.

45 (B) SECOND-PHASE REVIEW. (I) UPON THE AFFIRMATIVE VOTE OF NOT LESS
46 THAN FOUR GOVERNING BOARD MEMBERS TO COMMENCE A SECOND-PHASE REVIEW,
47 WRITTEN NOTICE OF THE GOVERNING BOARD'S DECISION SHALL BE PROVIDED TO
48 THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS OR THE APPROPRIATE
49 STANDING COMMITTEE ON ETHICS, AND TO THE INDIVIDUAL WHO IS THE SUBJECT
50 OF SUCH SECOND-PHASE REVIEW. SUCH WRITTEN NOTICE SHALL INCLUDE A COPY OF
51 THE GOVERNING BOARD'S RULES AND PROCEDURES AND SHALL ALSO INCLUDE
52 NOTIFICATION OF SUCH INDIVIDUAL'S RIGHT TO BE HEARD WITHIN THIRTY CALEN-
53 DAR DAYS OF THE DATE OF THE GOVERNING BOARD'S WRITTEN NOTICE.

54 (II) THE GOVERNING BOARD MAY HOLD SUCH HEARINGS AS MAY BE NECESSARY
55 AND SIT AND ACT ONLY IN EXECUTIVE SESSION AT SUCH TIMES AND PLACES AND
56 SOLICIT SUCH TESTIMONY AND RECEIVE SUCH RELEVANT EVIDENCE AS MAY BE

NECESSARY TO CARRY OUT ITS DUTIES. THE BOARD SHALL PROVIDE THE INDIVIDUAL WHO IS THE SUBJECT OF THE REVIEW THE OPPORTUNITY TO BE HEARD ON THE MATTER WITHIN THIRTY CALENDAR DAYS OF SUCH WRITTEN NOTICE.

(III) NOT LATER THAN FORTY-FIVE CALENDAR DAYS AFTER THE GOVERNING BOARD'S DECISION TO COMMENCE A SECOND-PHASE REVIEW, THE GOVERNING BOARD SHALL PRESENT A WRITTEN REPORT TO THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS OR THE APPROPRIATE STANDING COMMITTEE ON ETHICS AND DELIVER A COPY OF THE REPORT TO THE INDIVIDUAL WHO IS THE SUBJECT OF THE REVIEW. SUCH WRITTEN REPORT SHALL INCLUDE:

(A) A STATEMENT THAT THE MATTER REQUIRES FURTHER REVIEW BY SUCH COMMITTEE OR COMMISSION, AS APPROPRIATE; OR

(B) A RECOMMENDATION THAT THE MATTER UNDER REVIEW BE DISMISSED BY SUCH COMMITTEE OR COMMISSION IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION; OR

(C) A STATEMENT THAT THE GOVERNING BOARD IS UNABLE TO RECOMMEND ACTION BECAUSE OF A TIE VOTE. SUCH STATEMENT SHALL INCLUDE THE NUMBER OF MEMBERS VOTING IN THE AFFIRMATIVE AND NEGATIVE AND A STATEMENT OF THE NATURE OF THE REVIEW; AND

(D) A SUMMARY OF THE GOVERNING BOARD'S FINDINGS OF FACT.

(IV) THE GOVERNING BOARD SHALL ALSO TRANSMIT TO THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS OR THE APPROPRIATE STANDING COMMITTEE ON ETHICS; CITATIONS TO ANY RELEVANT LAW, RULE, REGULATION OR STANDARD OF CONDUCT; THE NAMES OF ALL WITNESSES; COPIES OF ANY DOCUMENTS SUBMITTED; ANY CONCLUSIONS REGARDING THE VALIDITY OF THE ALLEGATIONS UPON WHICH THE COMPLAINT OR REFERRAL IS BASED; AND A DESCRIPTION OF ANY RELEVANT INFORMATION THAT THE GOVERNING BOARD WAS UNABLE TO OBTAIN AND WITNESSES IT WAS UNABLE TO INTERVIEW, AND THE REASONS THEREFOR.

(V) THE GOVERNING BOARD MAY, BY AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS, EXTEND THE PERIOD TO PRESENT A WRITTEN REPORT PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH FOR ONE ADDITIONAL PERIOD OF NOT MORE THAN FOURTEEN CALENDAR DAYS.

(C) RECOMMENDATION TO DISMISS. PURSUANT TO CLAUSE (B) OF SUBPARAGRAPH (III) OF PARAGRAPH (B) OF THIS SUBDIVISION, THE GOVERNING BOARD MAY, BY AN AFFIRMATIVE VOTE OF NOT LESS THAN FOUR MEMBERS, RECOMMEND TO THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS OR THE APPROPRIATE STANDING COMMITTEE ON ETHICS THAT THE MATTER UNDER SECOND-PHASE REVIEW BE DISMISSED. SUCH RECOMMENDATION TO SUCH COMMITTEE OR COMMISSION MAY BE BASED ON ANY GROUND INCLUDING, BUT NOT LIMITED TO, ITS DETERMINATION THAT THE ALLEGED VIOLATION:

(I) WAS DE MINIMIS IN NATURE;

(II) WAS CURED; OR

(III) SHOULD BE RESOLVED PURSUANT TO A SETTLEMENT AGREEMENT.

ANY MATTER SO DISMISSED BY SUCH COMMITTEE OR COMMISSION SHALL BE DEEMED A PRELIMINARY REVIEW TERMINATION PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF THIS SUBDIVISION, PROVIDED THAT SUCH COMMITTEE OR COMMISSION SHALL MAKE PUBLIC THE TERMS OF ANY SETTLEMENT OR COMPROMISE WHICH INCLUDES A FINE, PENALTY OR OTHER REMEDY.

(D) ADOPTION OF RULES. THE GOVERNING BOARD SHALL ADOPT RULES TO CARRY OUT ITS DUTIES, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(I) A RULE REQUIRING THAT ALL WITNESSES SIGN A STATEMENT ACKNOWLEDGING THE UNDERSTANDING THAT FALSE TESTIMONY AND THE SUBMISSION OF FALSE DOCUMENTS CONSTITUTES PERJURY AND IS PUNISHABLE BY LAW.

(II) A RULE REQUIRING THAT THERE BE NO EX PARTE COMMUNICATIONS BETWEEN ANY MEMBER OF THE GOVERNING BOARD OR STAFF OF THE OFFICE AND ANY INDIVIDUAL WHO IS THE SUBJECT OF ANY REVIEW BY THE GOVERNING BOARD OR

1 BETWEEN ANY MEMBER OR STAFF AND ANY INTERESTED PARTY, AND THAT NO MEMBER
2 OR OFFICER OF THE LEGISLATURE, OR LEGISLATIVE EMPLOYEE MAY COMMUNICATE
3 WITH ANY MEMBER OF THE GOVERNING BOARD OR STAFF OF THE OFFICE REGARDING
4 ANY MATTER UNDER REVIEW BY THE GOVERNING BOARD EXCEPT AS AUTHORIZED BY
5 THE BOARD.

6 (III) A RULE THAT ESTABLISHES A CODE OF CONDUCT TO GOVERN THE BEHAVIOR
7 OF ITS MEMBERS AND STAFF, WHICH SHALL INCLUDE THE AVOIDANCE OF CONFLICTS
8 OF INTEREST.

9 5. REQUESTS FROM THE ASSEMBLY OR SENATE STANDING COMMITTEE ON ETHICS.
10 IN ADDITION TO REFERRALS OF POSSIBLE VIOLATIONS OF SECTION
11 SEVENTY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS
12 LAW, THE ASSEMBLY OR SENATE STANDING COMMITTEE ON ETHICS MAY REQUEST
13 THAT THE BOARD REVIEW AND CONDUCT AN INVESTIGATION OF ANY MATTER OR
14 ASPECT OF ANY MATTER BEFORE THE COMMITTEE. NOTWITHSTANDING ANY OTHER
15 PROVISIONS OF THIS SECTION, UPON RECEIPT OF A WRITTEN REQUEST FROM THE
16 APPROPRIATE COMMITTEE THAT THE BOARD CEASE ITS REVIEW OF ANY MATTER
17 OTHER THAN A REFERRAL OF AN ALLEGED VIOLATION OF SECTIONS SEVENTY-THREE,
18 SEVENTY-THREE-A, AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW AND REFER
19 SUCH MATTER TO THE COMMITTEE BECAUSE OF THE ONGOING INVESTIGATION OF
20 SUCH MATTER BY THE COMMITTEE, THE BOARD SHALL REFER SUCH MATTER BACK TO
21 THE COMMITTEE AND CEASE ITS PRELIMINARY OR SECOND-PHASE REVIEW, AS
22 APPLICABLE, OF THAT MATTER AND SO NOTIFY ANY INDIVIDUAL WHO IS THE
23 SUBJECT OF THE REVIEW. IN ANY SUCH CASE, THE BOARD SHALL SEND A WRITTEN
24 REPORT TO THE COMMITTEE CONTAINING A STATEMENT THAT, UPON THE REQUEST OF
25 THAT COMMITTEE, THE MATTER IS REFERRED TO IT FOR ITS CONSIDERATION, BUT
26 NOT ANY FINDINGS. SUCH REPORT SHALL BE SUBJECT TO THE PROVISIONS OF
27 SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION SEVEN OF THIS SECTION.

28 6. LIMITATIONS ON REVIEW. (A) NO REVIEW SHALL BE UNDERTAKEN BY THE
29 BOARD OF ANY ALLEGED VIOLATION OF LAW, RULE, REGULATION OR STANDARD OF
30 CONDUCT NOT IN EFFECT AT THE TIME OF THE ALLEGED VIOLATION.

31 (B) IF THE BOARD IS AWARE OR BECOMES AWARE THAT ALLEGED CRIMINAL
32 CONDUCT WHICH MIGHT ALSO VIOLATE SECTION SEVENTY-THREE, SEVENTY-THREE-A
33 OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW IS UNDER INVESTIGATION BY A
34 FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCY OR IS BEING PROSECUTED
35 IN STATE OR FEDERAL COURT, IT SHALL HOLD THE MATTER IN ABEYANCE UNTIL
36 THE CRIMINAL MATTER IS RESOLVED.

37 7. PROHIBITION ON PUBLIC DISCLOSURE. (A) (I) WHEN AN INDIVIDUAL
38 BECOMES A MEMBER OF THE BOARD OR STAFF OF THE OFFICE, THAT INDIVIDUAL
39 SHALL BE REQUIRED TO SIGN A NON-DISCLOSURE STATEMENT.

40 (II) NO TESTIMONY RECEIVED OR ANY OTHER INFORMATION OBTAINED BY A
41 MEMBER OF THE BOARD OR STAFF OF THE OFFICE SHALL BE DISCLOSED BY ANY
42 SUCH INDIVIDUAL TO ANY PERSON OR ENTITY OUTSIDE THE OFFICE. ANY CONFIDENTIAL
43 COMMUNICATION TO ANY PERSON OR ENTITY OUTSIDE THE OFFICE RELATED
44 TO THE MATTERS BEFORE THE BOARD MAY OCCUR ONLY AS AUTHORIZED BY THE
45 BOARD AS NECESSARY TO CONDUCT OFFICIAL BUSINESS OR PURSUANT TO BOARD
46 RULES.

47 (III) THE OFFICE SHALL ESTABLISH PROCEDURES NECESSARY TO PREVENT THE
48 UNAUTHORIZED DISCLOSURE OF ANY INFORMATION RECEIVED BY ANY MEMBER OF THE
49 BOARD OR STAFF OF THE OFFICE. ANY BREACHES OF CONFIDENTIALITY SHALL BE
50 INVESTIGATED BY THE BOARD AND APPROPRIATE ACTION SHALL BE TAKEN.

51 (IV) NOTWITHSTANDING THE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFICERS
52 LAW, THE RECORDS OF THE BOARD ARE CONFIDENTIAL AND SHALL BE
53 DISCLOSED ONLY AS EXPRESSLY PROVIDED OTHERWISE BY THIS SECTION OR THE
54 BOARD.

1 (V) NOTWITHSTANDING THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC
2 OFFICERS LAW, NO MEETING OF THE BOARD SHALL BE OPEN TO THE PUBLIC EXCEPT
3 IF EXPRESSLY PROVIDED OTHERWISE BY THIS SECTION OR THE BOARD.

4 (B) PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT PRECLUDE BOARD MEMBERS
5 OR THE BOARD'S STAFF FROM PRESENTING A REPORT OR FINDINGS OR TESTIFYING
6 BEFORE THE ASSEMBLY OR SENATE STANDING COMMITTEE ON ETHICS OR TO THE
7 JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS RELATING TO OFFICIAL
8 CONDUCT OF ANY MEMBER, OFFICER, OR LEGISLATIVE EMPLOYEE.

9 8. PRESENTATION OF REPORTS. WHENEVER THE BOARD TRANSMITS ANY REPORT
10 TO A STANDING COMMITTEE ON ETHICS OR TO THE JOINT LEGISLATIVE COMMISSION
11 ON ETHICS STANDARDS RELATING TO OFFICIAL CONDUCT OF ANY MEMBER, OFFICER,
12 OR LEGISLATIVE EMPLOYEE, IT SHALL DESIGNATE A MEMBER OF THE BOARD OR
13 STAFF TO PRESENT THE REPORT TO SUCH COMMITTEE OR COMMISSION IF REQUESTED
14 BY SUCH COMMITTEE OR COMMISSION.

15 9. REIMBURSEMENTS. THE BOARD MAY REIMBURSE ITS MEMBERS AND STAFF FOR
16 TRAVEL, SUBSISTENCE, AND OTHER NECESSARY EXPENSES INCURRED BY THEM IN
17 THE PERFORMANCE OF THEIR DUTIES IN THE SAME MANNER AS IS PERMISSIBLE FOR
18 SUCH EXPENSES OF LEGISLATIVE EMPLOYEES.

19 10. (A) PUBLIC DISCLOSURE. NOT LATER THAN FORTY-FIVE CALENDAR DAYS
20 AFTER RECEIPT FROM THE BOARD OF A WRITTEN REPORT AND ANY FINDINGS AND
21 SUPPORTING DOCUMENTATION REGARDING A MATTER BEFORE THE BOARD, THE CHAIR-
22 PERSON OF THE ASSEMBLY OR SENATE STANDING COMMITTEE ON ETHICS OR THE
23 CHAIRPERSONS OF THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS, AS
24 APPROPRIATE, SHALL MAKE PUBLIC THE WRITTEN REPORT OF THE BOARD UNLESS
25 THE COMMITTEE OR COMMISSION, AS APPROPRIATE, DECIDES TO WITHHOLD SUCH
26 INFORMATION FOR NOT MORE THAN ONE ADDITIONAL PERIOD OF THE SAME DURA-
27 TION, IN WHICH CASE THE CHAIRPERSON OR CHAIRPERSONS SHALL UPON THE
28 TERMINATION OF SUCH ADDITIONAL PERIOD, MAKE PUBLIC THE WRITTEN REPORT,
29 AND UPON THE DAY OF SUCH DECISION OR VOTE, MAKE A PUBLIC STATEMENT THAT
30 THE COMMITTEE OR COMMISSION, AS APPROPRIATE, HAS VOTED TO EXTEND THE
31 MATTER RELATING TO THE REFERRAL MADE BY THE BOARD REGARDING THE INDIVID-
32 UAL WHO IS THE SUBJECT OF THE APPLICABLE REFERRAL.

33 (B) AT LEAST ONE CALENDAR DAY BEFORE THE COMMITTEE OR COMMISSION, AS
34 APPROPRIATE, MAKES PUBLIC ANY WRITTEN REPORT AND FINDINGS OF THE BOARD,
35 THE CHAIRPERSON OR CHAIRPERSONS SHALL NOTIFY SUCH BOARD AND THE INDIVID-
36 UAL WHO IS THE SUBJECT OF THE INVESTIGATION OF THAT FACT AND TRANSMIT TO
37 SUCH INDIVIDUAL A COPY OF THE STATEMENT ON THE COMMITTEE'S OR COMMISS-
38 SION'S DISPOSITION OF, AND ANY COMMITTEE REPORT ON, THE MATTER.

39 11. NOTWITHSTANDING PARAGRAPH (A) OF SUBDIVISION TEN OF THIS SECTION,
40 IF THE COMMITTEE OR COMMISSION, AS APPROPRIATE, VOTES TO DISMISS A
41 MATTER WHICH IS THE SUBJECT OF A REFERRAL FROM THE BOARD, THE COMMITTEE
42 OR COMMISSION IS NOT REQUIRED TO MAKE PUBLIC THE WRITTEN REPORT
43 DESCRIBED IN SUCH SUBDIVISION UNLESS THE COMMITTEE'S OR COMMISSION'S
44 VOTE IS INCONSISTENT WITH THE RECOMMENDATION OF THE BOARD. FOR PURPOSES
45 OF THE PREVIOUS SENTENCE, A VOTE BY THE COMMITTEE OR COMMISSION TO
46 DISMISS A MATTER IS NOT INCONSISTENT WITH A REPORT FROM THE BOARD
47 RESPECTING THE MATTER AS UNRESOLVED DUE TO A TIE VOTE.

48 12. NOTWITHSTANDING PARAGRAPH (A) OF SUBDIVISION TEN OF THIS SECTION,
49 IF THE BOARD TRANSMITS A REPORT RESPECTING ANY MATTER WITH A RECOMMENDA-
50 TION TO DISMISS OR AS UNRESOLVED DUE TO A TIE VOTE, AND THE COMMITTEE OR
51 COMMISSION VOTES TO EXTEND THE MATTER FOR AN ADDITIONAL PERIOD AS
52 PROVIDED IN SUBDIVISION TEN OF THIS SECTION, THE COMMITTEE OR COMMISSION
53 IS NOT REQUIRED TO MAKE A PUBLIC STATEMENT THAT THE COMMITTEE OR COMMISS-
54 SION HAS VOTED TO EXTEND THE MATTER. EXCEPT AS OTHERWISE PROVIDED, THE
55 REPORT SHALL BE MADE PUBLIC.

1 13. IF THE COMMISSION OR COMMITTEE IS AWARE THAT ALLEGED CRIMINAL
2 CONDUCT WHICH MIGHT ALSO VIOLATE SECTION SEVENTY-THREE, SEVENTY-THREE-A
3 OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW IS UNDER INVESTIGATION BY A
4 FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCY OR IS BEING PROSECUTED
5 IN LOCAL, STATE OR FEDERAL COURT, IT SHALL HOLD THE MATTER IN ABEYANCE
6 UNTIL THE CRIMINAL MATTER IS RESOLVED.

7 S 81. JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS. A. THERE IS
8 ESTABLISHED A JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS WHICH
9 SHALL CONSIST OF EIGHT MEMBERS AND WHICH SHALL BE RESPONSIBLE FOR TRAIN-
10 ING, EDUCATION, AND ADVICE REGARDING SECTIONS SEVENTY-THREE,
11 SEVENTY-THREE-A AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW AND REVIEW
12 THE ENFORCEMENT OF SUCH SECTIONS. FOUR MEMBERS SHALL BE MEMBERS OF THE
13 LEGISLATURE AND SHALL BE APPOINTED AS FOLLOWS: ONE BY THE TEMPORARY
14 PRESIDENT OF THE SENATE, ONE BY THE SPEAKER OF THE ASSEMBLY, ONE BY THE
15 MINORITY LEADER OF THE SENATE AND ONE BY THE MINORITY LEADER OF THE
16 ASSEMBLY. THE REMAINING FOUR MEMBERS SHALL NOT BE PRESENT OR FORMER
17 MEMBERS OF THE LEGISLATURE AND SHALL NOT BE AND SHALL NOT HAVE BEEN IN
18 THE PREVIOUS FIVE YEARS, CANDIDATES FOR MEMBER OF THE LEGISLATURE,
19 EMPLOYEES OF THE LEGISLATURE, OR PERSONS WHO HAVE BEEN EMPLOYEES OF THE
20 LEGISLATURE, POLITICAL PARTY CHAIRMEN AS DEFINED IN PARAGRAPH (K) OF
21 SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, OR
22 LOBBYISTS REQUIRED TO REGISTER IN NEW YORK STATE OR ANY OTHER JURISDIC-
23 TION. THE FOUR MEMBERS WHO ARE NOT LEGISLATORS SHALL BE APPOINTED AS
24 FOLLOWS: ONE BY THE TEMPORARY PRESIDENT OF THE SENATE, ONE BY THE SPEAK-
25 ER OF THE ASSEMBLY, ONE BY THE MINORITY LEADER OF THE SENATE, AND ONE BY
26 THE MINORITY LEADER OF THE ASSEMBLY. THE COMMISSION SHALL SERVE AS
27 DESCRIBED IN THIS SECTION AND HAVE AND EXERCISE THE POWERS AND DUTIES
28 SET FORTH IN THIS SECTION ONLY WITH RESPECT TO MEMBERS OF THE LEGISLA-
29 TURE, LEGISLATIVE EMPLOYEES AS DEFINED IN SECTION SEVENTY-THREE OF THE
30 PUBLIC OFFICERS LAW, CANDIDATES FOR MEMBER OF THE LEGISLATURE AND INDI-
31 VIDUALS WHO HAVE FORMERLY HELD SUCH POSITIONS OR WHO HAVE FORMERLY BEEN
32 SUCH CANDIDATES.

33 B. MEMBERS OF THE LEGISLATURE WHO SERVE ON THE COMMISSION SHALL EACH
34 HAVE A TWO YEAR TERM CONCURRENT WITH THEIR LEGISLATIVE TERMS OF OFFICE.
35 THE MEMBERS OF THE COMMISSION WHO ARE NOT MEMBERS OF THE LEGISLATURE AND
36 WHO ARE FIRST APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, SPEAK-
37 ER OF THE ASSEMBLY, MINORITY LEADER OF THE SENATE, AND MINORITY LEADER
38 OF THE ASSEMBLY SHALL SERVE ONE, TWO, THREE AND FOUR YEAR TERMS, RESPEC-
39 TIVELY. EACH MEMBER OF THE COMMISSION WHO IS NOT A MEMBER OF THE LEGIS-
40 LATURE SHALL BE APPOINTED THEREAFTER FOR A TERM OF FOUR YEARS AND MAY BE
41 REMOVED BY THE APPOINTING AUTHORITY FOR SUBSTANTIAL NEGLECT OF DUTY,
42 MISCONDUCT IN OFFICE, INABILITY TO DISCHARGE THE POWERS OR DUTIES OF THE
43 OFFICE OR VIOLATIONS OF THIS SECTION AFTER WRITTEN NOTICE AND OPPORTU-
44 NITY FOR A REPLY.

45 C. THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEM-
46 BLY SHALL EACH DESIGNATE ONE MEMBER OF THE COMMISSION AS A CO-CHAIRPER-
47 SON THEREOF. THE COMMISSION SHALL MEET AT LEAST BI-MONTHLY AND AT SUCH
48 ADDITIONAL TIMES AS MAY BE CALLED FOR BY THE CO-CHAIRPERSONS JOINTLY OR
49 ANY FOUR MEMBERS OF THE COMMISSION.

50 D. ANY VACANCY OCCURRING ON THE COMMISSION SHALL BE FILLED WITHIN
51 SIXTY DAYS BY THE APPOINTING AUTHORITY.

52 E. FIVE MEMBERS OF THE COMMISSION SHALL CONSTITUTE A QUORUM, AND THE
53 COMMISSION SHALL HAVE POWER TO ACT BY MAJORITY VOTE OF THE TOTAL NUMBER
54 OF MEMBERS OF THE COMMISSION WITHOUT VACANCY.

55 F. EACH MEMBER OF THE COMMISSION WHO IS NOT A MEMBER OF THE LEGISLA-
56 TURE SHALL RECEIVE, AS COMPENSATION FOR HIS OR HER SERVICES UNDER THIS

ARTICLE, A PER DIEM ALLOWANCE IN THE SUM OF ONE HUNDRED DOLLARS FOR EACH DAY ACTUALLY SPENT IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THIS ARTICLE, NOT EXCEEDING, HOWEVER, THE SUM OF FIVE THOUSAND DOLLARS IN ANY CALENDAR YEAR, AND, IN ADDITION THERETO, SHALL BE REIMBURSED FOR ALL REASONABLE EXPENSES ACTUALLY AND NECESSARILY INCURRED BY HIM OR HER IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THIS ARTICLE.

G. THE COMMISSION SHALL:

1. APPOINT AN EXECUTIVE DIRECTOR FOR A THREE YEAR TERM WHO SHALL ACT IN ACCORDANCE WITH THE POLICIES OF THE COMMISSION AND WHO SHALL BE DISMISSED ONLY FOR CAUSE BY A MAJORITY VOTE OF THE COMMISSION;

2. APPOINT SUCH OTHER STAFF AS ARE NECESSARY TO ASSIST IT TO CARRY OUT ITS DUTIES UNDER THIS SECTION;

3. ADOPT, AMEND, AND RESCIND POLICIES, RULES AND REGULATIONS CONSISTENT WITH THIS SECTION TO GOVERN PROCEDURES OF THE COMMISSION WHICH SHALL NOT BE SUBJECT TO THE PROMULGATION AND HEARING REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT;

4. ADMINISTER THE PROVISIONS OF THIS SECTION;

5. SPECIFY THE PROCEDURES WHEREBY A PERSON WHO IS REQUIRED TO FILE AN ANNUAL FINANCIAL DISCLOSURE STATEMENT WITH THE COMMISSION MAY REQUEST AN ADDITIONAL PERIOD OF TIME WITHIN WHICH TO FILE SUCH STATEMENT, DUE TO JUSTIFIABLE CAUSE OR UNDUE HARDSHIP; SUCH RULES OR REGULATIONS SHALL PROVIDE FOR A DATE BEYOND WHICH IN ALL CASES OF JUSTIFIABLE CAUSE OR UNDUE HARDSHIP NO FURTHER EXTENSION OF TIME WILL BE GRANTED;

6. PROMULGATE GUIDELINES TO ASSIST APPOINTING AUTHORITIES IN DETERMINING WHICH PERSONS HOLD POLICY-MAKING POSITIONS FOR PURPOSES OF SECTION SEVENTY-THREE-A OF THE PUBLIC OFFICERS LAW AND MAY PROMULGATE GUIDELINES TO ASSIST FIRMS, ASSOCIATIONS AND CORPORATIONS IN SEPARATING AFFECTED PERSONS FROM NET REVENUES FOR PURPOSES OF SUBDIVISION TEN OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, AND PROMULGATE GUIDELINES TO ASSIST ANY FIRM, ASSOCIATION OR CORPORATION IN WHICH ANY PRESIDENT OR FORMER STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, OR POLITICAL PARTY CHAIR IS A MEMBER, ASSOCIATE, RETIRED MEMBER, OF COUNSEL OR SHAREHOLDER, IN COMPLYING WITH THE PROVISIONS OF SUBDIVISION TEN OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW WITH RESPECT TO THE SEPARATION OF SUCH PRESENT OR FORMER STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, OR POLITICAL PARTY CHAIRMAN FROM THE NET REVENUES OF THE FIRM, ASSOCIATION OR CORPORATION. SUCH FIRM, ASSOCIATION OR CORPORATION SHALL NOT BE REQUIRED TO ADOPT THE PROCEDURES CONTAINED IN THE GUIDELINES TO ESTABLISH COMPLIANCE WITH SUBDIVISION TEN OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, BUT IF SUCH FIRM, ASSOCIATION OR CORPORATION DOES ADOPT SUCH PROCEDURES, IT SHALL BE DEEMED TO BE IN COMPLIANCE WITH SUCH SUBDIVISION TEN;

7. MAKE AVAILABLE FORMS FOR FINANCIAL DISCLOSURE STATEMENTS REQUIRED TO BE FILED PURSUANT TO SUBDIVISION SIX OF SECTION SEVENTY-THREE AND SECTION SEVENTY-THREE-A OF THE PUBLIC OFFICERS LAW;

8. REVIEW FINANCIAL DISCLOSURE STATEMENTS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, PROVIDED HOWEVER, THAT THE COMMISSION MAY DELEGATE ALL OR PART OF THE REVIEW FUNCTION RELATING TO FINANCIAL DISCLOSURE STATEMENTS PURSUANT TO SECTIONS SEVENTY-THREE AND SEVENTY-THREE-A OF THE PUBLIC OFFICERS LAW TO THE EXECUTIVE DIRECTOR WHO SHALL BE RESPONSIBLE FOR COMPLETING STAFF REVIEW OF SUCH STATEMENTS IN A MANNER CONSISTENT WITH THE TERMS OF THE COMMISSION'S DELEGATION. SUCH REVIEW SHALL REQUIRE THAT ALL STATEMENTS OF FINANCIAL DISCLOSURE FILED WITH THE COMMISSION BE EXAMINED TO ENSURE THAT EACH STATEMENT IS FACIALLY COMPLETE AND SIGNED BY THE REPORTING INDIVIDUAL;

1 9. PERMIT ANY PERSON REQUIRED TO FILE A FINANCIAL DISCLOSURE STATE-
2 MENT TO REQUEST THE COMMISSION TO DELETE FROM THE COPY THEREOF MADE
3 AVAILABLE FOR PUBLIC INSPECTION AND COPYING ONE OR MORE ITEMS OF INFOR-
4 MATION, WHICH MAY BE DELETED BY THE COMMISSION UPON A FINDING THAT THE
5 INFORMATION WHICH WOULD OTHERWISE BE REQUIRED TO BE DISCLOSED WILL HAVE
6 NO MATERIAL BEARING ON THE DISCHARGE OF THE REPORTING PERSON'S OFFICIAL
7 DUTIES;

8 10. 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 UPON A FINDING THAT THE REPORTING INDIVIDUAL'S SPOUSE, ON HIS OR HER OWN
13 BEHALF OR ON BEHALF OF AN UNEMANCIPATED CHILD, OBJECTS TO PROVIDING THE
14 INFORMATION NECESSARY TO MAKE SUCH DISCLOSURE AND THAT THE INFORMATION
15 WHICH WOULD OTHERWISE BE REQUIRED TO BE REPORTED WILL HAVE NO MATERIAL
16 BEARING ON THE DISCHARGE OF THE REPORTING PERSON'S OFFICIAL DUTIES;

17 11. ADVISE AND ASSIST THE LEGISLATURE IN ESTABLISHING RULES AND REGU-
18 LATIONS RELATING TO POSSIBLE CONFLICTS BETWEEN PRIVATE INTERESTS AND
19 OFFICIAL DUTIES OF PRESENT MEMBERS OF THE LEGISLATURE AND LEGISLATIVE
20 EMPLOYEES;

21 12. RECEIVE COMPLAINTS REGARDING PERSONS SUBJECT TO ITS JURISDICTION
22 ALLEGING A POSSIBLE VIOLATION OF SECTION SEVENTY-THREE, SEVENTY-THREE-A
23 OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, AND REFER SUCH COMPLAINTS
24 FOR INVESTIGATION TO THE LEGISLATIVE OFFICE OF ETHICS INVESTIGATIONS AS
25 WELL AS ANY OTHER POSSIBLE VIOLATIONS OF SUCH SECTIONS BY SUCH PERSONS
26 THAT THE COMMISSION DETERMINES ON ITS OWN INITIATIVE WARRANTS INVESTI-
27 GATION;

28 13. RECEIVE AND REFER AS APPROPRIATE, AS IF IT WERE A SWORN COMPLAINT,
29 ANY REFERRAL FROM ANOTHER STATE OVERSIGHT BODY INDICATING THAT A
30 VIOLATION OF SECTION SEVENTY-THREE OR SEVENTY-FOUR OF THE PUBLIC OFFI-
31 CERS LAW MAY HAVE OCCURRED INVOLVING PERSONS SUBJECT TO THE JURISDICTION
32 OF THE COMMISSION;

33 14. UPON WRITTEN REQUEST FROM ANY PERSON WHO IS SUBJECT TO THE JURIS-
34 DICTION OF THE COMMISSION AND THE REQUIREMENTS OF SECTIONS
35 SEVENTY-THREE, SEVENTY-THREE-A AND SEVENTY-FOUR OF THE PUBLIC OFFICERS
36 LAW RENDER FORMAL ADVISORY OPINIONS ON THE REQUIREMENTS OF SAID
37 PROVISIONS. A FORMAL OPINION RENDERED BY THE COMMISSION, UNTIL AND
38 UNLESS AMENDED OR REVOKED, SHALL BE BINDING ON THE LEGISLATIVE OFFICE OF
39 ETHICS INVESTIGATIONS IN ANY SUBSEQUENT PROCEEDING CONCERNING THE PERSON
40 WHO REQUESTED THE OPINION AND WHO ACTED IN GOOD FAITH, UNLESS MATERIAL
41 FACTS WERE OMITTED OR MISSTATED BY THE PERSON IN THE REQUEST FOR AN
42 OPINION. SUCH OPINION MAY ALSO BE RELIED UPON BY SUCH PERSON, AND MAY BE
43 INTRODUCED AND SHALL BE A DEFENSE IN ANY CRIMINAL OR CIVIL ACTION;

44 15. ISSUE AND PUBLISH GENERIC ADVISORY OPINIONS COVERING QUESTIONS
45 FREQUENTLY POSED TO THE COMMISSION, OR QUESTIONS COMMON TO A CLASS OR
46 DEFINED CATEGORY OF PERSONS, OR THAT WILL TEND TO PREVENT UNDUE REPE-
47 TITION OF REQUESTS OR UNDUE COMPLICATION, AND WHICH ARE INTENDED TO
48 PROVIDE GENERAL GUIDANCE AND INFORMATION TO PERSONS SUBJECT TO THE
49 COMMISSION'S JURISDICTION;

50 16. DEVELOP EDUCATIONAL MATERIALS AND TRAINING WITH REGARD TO LEGIS-
51 LATIVE ETHICS FOR MEMBERS OF THE LEGISLATURE AND LEGISLATIVE EMPLOYEES;

52 17. PREPARE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE SUMMARIZ-
53 ING THE ACTIVITIES OF THE COMMISSION DURING THE PREVIOUS YEAR AND RECOM-
54 MENDING ANY CHANGES IN THE LAWS GOVERNING THE CONDUCT OF PERSONS SUBJECT
55 TO THE JURISDICTION OF THE COMMISSION, OR THE RULES, REGULATIONS AND
56 PROCEDURES GOVERNING THE COMMISSION'S CONDUCT. SUCH REPORT SHALL BE

1 POSTED ON THE COMMISSION'S WEBSITE AND SHALL INCLUDE: (I) THE NUMBER OF
2 REPORTING INDIVIDUALS WHOSE FILES WERE REVIEWED PURSUANT TO SUBDIVISION
3 EIGHTEEN OF THIS SECTION DURING THE PREVIOUS YEAR AND WHICH, IF ANY,
4 CLASSES WERE SELECTED FOR CLASS REVIEW RATHER THAN RANDOM REVIEW, (II) A
5 LISTING BY ASSIGNED NUMBER OF EACH COMPLAINT AND REFERRAL RECEIVED WHICH
6 ALLEGED A POSSIBLE VIOLATION WITHIN ITS JURISDICTION, INCLUDING THE
7 CURRENT STATUS OF EACH COMPLAINT, AND (III) WHERE A MATTER HAS BEEN
8 RESOLVED, THE DATE AND NATURE OF THE DISPOSITION AND ANY SANCTION
9 IMPOSED, SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF THIS SECTION.
10 SUCH ANNUAL REPORT SHALL NOT CONTAIN ANY INFORMATION FOR WHICH DISCLO-
11 SURE IS NOT PERMITTED PURSUANT TO SUBDIVISION FOURTEEN OF THIS SECTION;
12 AND

13 18. PROMULGATE GUIDELINES FOR THE COMMISSION TO CONDUCT A PROGRAM OF
14 RANDOM REVIEWS, TO BE CARRIED OUT IN THE FOLLOWING MANNER: (I) ANNUAL
15 STATEMENTS OF FINANCIAL DISCLOSURE SHALL BE SELECTED FOR REVIEW IN A
16 MANNER PURSUANT TO WHICH THE IDENTITY OF ANY PARTICULAR PERSON WHOSE
17 STATEMENT IS SELECTED IS UNKNOWN TO THE COMMISSION, ITS STAFF AND TO THE
18 LEGISLATIVE OFFICE OF ETHICS INVESTIGATION PRIOR TO ITS SELECTION; (II)
19 SUCH REVIEW SHALL INCLUDE A PRELIMINARY EXAMINATION OF THE SELECTED
20 STATEMENT FOR INTERNAL CONSISTENCY, A COMPARISON WITH OTHER RECORDS
21 MAINTAINED BY THE COMMISSION, INCLUDING PREVIOUSLY FILED STATEMENTS AND
22 REQUESTS FOR ADVISORY OPINIONS, AND EXAMINATION OF RELEVANT PUBLIC
23 INFORMATION, INCLUDING, BUT NOT LIMITED TO, RECORDS FILED WITH THE
24 COMMISSION ON LOBBYING ETHICS AND COMPLIANCE AND THE DEPARTMENT OF
25 STATE; (III) UPON COMPLETION OF THE PRELIMINARY EXAMINATION, THE COMMIS-
26 SION SHALL DETERMINE WHETHER FURTHER INQUIRY IS WARRANTED, WHEREUPON IT
27 SHALL NOTIFY THE REPORTING INDIVIDUAL IN WRITING THAT THE STATEMENT IS
28 UNDER REVIEW, ADVISE THE REPORTING INDIVIDUAL OF THE SPECIFIC AREAS OF
29 INQUIRY, AND PROVIDE THE REPORTING INDIVIDUAL WITH THE OPPORTUNITY TO
30 PROVIDE THE COMMISSION WITH ANY RELEVANT INFORMATION RELATED TO THE
31 SPECIFIC AREAS OF INQUIRY, AND THE OPPORTUNITY TO FILE AMENDMENTS TO THE
32 SELECTED STATEMENT ON FORMS PROVIDED BY THE COMMISSION; AND (IV) IF
33 THEREAFTER SUFFICIENT CAUSE EXISTS, THE COMMISSION SHALL REFER THE
34 MATTER TO THE LEGISLATIVE OFFICE OF ETHICS INVESTIGATIONS; PROVIDED,
35 HOWEVER IF THE COMMISSION CONDUCTS A REVIEW OF ALL STATEMENTS OF FINAN-
36 CIAL DISCLOSURE FILED BY A CLASS OF REPORTING INDIVIDUALS IN THE MANNER
37 SET FORTH IN THIS PARAGRAPH WITH RESPECT TO A GIVEN CALENDAR YEAR, THE
38 INDIVIDUALS WITHIN SUCH CLASS SHALL NOT BE SUBJECT TO RANDOM REVIEW. FOR
39 THE PURPOSES OF THIS PARAGRAPH, THE CLASSES OF REPORTING INDIVIDUALS ARE
40 MEMBERS OF THE LEGISLATURE, CANDIDATES FOR MEMBER OF THE LEGISLATURE,
41 LEGISLATIVE EMPLOYEES SUBJECT TO THE PROVISIONS OF SECTION
42 SEVENTY-THREE-A OF THE PUBLIC OFFICERS LAW, AND LEGISLATIVE EMPLOYEES
43 REQUIRED TO FILE A FINANCIAL DISCLOSURE STATEMENT PURSUANT TO SUBDIVI-
44 SION SIX OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW.

45 H. THE COMMISSION, OR THE EXECUTIVE DIRECTOR AND STAFF OF THE COMMIS-
46 SION IF RESPONSIBILITY REGARDING SUCH FINANCIAL DISCLOSURE STATEMENTS
47 FILED HAS BEEN DELEGATED, SHALL INSPECT ALL FINANCIAL DISCLOSURE STATE-
48 MENTS FILED WITH THE COMMISSION TO ASCERTAIN WHETHER ANY PERSON SUBJECT
49 TO THE REPORTING REQUIREMENTS OF SUBDIVISION SIX OF SECTION
50 SEVENTY-THREE OR SECTION SEVENTY-THREE-A OF THE PUBLIC OFFICERS LAW HAS
51 FAILED TO FILE SUCH A STATEMENT, HAS FILED A DEFICIENT STATEMENT OR HAS
52 FILED A STATEMENT WHICH REVEALS A POSSIBLE VIOLATION OF SECTION SEVEN-
53 TY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

54 I. 1. IF A PERSON REQUIRED TO FILE A FINANCIAL DISCLOSURE STATEMENT
55 WITH THE COMMISSION HAS FAILED TO FILE A FINANCIAL DISCLOSURE STATEMENT
56 OR HAS FILED A DEFICIENT STATEMENT, THE COMMISSION SHALL NOTIFY THE

1 REPORTING PERSON IN WRITING, STATE THE FAILURE TO FILE OR DETAIL THE
2 DEFICIENCY, PROVIDE THE PERSON WITH A FIFTEEN DAY PERIOD TO CURE THE
3 DEFICIENCY, AND ADVISE THE PERSON OF THE PENALTIES FOR FAILURE TO COMPLY
4 WITH THE REPORTING REQUIREMENTS. SUCH NOTICE SHALL BE CONFIDENTIAL. IF
5 THE PERSON FAILS TO MAKE SUCH FILING OR FAILS TO CURE THE DEFICIENCY
6 WITHIN THE SPECIFIED TIME PERIOD, THE COMMISSION SHALL SEND A NOTICE OF
7 DELINQUENCY: (A) TO THE REPORTING PERSON; (B) IN THE CASE OF A SENATOR,
8 TO THE TEMPORARY PRESIDENT OF THE SENATE, AND IF A MEMBER OF ASSEMBLY,
9 TO THE SPEAKER OF THE ASSEMBLY; AND (C) IN THE CASE OF A LEGISLATIVE
10 EMPLOYEE, TO THE APPOINTING AUTHORITY FOR SUCH PERSON AND TO THE TEMPO-
11 RARY PRESIDENT OF THE SENATE OR THE SPEAKER OF THE ASSEMBLY, AS APPRO-
12 PRIATE, WHO HAS JURISDICTION OVER SUCH APPOINTING AUTHORITY. SUCH
13 NOTICE OF DELINQUENCY MAY BE SENT AT ANY TIME DURING THE REPORTING
14 PERSON'S SERVICE AS A MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE
15 OR WHILE A CANDIDATE FOR MEMBER OF THE LEGISLATURE, OR WITHIN ONE YEAR
16 AFTER SEPARATION FROM SUCH SERVICE OR THE TERMINATION OF SUCH CANDIDACY.
17 THE JURISDICTION OF THE COMMISSION, WHEN ACTING PURSUANT TO SUBDIVISION
18 K OF THIS SECTION WITH RESPECT TO FINANCIAL DISCLOSURE, SHALL CONTINUE
19 NOTWITHSTANDING THAT THE REPORTING PERSON SEPARATES FROM STATE SERVICE
20 OR TERMINATES HIS OR HER CANDIDACY, PROVIDED THE COMMISSION NOTIFIES
21 SUCH PERSON OF THE ALLEGED FAILURE TO FILE OR DEFICIENT FILING PURSUANT
22 TO THIS SUBDIVISION.

23 2. IF THE PERSON REQUIRED TO FILE FAILS TO MAKE THE REQUIRED FILING
24 WITHIN THE FIFTEEN DAYS OF THE NOTICE OF DELINQUENCY, THE COMMISSION
25 SHALL NOTIFY THE PERSON IN WRITING, DESCRIBE THE ALLEGED VIOLATION THERE-
26 OF AND PROVIDE THE PERSON WITH A FIFTEEN DAY PERIOD IN WHICH TO SUBMIT
27 A WRITTEN RESPONSE SETTING FORTH INFORMATION RELATING TO THE ALLEGED
28 VIOLATION. IF THE COMMISSION THEREAFTER MAKES A DETERMINATION THAT
29 FURTHER INQUIRY IS JUSTIFIED, IT SHALL GIVE THE PERSON AN OPPORTUNITY
30 TO BE HEARD. THE COMMISSION SHALL ALSO PROVIDE THE PERSON WITH ITS RULES
31 REGARDING THE CONDUCT OF ADJUDICATORY PROCEEDINGS AND APPEALS AND THE
32 DUE PROCESS PROCEDURAL MECHANISMS AVAILABLE TO SUCH PERSON. IF THE
33 COMMISSION DETERMINES AT ANY STAGE OF THE PROCEEDING THAT THERE IS NO
34 VIOLATION OR THAT SUCH VIOLATION HAS BEEN CURED, IT SHALL SO ADVISE THE
35 PERSON. ALL OF THE FOREGOING PROCEEDINGS SHALL BE CONFIDENTIAL.

36 J. 1. IF A REPORTING PERSON HAS FILED A STATEMENT WHICH REVEALS A
37 POSSIBLE VIOLATION OF SECTION SEVENTY-THREE, SEVENTY-THREE-A OR SEVEN-
38 TY-FOUR OF THE PUBLIC OFFICERS LAW, OR THE COMMISSION RECEIVES A REFER-
39 RAL FROM ANOTHER STATE OVERSIGHT BODY, OR THE COMMISSION RECEIVES A
40 SWORN COMPLAINT ALLEGING SUCH A VIOLATION BY A REPORTING PERSON OR A
41 LEGISLATIVE EMPLOYEE SUBJECT TO THE PROVISIONS OF SUCH LAWS, OR IF THE
42 PERSON FAILS TO MAKE THE REQUIRED FILING WITHIN FIFTEEN DAYS OF THE
43 NOTICE OF DELINQUENCY, THE COMMISSION SHALL REFER THE MATTER TO THE
44 LEGISLATIVE OFFICE OF ETHICS INVESTIGATIONS FOR INVESTIGATION AND A
45 REPORT TO THE COMMISSION CONTAINING FINDINGS AND RECOMMENDATIONS. IF THE
46 COMMISSION THEREAFTER MAKES A DETERMINATION THAT FURTHER INQUIRY IS
47 JUSTIFIED, IT SHALL GIVE THE REPORTING PERSON AN OPPORTUNITY TO BE
48 HEARD. THE COMMISSION SHALL ALSO INFORM THE REPORTING INDIVIDUAL OF ITS
49 RULES REGARDING THE CONDUCT OF ADJUDICATORY PROCEEDINGS AND APPEALS AND
50 THE DUE PROCESS PROCEDURAL MECHANISMS AVAILABLE TO SUCH INDIVIDUAL. IF
51 THE COMMISSION DETERMINES AT ANY STAGE OF THE PROCEEDING THAT THERE IS
52 NO VIOLATION OR THAT ANY POTENTIAL CONFLICT OF INTEREST VIOLATION OR
53 DEFICIENCY HAS BEEN RECTIFIED, IT SHALL SO ADVISE THE REPORTING PERSON
54 AND THE COMPLAINANT, IF ANY. ALL OF THE FOREGOING PROCEEDINGS SHALL BE
55 CONFIDENTIAL.

1 2. IF THE COMMISSION DETERMINES THAT THERE IS REASONABLE CAUSE TO
2 BELIEVE THAT A VIOLATION HAS OCCURRED, IT SHALL SEND A NOTICE OF REASON-
3 ABLE CAUSE: (A) TO THE REPORTING PERSON; (B) TO THE COMPLAINANT IF ANY;
4 (C) IN THE CASE OF A SENATOR, TO THE TEMPORARY PRESIDENT OF THE SENATE,
5 AND IF A MEMBER OF THE ASSEMBLY, TO THE SPEAKER OF THE ASSEMBLY; AND (D)
6 IN THE CASE OF A LEGISLATIVE EMPLOYEE, TO THE APPOINTING AUTHORITY FOR
7 SUCH PERSON AND TO THE TEMPORARY PRESIDENT OF THE SENATE AND/OR THE
8 SPEAKER OF THE ASSEMBLY, AS THE CASE MAY BE, WHO HAS JURISDICTION OVER
9 SUCH APPOINTING AUTHORITY.

10 3. THE JURISDICTION OF THE COMMISSION WHEN ACTING PURSUANT TO THIS
11 SECTION SHALL CONTINUE NOTWITHSTANDING THAT A MEMBER OF THE LEGISLATURE
12 OR A LEGISLATIVE EMPLOYEE SEPARATES FROM STATE SERVICE, OR A CANDIDATE
13 FOR MEMBER OF THE LEGISLATURE CEASES TO BE A CANDIDATE, PROVIDED THAT
14 THE COMMISSION NOTIFIES SUCH INDIVIDUAL OF THE ALLEGED VIOLATION OF LAW
15 PURSUANT TO THIS SECTION WITHIN ONE YEAR FROM HIS OR HER SEPARATION FROM
16 STATE SERVICE OR THE TERMINATION OF HIS OR HER CANDIDACY. NOTHING IN
17 THIS SECTION SHALL SERVE TO LIMIT THE JURISDICTION OF THE COMMISSION IN
18 ENFORCEMENT OF SUBDIVISION EIGHT OF SECTION SEVENTY-THREE OF THE PUBLIC
19 OFFICERS LAW.

20 K. AN INDIVIDUAL SUBJECT TO THE JURISDICTION OF THE COMMISSION WHO
21 KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF SUBDIVISIONS TWO
22 THROUGH FIVE-A, SEVEN, EIGHT, TWELVE, FOURTEEN, FIFTEEN OR SEVENTEEN OF
23 SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW OR A REPORTING INDIVID-
24 UAL WHO KNOWINGLY AND WILFULLY FAILS TO FILE AN ANNUAL STATEMENT OF
25 FINANCIAL DISCLOSURE OR WHO KNOWINGLY AND WILFULLY WITH INTENT TO
26 DECEIVE MAKES A FALSE STATEMENT OR GIVES INFORMATION WHICH SUCH INDIVID-
27 UAL KNOWS TO BE FALSE ON SUCH STATEMENT OF FINANCIAL DISCLOSURE FILED
28 PURSUANT TO SECTION SEVENTY-THREE-A OF THE PUBLIC OFFICERS LAW SHALL BE
29 SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED FORTY THOUSAND
30 DOLLARS AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A
31 RESULT OF SUCH VIOLATION. ANY SUCH INDIVIDUAL WHO KNOWINGLY AND INTEN-
32 TIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH B, C, D, OR I OF SUBDIVI-
33 SION THREE OF SECTION SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW SHALL BE
34 SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND
35 DOLLARS AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A
36 RESULT OF SUCH VIOLATION. ANY SUCH INDIVIDUAL WHO KNOWINGLY AND INTEN-
37 TIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH A, E OR G OF SUBDIVISION
38 THREE OF SECTION SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW SHALL BE
39 SUBJECT TO A CIVIL PENALTY IN AN AMOUNT EQUAL TO THE VALUE OF ANY GIFT,
40 COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. ASSESS-
41 MENT OF A CIVIL PENALTY HEREUNDER SHALL BE MADE BY THE COMMISSION WITH
42 RESPECT TO PERSONS SUBJECT TO ITS JURISDICTION BUT NOT BEFORE ITS
43 RECEIPT OF A REPORT FROM THE LEGISLATIVE OFFICE OF ETHICS INVESTI-
44 GATIONS; PROVIDED THAT IT DOES NOT NEED TO OBTAIN SUCH REPORT BEFORE
45 ASSESSING A CIVIL PENALTY FOR FAILURE TO FILE. IN ASSESSING THE AMOUNT
46 OF THE CIVIL PENALTIES TO BE IMPOSED, THE COMMISSION SHALL CONSIDER THE
47 SERIOUSNESS OF THE VIOLATION, THE AMOUNT OF GAIN TO THE INDIVIDUAL AND
48 WHETHER THE INDIVIDUAL PREVIOUSLY HAD ANY CIVIL OR CRIMINAL PENALTIES
49 IMPOSED PURSUANT TO THIS SECTION, AND ANY OTHER FACTORS THE COMMISSION
50 DEEMS APPROPRIATE. FOR A VIOLATION OF THIS SECTION, OTHER THAN FOR
51 CONDUCT WHICH CONSTITUTES A VIOLATION OF SUBDIVISION TWELVE, FOURTEEN OR
52 FIFTEEN OF SECTION SEVENTY-THREE OR SECTION SEVENTY-FOUR OF THE PUBLIC
53 OFFICERS LAW, THE COMMISSION MAY, IN LIEU OF A CIVIL PENALTY, REFER A
54 VIOLATION TO THE APPROPRIATE PROSECUTOR AND UPON SUCH CONVICTION, BUT
55 ONLY AFTER SUCH REFERRAL, SUCH VIOLATION SHALL BE PUNISHABLE AS A CLASS
56 A MISDEMEANOR. A CIVIL PENALTY FOR FALSE FILING MAY NOT BE IMPOSED HERE-

1 UNDER IN THE EVENT A CATEGORY OF "VALUE" OR "AMOUNT" REPORTED HEREUNDER
2 IS INCORRECT UNLESS SUCH REPORTED INFORMATION IS FALSELY UNDERSTATED.
3 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO OTHER
4 PENALTY, CIVIL OR CRIMINAL, MAY BE IMPOSED FOR A FAILURE TO FILE, OR FOR
5 A FALSE FILING, OF SUCH STATEMENT, OR A VIOLATION OF SECTION
6 SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, EXCEPT THAT THE APPOINTING
7 AUTHORITY MAY IMPOSE DISCIPLINARY ACTION AS OTHERWISE PROVIDED BY LAW.
8 THE COMMISSION SHALL BE DEEMED TO BE AN AGENCY WITHIN THE MEANING OF
9 ARTICLE THREE OF THE STATE ADMINISTRATIVE PROCEDURE ACT AND SHALL ADOPT
10 RULES GOVERNING THE CONDUCT OF ADJUDICATORY PROCEEDINGS AND APPEALS
11 TAKEN PURSUANT TO A PROCEEDING COMMENCED UNDER ARTICLE SEVENTY-EIGHT OF
12 THE CIVIL PRACTICE LAW AND RULES RELATING TO THE ASSESSMENT OF THE CIVIL
13 PENALTIES HEREIN AUTHORIZED AND COMMISSION DENIALS OF REQUESTS FOR
14 CERTAIN DELETIONS OR EXEMPTIONS TO BE MADE FROM A FINANCIAL DISCLOSURE
15 STATEMENT AS AUTHORIZED IN PARAGRAPHS NINE AND TEN OF SUBDIVISION G OF
16 THIS SECTION. SUCH RULES, WHICH SHALL NOT BE SUBJECT TO THE PROMULGATION
17 AND HEARING REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT,
18 SHALL PROVIDE FOR DUE PROCESS PROCEDURAL MECHANISMS SUBSTANTIALLY SIMI-
19 LAR TO THOSE SET FORTH IN SUCH ARTICLE THREE BUT SUCH MECHANISMS NEED
20 NOT BE IDENTICAL IN TERMS OR SCOPE. ASSESSMENT OF A CIVIL PENALTY OR
21 COMMISSION DENIAL OF SUCH A DELETION OR EXEMPTION REQUEST SHALL BE FINAL
22 UNLESS MODIFIED, SUSPENDED OR VACATED WITHIN THIRTY DAYS OF IMPOSITION,
23 WITH RESPECT TO THE ASSESSMENT OF SUCH PENALTY, OR UNLESS SUCH DENIAL OF
24 REQUEST IS REVERSED WITHIN SUCH TIME PERIOD, AND UPON BECOMING FINAL
25 SHALL BE SUBJECT TO REVIEW AT THE INSTANCE OF THE AFFECTED REPORTING
26 INDIVIDUALS IN A PROCEEDING COMMENCED AGAINST THE COMMISSION, PURSUANT
27 TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

28 L. IF THE COMMISSION HAS A REASONABLE BASIS TO BELIEVE THAT ANY PERSON
29 SUBJECT TO THE JURISDICTION OF ANOTHER STATE OVERSIGHT BODY MAY HAVE
30 VIOLATED SECTION SEVENTY-THREE OR SEVENTY-FOUR OF THE PUBLIC OFFICERS
31 LAW, OR THAT ANY PERSON SUBJECT TO THE JURISDICTION OF THE STATE BOARD
32 OF ELECTIONS MAY HAVE VIOLATED ARTICLE FOURTEEN OF THE ELECTION LAW, IT
33 SHALL REFER SUCH VIOLATION TO SUCH OVERSIGHT BODY OR TO THE BOARD OF
34 ELECTIONS, AS APPROPRIATE, UNLESS THE COMMISSION DETERMINES THAT SUCH A
35 REFERRAL WOULD COMPROMISE THE PROSECUTION OR CONFIDENTIALITY OF ITS OR
36 THE LEGISLATIVE OFFICE OF ETHICS INVESTIGATIONS' INVESTIGATIONS AND, IF
37 SO, SHALL MAKE SUCH A REFERRAL AS SOON AS PRACTICABLE. THE REFERRAL BY
38 THE COMMISSION SHALL INCLUDE ANY INFORMATION RELATING THERETO COMING
39 INTO THE CUSTODY OR UNDER THE CONTROL OF THE COMMISSION AT ANY TIME
40 PRIOR OR SUBSEQUENT TO THE TIME OF THE REFERRAL.

41 M. A COPY OF ANY NOTICE OF DELINQUENCY SENT PURSUANT TO SUBDIVISION I
42 OF THIS SECTION SHALL BE INCLUDED IN THE REPORTING PERSON'S FILE AND BE
43 AVAILABLE FOR PUBLIC INSPECTION AND COPYING.

44 N. 1. NOTWITHSTANDING THE PROVISIONS OF ARTICLE SIX OF THE PUBLIC
45 OFFICERS LAW, THE ONLY RECORDS OF THE COMMISSION WHICH SHALL BE AVAIL-
46 ABLE FOR PUBLIC INSPECTION AND COPYING ARE AS FOLLOWS:

47 (A) THE INFORMATION SET FORTH IN AN ANNUAL STATEMENT OF FINANCIAL
48 DISCLOSURE FILED PURSUANT TO SECTION SEVENTY-THREE-A OF THE PUBLIC OFFI-
49 CERS LAW, EXCEPT ANY ITEM OF INFORMATION DELETED PURSUANT TO PARAGRAPH
50 NINE OF SUBDIVISION G OF THIS SECTION, WHICH SHALL BE MADE AVAILABLE TO
51 THE PUBLIC NO LATER THAN THIRTY DAYS AFTER RECEIPT;

52 (B) FINANCIAL DISCLOSURE STATEMENTS FILED PURSUANT TO SUBDIVISION SIX
53 OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW WHICH SHALL BE MADE
54 AVAILABLE TO THE PUBLIC NO LATER THAN THIRTY DAYS AFTER THEIR RECEIPT;

55 (C) NOTICES OF DELINQUENCY SENT UNDER SUBDIVISION I OF THIS SECTION;

(D) NOTICES OF CIVIL ASSESSMENT IMPOSED UNDER THIS SECTION WHICH SHALL INCLUDE A DESCRIPTION OF THE NATURE OF THE ALLEGED WRONGDOING, THE PROCEDURAL HISTORY OF THE COMPLAINT, THE FINDINGS AND DETERMINATIONS MADE BY THE COMMISSION, AND ANY SANCTION IMPOSED;

(E) GENERIC ADVISORY OPINIONS; AND

(F) ALL REPORTS REQUIRED BY THIS SECTION.

2. NOTWITHSTANDING THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW, NO MEETING OR PROCEEDING OF THE COMMISSION SHALL BE OPEN TO THE PUBLIC, EXCEPT IF EXPRESSLY PROVIDED OTHERWISE BY THIS SECTION OR THE COMMISSION PROVIDED, HOWEVER, THAT THE COMMISSION SHALL MEET PUBLICLY WHENEVER IT ADOPTS, AMENDS OR RESCINDS ITS POLICIES, RULES OR REGULATIONS, PROMULGATES ITS GUIDELINES, APPROVES EDUCATIONAL MATERIAL, OR ADOPTS ITS ANNUAL REPORT.

3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSION SHALL MAKE AVAILABLE TO THE LEGISLATIVE OFFICE OF ETHICS INVESTIGATION ALL RECORDS MAINTAINED BY THE COMMISSION AND SHALL REGULARLY FORWARD TO SUCH OFFICE COPIES OF ALL ADVISORY OPINIONS ADOPTED BY THE COMMISSION.

O. THE COMMISSION SHALL MAINTAIN A PUBLICLY ACCESSIBLE WEBSITE WHICH SHALL SET FORTH THE PROCEDURE FOR FILING A COMPLAINT AND WHICH SHALL CONTAIN THE DOCUMENTS IDENTIFIED IN SUBDIVISION N OF THIS SECTION, OTHER THAN FINANCIAL DISCLOSURE STATEMENTS FILED BY LEGISLATIVE EMPLOYEES, AND ANY OTHER RECORDS OR INFORMATION WHICH THE COMMISSION DETERMINES TO BE APPROPRIATE.

P. THE LEGISLATIVE COMMITTEES RESPONSIBLE FOR OVERSIGHT OF THE COMMISSION SHALL HOLD ONE OR MORE PUBLIC HEARINGS REGARDING THE EFFECTIVENESS OF THE COMMISSION AT LEAST FIVE MONTHS BEFORE THIS SECTION EXPIRES PURSUANT TO THE PROVISIONS OF THE CHAPTER OF THE LAWS OF TWO THOUSAND TEN WHICH ADDED THIS SECTION.

Q. THIS SECTION SHALL NOT REVOKE OR RESCIND ANY POLICIES, RULES, REGULATIONS OR ADVISORY OPINIONS ISSUED BY THE LEGISLATIVE ETHICS COMMITTEE AND LEGISLATIVE ETHICS COMMISSION IN EFFECT UPON THE EFFECTIVE DATE OF THIS SUBDIVISION, TO THE EXTENT THAT SUCH REGULATIONS OR OPINIONS ARE NOT INCONSISTENT WITH ANY LAWS OF THE STATE OF NEW YORK. THE COMMISSION SHALL UNDERTAKE A COMPREHENSIVE REVIEW OF ALL SUCH POLICIES, RULES, REGULATIONS OR ADVISORY OPINIONS WHICH WILL ADDRESS THE CONSISTENCY OF SUCH POLICIES, RULES, REGULATIONS OR ADVISORY OPINIONS WITH THE LAWS OF THE STATE OF NEW YORK. THE COMMISSION SHALL, BEFORE DECEMBER FIRST, TWO THOUSAND ELEVEN, REPORT TO THE GOVERNOR AND LEGISLATURE REGARDING SUCH REVIEW AND SHALL PROPOSE ANY REGULATORY CHANGES AND ISSUE ANY ADVISORY OPINIONS NECESSITATED BY SUCH REVIEW.

R. SEPARABILITY CLAUSE. IF ANY PART OR PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON IS ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR OTHERWISE INVALID, SUCH JUDGMENT SHALL NOT AFFECT OR IMPAIR ANY OTHER PART OR PROVISION OR THE APPLICATION THEREOF TO ANY OTHER PERSON, BUT SHALL BE CONFINED TO SUCH PART OR PROVISION.

S 10. The public officers law is amended by adding a new section 89-a to read as follows:

S 89-A. ETHICS REPORTS. THE COMMITTEE ON OPEN GOVERNMENT SHALL ANNUALLY PREPARE A REPORT THAT SUMMARIZES THE PUBLIC ACTIONS AND REPORTS OF THE JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS, THE LEGISLATIVE OFFICE OF ETHICS INVESTIGATIONS, THE STATE COMMISSION ON LOBBYING ETHICS AND COMPLIANCE, THE SENATE AND ASSEMBLY STANDING COMMITTEES ON ETHICS, AND THE EXECUTIVE ETHICS AND COMPLIANCE COMMISSION. IT SHALL DELIVER THE REPORT TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, THE MINORITY

LEADER OF THE SENATE, THE COMPTROLLER, AND THE ATTORNEY GENERAL ON OR BEFORE MARCH FIRST OF EACH YEAR. IT ALSO SHALL PUBLISH THE REPORT ON ITS WEBSITE.

S 11. The state of New York shall appropriate during each fiscal year to the New York state commission on lobbying ethics and compliance an amount equivalent to not less than seven and one-half per centum of the appropriation available from the general fund in the department of state to pay for the expenses of such commission; it shall appropriate during each fiscal year to the executive ethics and compliance commission an amount equivalent to not less than seven and one-half per centum of the general fund appropriation in the department of state to pay for the expenses of such commission; it shall appropriate to the joint legislative commission on ethics standards and the legislative office of ethics investigations an amount equivalent to not less than one per centum of the appropriation available to the state senate.

S 12. Subdivisions 17 and 18 of section 73 of the public officers law are renumbered subdivisions 18 and 19 and a new subdivision 17 is added to read as follows:

17. NO LEGISLATIVE EMPLOYEE SHALL, EXCEPT WITHIN THE SCOPE OF LEGISLATIVE EMPLOYMENT, USE HIS OR HER POSITION, INFLUENCE OR ACCESS TO DIRECTLY OR INDIRECTLY PROMOTE OR OPPOSE THE PASSAGE OF BILLS OR RESOLUTIONS BY EITHER HOUSE. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, A LEGISLATIVE EMPLOYEE WHO SERVES AS AN ELECTED CHIEF EXECUTIVE OFFICER OR MEMBER OF A GOVERNING BODY OF A MUNICIPAL CORPORATION OR DISTRICT CORPORATION SHALL BE AUTHORIZED TO PARTICIPATE WHILE CARRYING OUT THE OFFICIAL DUTIES OF SUCH OFFICE IN THE DISCUSSION, DRAFTING, PREPARATION, VOTING AND DISPATCH OF A RESOLUTION, MESSAGE OR PROCLAMATION ADDRESSED TO EITHER HOUSE.

S 13. Section 66-a of the legislative law is REPEALED.

S 13-a. Paragraph (c) of subdivision 6 and subdivision 10 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, are amended to read as follows:

(c) Any such legislative employee who knowingly and wilfully with intent to deceive makes a false statement or gives information which he OR SHE knows to be false in any written statement required to be filed pursuant to this subdivision, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty shall be made by the [legislative ethics committee] JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS in accordance with the provisions of [subdivision twelve of] section [eighty] EIGHTY-ONE of the legislative law. For a violation of this subdivision, the [committee] COMMISSION may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chairman, member of the legislature or legislative employee is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a state agency, or a city agency with respect to a political party chairman in a county wholly included in a city with a population of more than one million, otherwise proscribed by this section, the judiciary law, the education law or any other law or disciplinary rule with

1 respect to such official, member of the legislature or officer or
2 employee, or political party chairman, where such statewide elected
3 official, state officer or employee, member of the legislature or legis-
4 lative employee, or political party chairman does not share in the net
5 revenues, as defined in accordance with generally accepted accounting
6 principles by the [state ethics commission] EXECUTIVE ETHICS AND COMPLI-
7 ANCE COMMISSION or by the [legislative ethics committee] JOINT LEGISLA-
8 TIVE COMMISSION ON ETHICS STANDARDS in relation to persons subject to
9 their respective jurisdictions, resulting therefrom, or, acting in good
10 faith, reasonably believed that he or she would not share in the net
11 revenues as so defined; nor shall anything contained in this section,
12 the judiciary law, the education law or any other law or disciplinary
13 rule be construed to prohibit any firm, association or corporation in
14 which any present or former statewide elected official, member of the
15 legislature, legislative employee, full-time salaried state officer or
16 employee or state officer or employee who is subject to the provisions
17 of section seventy-three-a of this chapter is a member, associate,
18 retired member, of counsel or shareholder, from appearing, practicing,
19 communicating or otherwise rendering services in relation to any matter
20 before, or transacting business with, the court of claims, where such
21 statewide elected official, member of the legislature, legislative
22 employee, full-time salaried state officer or employee or state officer
23 or employee who is subject to the provisions of section seventy-three-a
24 of this chapter does not share in the net revenues, as defined in
25 accordance with generally accepted accounting principles by the [state
26 ethics commission] EXECUTIVE ETHICS AND COMPLIANCE COMMISSION or by the
27 [legislative ethics committee] JOINT LEGISLATIVE COMMISSION ON ETHICS
28 STANDARDS in relation to persons subject to their respective jurisdic-
29 tions, resulting therefrom, or, acting in good faith, reasonably
30 believed that he or she would not share in the net revenues as so
31 defined.

32 S 13-b. Subparagraph (ii) of paragraph (a) and paragraphs (c), (d),
33 (f) and (g) of subdivision 2 of section 73-a of the public officers law,
34 subparagraph (ii) of paragraph (a) and paragraphs (c), (d) and (f) as
35 added by chapter 813 of the laws of 1987 and paragraph (g) as amended by
36 chapter 242 of the laws of 1989, are amended to read as follows:

37 (ii) a person who is required to file an annual financial disclosure
38 statement with the [state ethics] EXECUTIVE ETHICS AND COMPLIANCE
39 commission or with the [legislative ethics committee] JOINT LEGISLATIVE
40 COMMISSION ON ETHICS STANDARDS, and who is granted an additional period
41 of time within which to file such statement due to justifiable cause or
42 undue hardship, in accordance with required rules and regulations on the
43 subject adopted pursuant to paragraph [c] (C) of subdivision nine of
44 section ninety-four of the executive law or pursuant to [paragraph c of
45 subdivision eight of] section [eighty] EIGHTY-ONE of the legislative
46 law, shall file such statement within the additional period of time
47 granted;

48 (c) If the reporting individual is a senator or member of assembly,
49 candidate for the senate or member of assembly or a legislative employ-
50 ee, such statement shall be filed with the [legislative ethics commit-
51 tee] JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS established by
52 section [eighty] EIGHTY-ONE of the legislative law. If the reporting
53 individual is a statewide elected official, candidate for statewide
54 elected office, a state officer or employee or a political party chair-
55 man, such statement shall be filed with the [state ethics] EXECUTIVE

1 ETHICS AND COMPLIANCE commission established by section ninety-four of
2 the executive law.

3 (d) The [legislative ethics committee] JOINT LEGISLATIVE COMMISSION ON
4 ETHICS STANDARDS and the [state ethics] EXECUTIVE ETHICS AND COMPLIANCE
5 commission shall obtain from the state board of elections a list of all
6 candidates for statewide office and for member of the legislature, and
7 from such list, shall determine and publish a list of those candidates
8 who have not, within ten days after the required date for filing such
9 statement, filed the statement required by this subdivision.

10 (f) A person who may otherwise be required to file more than one annu-
11 al financial disclosure statement with both the [state ethics] EXECUTIVE
12 ETHICS AND COMPLIANCE commission and the [legislative ethics committee]
13 JOINT LEGISLATIVE COMMISSION ON ETHICS STANDARDS in any one calendar
14 year may satisfy such requirement by filing one such statement with
15 either body and by notifying the other body of such compliance.

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

37 S 14. Subdivision 3 of section 73-a of the public officers law, as
38 added by chapter 813 of the laws of 1987, the third and fourth undesig-
39 nated paragraphs of paragraph 3 as added and paragraph 4, subparagraph
40 (a) of paragraph 5, paragraphs 6, 9, 10, 11, subparagraph (b) of para-
41 graph 12 and paragraphs 13, 14, 15, 16, 17, 18 and 19 as amended by
42 chapter 242 of the laws of 1989, is amended to read as follows:

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

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

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

(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.

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

Position	Organization	State or Local Agency
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(b) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the spouse or unemancipated child of the reporting individual, with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity,

1 did business with, or had matters other than ministerial matters
2 before, any state or local agency, list the name of any such agency.

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

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

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

27 (b) IF THE REPORTING INDIVIDUAL DID BUSINESS WITH OR HAD MATTERS OTHER
28 THAN MINISTERIAL MATTERS BEFORE ANY STATE OR LOCAL AGENCY IN THE
29 COURSE OF ANY EMPLOYMENT, TRADE, BUSINESS, PROFESSION OR OCCUPATION
30 ENGAGED IN BY THE REPORTING INDIVIDUAL, LIST THE NAME AND ADDRESS OF
31 THE ENTITY, A BRIEF DESCRIPTION OF THE ACTIVITY AND THE NAME OF ANY
32 SUCH AGENCY.

33	34	35	36
NAME & ADDRESS OF ORGANIZATION	DESCRIPTION	STATE OR LOCAL AGENCY	
36			
37			
38			
39			
40			

41 (C) If the spouse or unemancipated child of the reporting individual was
42 engaged in any occupation, employment, trade, business or profession
43 which activity was licensed by any state or local agency, was regu-
44 lated by any state regulatory agency or local agency, or, as a regu-
45 lar and significant part of the business or activity of said entity,
46 did business with, or had matters other than ministerial matters
47 before, any state or local agency, list the name, address and

description of such occupation, employment, trade, business or profession and the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency

6. List any interest, in EXCESS of \$1,000, held by the reporting individual, such individual's spouse or unemancipated child, or partnership of which any such person is a member, or corporation, 10% or more of the stock of which is owned or controlled by any such person, whether vested or contingent, in any contract made or executed by a state or local agency and include the name of the entity which holds such interest and the relationship of the reporting individual or such individual's spouse or such child to such entity and the interest in such contract. Do NOT include bonds and notes. Do NOT list any interest in any such contract on which final payment has been made and all obligations under the contract except for guarantees and warranties have been performed, provided, however, that such an interest must be listed if there has been an ongoing dispute during the calendar year for which this statement is filed with respect to any such guarantees or warranties. Do NOT list any interest in a contract made or executed by a local agency after public notice and pursuant to a process for competitive bidding or a process for competitive requests for proposals.

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

7. List any position the reporting individual held as an officer of any political party or political organization, as a member of any political party committee, or as a political party district leader. The term "party" shall have the same meaning as "party" in the election law. The term "political organization" means any party or independent body as defined in the election law or any organization that is affiliated with or a subsidiary of a party or independent body.

8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, give a general description of the principal subject areas of matters undertaken by such individual. IF THE NATURE OF THE REPORTING INDIVIDUAL'S PRACTICE OR ACTIVITIES WERE SUCH THAT NO PRINCIPAL SUBJECT AREAS OR MATTERS WERE UNDERTAKEN, GIVE A GENERAL DESCRIPTION OF THE PRACTICE OR ACTIVITIES UNDERTAKEN. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of THE principal subject areas of matters undertaken by such firm or corporation. IF THE MATTERS UNDERTAKEN BY SUCH FIRM OR CORPORATION WERE SUCH THAT NO PRINCIPAL SUBJECT AREAS OR MATTERS WERE UNDERTAKEN, GIVE A GENERAL DESCRIPTION OF THE PRACTICE OR ACTIVITIES UNDERTAKEN. Do not list the name of the individual clients, customers or patients.

(b) 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 had an investment in excess of \$1,000 excluding investments in securities and interests in real property.

(c) IF THE REPORTING INDIVIDUAL RECEIVED INCOME IN EXCESS OF \$1,000 FROM CONSULTING SERVICES, NOT INCLUDING ANY SERVICES RENDERED AS PART OF ANY PRACTICE OR ACTIVITY REQUIRED TO BE DISCLOSED IN ITEM 8(A) OR SERVICES RENDERED AS PART OF THE PRACTICE OR ACTIVITY IDENTIFIED IN SECTIONS FORTY-FIVE HUNDRED FOUR, FORTY-FIVE HUNDRED FIVE, FORTY-FIVE HUNDRED SEVEN, FORTY-FIVE HUNDRED EIGHT AND FORTY-FIVE HUNDRED TEN OF THE CIVIL PRACTICE LAW AND RULES, PROVIDE THE NAME AND ADDRESS OF EACH CLIENT, THE COMPENSATION RECEIVED FROM EACH CLIENT, AND A GENERAL DESCRIPTION OF THE SERVICES RENDERED OR CONSIDERATION GIVEN.

CLIENT	ADDRESS	SERVICES/CONSIDERATION	CATEGORY OF VALUE
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9. List each source of gifts, EXCLUDING campaign contributions, in EXCESS of \$1,000, received during the reporting period for which this statement is filed by the reporting individual or such individual's spouse or unemancipated child from the same donor, EXCLUDING gifts from a relative. INCLUDE the name and address of the donor. The term "gifts" does not include reimbursements, which term is defined in item 10. Indicate the value and nature of each such gift.

	Self, Spouse or Child	Name of Donor	Address	Nature of Gift	Category of Value of Gift
5					
6					
7					
8					
9					
10	10. Identify and briefly describe the source of any reimbursements for				
11	expenditures, EXCLUDING campaign expenditures and expenditures in				
12	connection with official duties reimbursed by the state, in EXCESS				
13	of \$1,000 from each such source. For purposes of this item, the term				
14	"reimbursements" shall mean any travel-related expenses provided by				
15	nongovernmental sources and for activities related to the reporting				
16	individual's official duties such as, speaking engagements, confer-				
17	ences, or factfinding events. The term "reimbursements" does NOT				
18	include gifts reported under item 9.				
19	Source				Description
20					
21					
22					
23					
24					
25	11. List the identity and value, if reasonably ascertainable, of each				
26	interest in a trust, estate or other beneficial interest, including				
27	retirement plans (other than retirement plans of the state of New				
28	York or the city of New York[,]) and deferred compensation plans				
29	(e.g., 401, 403(b), 457, etc.) established in accordance with the				
30	internal revenue code, in which the REPORTING INDIVIDUAL held a				
31	beneficial interest in EXCESS of \$1,000 at any time during the				
32	preceding year. Do NOT report interests in a trust, estate or other				
33	beneficial interest established by or for, or the estate of, a rela-				
34	tive.				
35					Category
36	Identity				of Value*
37					
38					
39					
40					
41					
42	* The value of such interest shall be reported only if reasonably				
43	ascertainable.				
44	12. (a) Describe the terms of, and the parties to, any contract, prom-				
45	ise, or other agreement between the reporting individual and any				
46	person, firm, or corporation with respect to the employment of such				
47	individual after leaving office or position (other than a leave of				
48	absence).				

1 _____
2 _____
3 _____
4 _____
5 _____

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

12 _____
13 _____
14 _____
15 _____
16 _____

17 13. List below the nature and amount of any income in EXCESS of \$1,000
18 from EACH SOURCE for the reporting individual and such individual's
19 spouse for the taxable year last occurring prior to the date of
20 filing. Nature of income includes, but is not limited to, all
21 income (other than that received from the employment listed under
22 Item 2 above) from compensated employment whether public or private,
23 directorships and other fiduciary positions, contractual arrange-
24 ments, teaching income, partnerships, honorariums, lecture fees,
25 consultant fees, bank and bond interest, dividends, income derived
26 from a trust, real estate rents, and recognized gains from the sale
27 or exchange of real or other property. Income from a business or
28 profession and real estate rents shall be reported with the source
29 identified by the building address in the case of real estate rents
30 and otherwise by the name of the entity and not by the name of the
31 individual customers, clients or tenants, with the aggregate net
32 income before taxes for each building address or entity. The
33 receipt of maintenance received in connection with a matrimonial
34 action, alimony and child support payments shall not be listed.

35	Self/			Category
36	Spouse	Source	Nature	of Amount
37	_____			
38	_____			
39	_____			
40	_____			
41	_____			

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

1	2	Source	Category of Amount
3			
4			
5			
6			
7			
8	15.	List each assignment of income in EXCESS of \$1,000, and each trans-	
9		fer other than to a relative during the reporting period for which	
10		this statement is filed for less than fair consideration of an	
11		interest in a trust, estate or other beneficial interest, securities	
12		or real property, by the reporting individual, in excess of \$1,000,	
13		which would otherwise be required to be reported herein and is not	
14		or has not been so reported.	
15		Item Assigned	Assigned or
16		or Transferred	Transferred to
			Category of Value
17			
18			
19			
20			
21			
22	16.	List below the type and market value of securities held by the	
23		reporting individual or such individual's spouse from each issuing	
24		entity in EXCESS of \$1,000 at the close of the taxable year last	
25		occurring prior to the date of filing, including the name of the	
26		issuing entity exclusive of securities held by the reporting indi-	
27		vidual issued by a professional corporation. Whenever an interest in	
28		securities exists through a beneficial interest in a trust, the	
29		securities held in such trust shall be listed ONLY IF the reporting	
30		individual has knowledge thereof except where the reporting individ-	
31		ual or the reporting individual's spouse has transferred assets to	
32		such trust for his or her benefit in which event such securities	
33		shall be listed unless they are not ascertainable by the reporting	
34		individual because the trustee is under an obligation or has been	
35		instructed in writing not to disclose the contents of the trust to	
36		the reporting individual. Securities of which the reporting individ-	
37		ual or the reporting individual's spouse is the owner of record but	
38		in which such individual or the reporting individual's spouse has no	
39		beneficial interest shall not be listed. Indicate percentage of	
40		ownership ONLY if the reporting person or the reporting person's	
41		spouse holds more than five percent (5%) of the stock of a corpo-	
42		ration in which the stock is publicly traded or more than ten	
43		percent (10%) of the stock of a corporation in which the stock is	
44		NOT publicly traded. Also list securities owned for investment	
45		purposes by a corporation more than fifty percent (50%) of the stock	
46		of which is owned or controlled by the reporting individual or such	
47		individual's spouse. For the purpose of this item the term "securi-	
48		ties" shall mean mutual funds, bonds, mortgages, notes, obligations,	
49		warrants and stocks of any class, investment interests in limited or	
50		general partnerships and certificates of deposits (CDs) and such	

the nature of the collateral securing payment of each, if any, excluding securities reported in item 16 hereinabove. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported.

Name of Debtor	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount
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19. List below all liabilities of the reporting individual and such individual's spouse, in EXCESS of \$5,000 as of the date of filing of this statement, other than liabilities to a relative. Do NOT list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

Name of Creditor or Guarantor	Type of Liability and Collateral, if any	Category of Amount
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The requirements of law relating to the reporting of financial interests are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with these requirements.

(Signature of Reporting Individual)	Date (month/day/year)
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S 15. Transfer of employees. Upon the transfer of the functions, as provided for in this act any affected employees shall be transferred to the commission on lobbying ethics and compliance, the executive ethics

1 and compliance commission, and the joint legislative commission on
2 ethics standards, as appropriate, in accordance with section 70 of the
3 civil service law.

4 S 16. Transfer of records. The commission on public integrity and the
5 legislative ethics commission shall deliver to the commission on lobby-
6 ing ethics and compliance, the executive ethics and compliance commis-
7 sion, and the joint legislative commission on ethics standards, as
8 appropriate, all books, papers, records, and property as requested by
9 the commission on lobbying ethics and compliance, the executive ethics
10 and compliance commission, and the joint legislative commission on
11 ethics standards, as appropriate, pursuant to this act.

12 S 17. Completion of unfinished business. Any business or other matter
13 undertaken or commenced by the commission on public integrity and the
14 legislative ethics commission pertaining to or connected with the func-
15 tions, powers, obligations and duties hereby transferred and assigned to
16 the commission on lobbying ethics and compliance, the executive ethics
17 and compliance commission, and the joint legislative commission on
18 ethics standards, as appropriate, and pending on the effective date of
19 this act may be conducted and completed by the commission on lobbying
20 ethics and compliance, the executive ethics and compliance commission,
21 and the joint legislative commission on ethics standards, as appropri-
22 ate, in the same manner and under the same terms and conditions and with
23 the same effect as if conducted and completed by the former commission
24 on public integrity and the legislative ethics commission.

25 S 18. Terms occurring in laws, contracts and other documents. Whenev-
26 er the commission on public integrity and the legislative ethics commis-
27 sion are referred to or designated in any law, contract or documents
28 pertaining to the functions, powers, obligations and duties hereby
29 transferred and assigned to the commission on lobbying ethics and
30 compliance, the executive ethics and compliance commission, and the
31 joint legislative commission on ethics standards, as appropriate, such
32 reference or designation shall be deemed to refer to the commission on
33 lobbying ethics and compliance, the executive ethics and compliance
34 commission, and the joint legislative commission on ethics standards, as
35 appropriate, as created by this act.

36 S 19. Existing rights and remedies preserved. No existing right or
37 remedy of any character shall be lost, impaired or affected by reason of
38 this act.

39 S 20. Pending actions and proceedings. No action or proceeding pending
40 at the time when this act shall take effect, brought by or against the
41 commission on public integrity or the legislative ethics commission
42 relating to the function, power or duty transferred to or devolved upon
43 the commission on lobbying ethics and compliance, the executive ethics
44 and compliance commission, and the joint legislative commission on
45 ethics standards, as appropriate, shall be affected by this act, but the
46 same may be prosecuted or defended in the name of the commission on
47 lobbying ethics and compliance, the executive ethics and compliance
48 commission, and the joint legislative commission on ethics standards, as
49 appropriate, and upon application to the court, the commission on lobby-
50 ing ethics and compliance, the executive ethics and compliance commis-
51 sion, and the joint legislative commission on ethics standards, as
52 appropriate, shall be substituted as a party.

53 S 21. Notwithstanding any contrary provision of the state finance law,
54 transfer of appropriations heretofore made to the commission on public
55 integrity and the legislative ethics commission, all appropriations or
56 reappropriations for the functions herein transferred heretofore made to

1 the commission on public integrity and the legislative ethics commission
2 or segregated pursuant to law, to the extent of remaining unexpended or
3 unencumbered balances thereof, whether allocated or unallocated and
4 whether obligated or unobligated, are hereby transferred to the commis-
5 sion on lobbying ethics and compliance, the executive ethics and compli-
6 ance commission, and the joint legislative commission on ethics stand-
7 ards, as appropriate, to the extent necessary to carry out the
8 commission on lobbying ethics and compliance, the executive ethics and
9 compliance commission, and the joint legislative commission on ethics
10 standards' functions, powers and duties subject to the approval of the
11 director of the budget for the same purposes for which originally appro-
12 priated or reappropriated and shall be payable on vouchers certified or
13 approved by the commission on lobbying ethics and compliance, the execu-
14 tive ethics and compliance commission, and the joint legislative commis-
15 sion on ethics standards, as appropriate, on audit and warrant of the
16 comptroller.

17 S 22. Subdivision 3 of section 3-100 of the election law, as amended
18 by chapter 220 of the laws of 2005, is amended to read as follows:

19 3. The commissioners of the state board of elections shall have no
20 other public employment. The commissioners shall receive an annual sala-
21 ry of twenty-five thousand dollars, within the amounts made available
22 therefor by appropriation. The board shall, for the purposes of sections
23 seventy-three and seventy-four of the public officers law, be a "state
24 agency", and such commissioners shall be "officers" of the state board
25 of elections for the purposes of such sections. Within the amounts made
26 available by appropriation therefor, the state board of elections shall
27 appoint two co-executive directors, AN ENFORCEMENT COUNSEL, A SPECIAL
28 counsel, A DEPUTY ENFORCEMENT COUNSEL, WHO SHALL BE A MEMBER OF A
29 DIFFERENT MAJOR POLITICAL PARTY THAN THE ENFORCEMENT COUNSEL, A DEPUTY
30 SPECIAL COUNSEL, WHO SHALL BE A MEMBER OF A DIFFERENT MAJOR POLITICAL
31 PARTY THAN THE SPECIAL COUNSEL, and such other staff members as are
32 necessary in the exercise of its functions, and may fix their compen-
33 sation. [Anytime after the effective date of the chapter of the laws of
34 two thousand five which amended this subdivision, the] THE commissioners
35 or, in the case of a vacancy on the board, the commissioner of each of
36 the major political parties shall appoint one co-executive director.
37 Each co-executive director shall serve a term of four years. THE
38 ENFORCEMENT COUNSEL AND THE SPECIAL COUNSEL SHALL EACH SERVE A TERM OF
39 FOUR YEARS AND MAY ONLY BE REMOVED FOR CAUSE. ANY TIME AFTER THE EFFEC-
40 TIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND TEN WHICH AMENDED
41 THIS SUBDIVISION, THE COMMISSIONERS, OR IN THE CASE OF A VACANCY ON THE
42 BOARD, THE COMMISSIONER, OF EACH OF THE SAME MAJOR POLITICAL PARTY AS
43 THE INCUMBENT ENFORCEMENT AND SPECIAL COUNSELS SHALL APPOINT SUCH COUN-
44 SEL. Any vacancy in the office of co-executive director, ENFORCEMENT
45 COUNSEL OR SPECIAL COUNSEL shall be filled by the commissioners or, in
46 the case of a vacancy on the board, the commissioner of the same major
47 political party as the vacating incumbent for the remaining period of
48 the term of such vacating incumbent.

49 S 23. Subdivision 3, paragraph (c) of subdivision 9-A and subdivision
50 17 of section 3-102 of the election law, subdivisions 3 and 17 as
51 amended by chapter 9 of the laws of 1978, paragraph (c) of subdivision
52 9-A as added by chapter 430 of the laws of 1997 and subdivision 17 as
53 renumbered by chapter 23 of the laws of 2005, are amended to read as
54 follows:

55 3. conduct any investigation necessary to carry out the provisions of
56 this chapter, PROVIDED, HOWEVER, THAT THE STATE BOARD OF ELECTIONS

1 ENFORCEMENT COUNSEL, ESTABLISHED PURSUANT TO SECTION 3-104 OF THIS ARTI-
2 CLE, SHALL CONDUCT ANY INVESTIGATION NECESSARY TO ENFORCE THE PROVISIONS
3 OF ARTICLE FOURTEEN OF THIS CHAPTER ON BEHALF OF THE BOARD OF ELECTIONS;

4 (c) establish [a] AN EDUCATIONAL AND training program on ALL REPORTING
5 REQUIREMENTS INCLUDING BUT NOT LIMITED TO the electronic reporting proc-
6 ess and make it EASILY AND READILY available to any such candidate or
7 committee AND NOTIFY ANY SUCH CANDIDATE OR COMMITTEE OF THE AVAILABILITY
8 OF THE MOST RECENT CAMPAIGN FINANCE HANDBOOK;

9 17. HEAR AND CONSIDER THE RECOMMENDATIONS OF THE STATE BOARD OF
10 ELECTIONS ENFORCEMENT COUNSEL REGARDING THE ENFORCEMENT OF VIOLATIONS OF
11 ARTICLE FOURTEEN OF THIS CHAPTER;

12 18. perform such other acts as may be necessary to carry out the
13 purposes of this chapter.

14 S 24. Section 3-104 of the election law, subdivisions 1, 3, 4 and 5
15 as redesignated and subdivision 2 as amended by chapter 9 of the laws of
16 1978, is amended to read as follows:

17 S 3-104. State board of elections AND THE STATE BOARD OF ELECTIONS
18 ENFORCEMENT COUNSEL; enforcement powers. 1. (A) THERE SHALL BE A UNIT
19 KNOWN AS THE STATE BOARD OF ELECTIONS ENFORCEMENT UNIT ESTABLISHED WITH-
20 IN THE STATE BOARD OF ELECTIONS. THE HEAD OF SUCH UNIT SHALL BE THE
21 ENFORCEMENT COUNSEL.

22 (B) The state board of elections shall have jurisdiction of, and be
23 responsible for, the execution and enforcement of the provisions of
24 [article fourteen of this chapter and other] statutes governing
25 campaigns, elections and related procedures; PROVIDED HOWEVER THAT THE
26 ENFORCEMENT COUNSEL SHALL HAVE SOLE AUTHORITY WITHIN THE STATE BOARD OF
27 ELECTIONS TO INVESTIGATE ON HIS OR HER OWN INITIATIVE OR UPON COMPLAINT,
28 ALLEGED VIOLATIONS OF ARTICLE FOURTEEN OF THIS CHAPTER AND ALL
29 COMPLAINTS ALLEGING ARTICLE FOURTEEN VIOLATIONS SHALL BE FORWARDED TO
30 THE ENFORCEMENT UNIT. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
31 DIMINISH OR ALTER THE STATE BOARD OF ELECTIONS' JURISDICTION PURSUANT TO
32 THIS CHAPTER.

33 2. Whenever [the state board of elections or other] A LOCAL board of
34 elections shall determine, on its own initiative or upon complaint, or
35 otherwise, that there is substantial reason to believe a violation of
36 this chapter or any code or regulation promulgated thereunder has
37 [occurred] BEEN COMMITTED BY A CANDIDATE OR POLITICAL COMMITTEE THAT
38 FILES STATEMENTS REQUIRED BY ARTICLE FOURTEEN OF THIS CHAPTER SOLELY
39 WITH SUCH LOCAL BOARD, it shall expeditiously make an investigation
40 which shall also include investigation of reports and statements made or
41 failed to be made by the complainant and any political committee
42 supporting his candidacy if the complainant is a candidate or, if the
43 complaint was made by an officer or member of a political committee, of
44 reports and statements made or failed to be made by such political
45 committee and any candidates supported by it. [The state board of
46 elections, in lieu of making such an investigation, may direct the
47 appropriate board of elections to make an investigation.]

48 (C) The state board of elections may request, and shall receive, the
49 assistance of the state police in any investigation it shall conduct.

50 [3. If, after an investigation, the state or other board of elections
51 finds reasonable cause to believe that a violation warranting criminal
52 prosecution has taken place, it shall forthwith refer the matter to the
53 district attorney of the appropriate county and shall make available to
54 such district attorney all relevant papers, documents, testimony and
55 findings relevant to its investigation.

1 4. The state or other board of elections may, where appropriate,
2 commence a judicial proceeding with respect to the filing or failure to
3 file any statement of receipts, expenditures, or contributions, under
4 the provisions of this chapter, and the state board of elections may
5 direct the appropriate other board of elections to commence such
6 proceeding.

7 5.] 3. IF THE ENFORCEMENT COUNSEL DETERMINES THAT A VIOLATION OF
8 SUBDIVISION ONE OF SECTION 14-126 OF THIS CHAPTER HAS OCCURRED WHICH
9 COULD WARRANT A CIVIL PENALTY, THE ENFORCEMENT COUNSEL SHALL, UPON HIS
10 OR HER DISCRETION, SEEK TO RESOLVE THE MATTER EXTRA-JUDICIALLY OR
11 COMMENCE A SPECIAL PROCEEDING IN THE SUPREME COURT PURSUANT TO SECTION
12 16-114 OF THIS CHAPTER.

13 4. UPON RECEIPT OF A COMPLAINT AND SUPPORTING INFORMATION ALLEGING
14 ANY OTHER VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER, THE ENFORCEMENT
15 COUNSEL SHALL ANALYZE THE COMPLAINT TO DETERMINE IF AN INVESTIGATION
16 SHOULD BE UNDERTAKEN. THE ENFORCEMENT COUNSEL SHALL, IF NECESSARY,
17 REQUEST ADDITIONAL INFORMATION FROM THE COMPLAINANT TO ASSIST SUCH COUN-
18 SEL IN MAKING THIS DETERMINATION. SUCH ANALYSIS SHALL INCLUDE THE
19 FOLLOWING: FIRST, WHETHER THE ALLEGATIONS, IF TRUE, WOULD CONSTITUTE A
20 VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER AND, SECOND, WHETHER THE
21 ALLEGATIONS ARE SUPPORTED BY CREDIBLE EVIDENCE.

22 5. IF THE ENFORCEMENT COUNSEL DETERMINES THAT THE ALLEGATIONS, IF
23 TRUE, WOULD NOT CONSTITUTE A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAP-
24 TER OR THAT THE ALLEGATIONS ARE NOT SUPPORTED BY CREDIBLE EVIDENCE, HE
25 OR SHE SHALL ISSUE A LETTER TO THE COMPLAINANT DISMISSING THE COMPLAINT.

26 6. IF THE ENFORCEMENT COUNSEL DETERMINES THAT THE ALLEGATIONS, IF
27 TRUE, WOULD CONSTITUTE A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER
28 AND THAT THE ALLEGATIONS APPEAR TO BE SUPPORTED BY CREDIBLE EVIDENCE, HE
29 OR SHE SHALL NOTIFY THE STATE BOARD OF ELECTIONS OF (A) HIS OR HER
30 INTENT TO RESOLVE THE MATTER EXTRA-JUDICIALLY DUE TO THE DE MINIMUS
31 NATURE OF THE VIOLATION; OR (B) HIS OR HER INTENT TO COMMENCE AN INVES-
32 TIGATION, NO LATER THAN THE BOARD'S NEXT REGULARLY SCHEDULED MEETING.
33 NOTIFICATION SHALL SUMMARIZE THE RELEVANT FACTS AND THE APPLICABLE LAW
34 AND SHALL, TO THE EXTENT POSSIBLE, PROTECT FROM PUBLIC DISCLOSURE THE
35 IDENTITY OF THE COMPLAINANT AND THE INDIVIDUAL SUBJECT TO THE COMPLAINT.

36 7. IF, UPON CONSIDERING THE ENFORCEMENT COUNSEL'S NOTICE OF INTENT TO
37 COMMENCE AN INVESTIGATION, THE STATE BOARD OF ELECTIONS BELIEVES THAT
38 THE ALLEGATIONS, IF TRUE, WOULD NOT CONSTITUTE A VIOLATION OF ARTICLE
39 FOURTEEN OF THIS CHAPTER, OR THE ALLEGATIONS ARE NOT SUPPORTED BY CREDI-
40 BLE EVIDENCE OR, THAT ON BALANCE, THE EQUITIES FAVOR A DISMISSAL OF THE
41 COMPLAINT, THE BOARD SHALL PUBLICLY DIRECT THAT AN INVESTIGATION NOT BE
42 UNDERTAKEN NO LATER THAN SIXTY DAYS AFTER THE RECEIPT OF NOTIFICATION
43 FROM THE ENFORCEMENT COUNSEL OF HIS OR HER INTENT TO COMMENCE AN INVES-
44 TIGATION. IN DETERMINING WHETHER THE EQUITIES FAVOR A DISMISSAL OF THE
45 COMPLAINT, THE STATE BOARD OF ELECTIONS SHALL CONSIDER THE FOLLOWING
46 FACTORS: (A) WHETHER THE COMPLAINT ALLEGES A DE MINIMUS VIOLATION OF
47 ARTICLE FOURTEEN OF THIS CHAPTER; (B) WHETHER THE SUBJECT OF THE
48 COMPLAINT HAS MADE A GOOD FAITH EFFORT TO CORRECT THE VIOLATION; AND (C)
49 WHETHER THE SUBJECT OF THE COMPLAINT HAS A HISTORY OF SIMILAR
50 VIOLATIONS. DETERMINATIONS OF THE STATE BOARD OF ELECTIONS TO DISMISS A
51 COMPLAINT AND NOT PROCEED WITH A FORMAL INVESTIGATION SHALL BE VOTED
52 UPON AS PROVIDED IN SUBDIVISION FOUR OF SECTION 3-100 OF THIS TITLE AT
53 AN OPEN MEETING PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW,
54 AND SHALL BE MADE ON A FAIR AND EQUITABLE BASIS AND WITHOUT REGARD TO
55 THE STATUS OF THE SUBJECT OF THE COMPLAINT.

1 8. ABSENT A TIMELY DETERMINATION BY THE STATE BOARD OF ELECTIONS THAT
2 AN INVESTIGATION SHALL NOT BE UNDERTAKEN, THE ENFORCEMENT COUNSEL SHALL
3 COMMENCE AN INVESTIGATION ON A TIMELY BASIS. IF THE ENFORCEMENT COUNSEL
4 DETERMINES THAT ADDITIONAL INVESTIGATIVE POWERS, AS PROVIDED FOR IN
5 SUBDIVISIONS FOUR, FIVE AND SIX OF SECTION 3-102 OF THIS TITLE, ARE
6 NEEDED TO COMPLETE THE COUNSEL'S INVESTIGATION, HE OR SHE SHALL REQUEST
7 SUCH ADDITIONAL POWERS FROM THE STATE BOARD OF ELECTIONS. SUCH POWERS
8 SHALL BE GRANTED BY THE BOARD IN PUBLIC, AS PROVIDED IN SUBDIVISION FOUR
9 OF SECTION 3-100 OF THIS TITLE, ONLY WHEN THE BOARD FINDS THAT FURTHER
10 INVESTIGATION IS WARRANTED AND JUSTIFIED.

11 9. AT THE CONCLUSION OF ITS INVESTIGATION, THE ENFORCEMENT COUNSEL
12 SHALL PROVIDE THE STATE BOARD OF ELECTIONS WITH A WRITTEN RECOMMENDATION
13 AS TO: (A) WHETHER SUBSTANTIAL REASON EXISTS TO BELIEVE A VIOLATION OF
14 ARTICLE FOURTEEN OF THIS CHAPTER HAS OCCURRED AND, IF SO, THE NATURE OF
15 THE VIOLATION AND ANY APPLICABLE PENALTY, AS DEFINED IN SECTION 14-126
16 OF THIS CHAPTER, BASED ON THE NATURE OF THE VIOLATION; (B) WHETHER THE
17 MATTER SHOULD BE RESOLVED EXTRA-JUDICIALLY; (C) WHETHER A SPECIAL
18 PROCEEDING SHOULD BE COMMENCED IN THE SUPREME COURT TO RECOVER A CIVIL
19 PENALTY; AND (D) WHETHER A REFERRAL SHOULD BE MADE TO A DISTRICT ATTOR-
20 NEY PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION BECAUSE REASONABLE
21 CAUSE EXISTS TO BELIEVE A VIOLATION WARRANTING CRIMINAL PROSECUTION HAS
22 TAKEN PLACE.

23 10. THE STATE BOARD OF ELECTIONS SHALL ACCEPT, MODIFY OR REJECT THE
24 ENFORCEMENT COUNSEL'S RECOMMENDATION NO LATER THAN SIXTY DAYS AFTER
25 RECEIPT OF SUCH RECOMMENDATION. IN MAKING ITS DETERMINATION, THE BOARD
26 SHALL AGAIN CONSIDER: (A) WHETHER THE COMPLAINT ALLEGES A DE MINIMUS
27 VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER; (B) WHETHER THE SUBJECT
28 OF THE COMPLAINT HAS MADE A GOOD FAITH EFFORT TO CORRECT THE VIOLATION;
29 AND (C) WHETHER THE SUBJECT OF THE COMPLAINT HAS A HISTORY OF SIMILAR
30 VIOLATIONS. ALL SUCH DETERMINATIONS SHALL BE VOTED UPON AS PROVIDED IN
31 SUBDIVISION FOUR OF SECTION 3-100 OF THIS TITLE AT AN OPEN MEETING
32 PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW, AND SHALL BE MADE
33 ON A FAIR AND EQUITABLE BASIS, WITHOUT REGARD TO THE STATUS OF THE
34 SUBJECT OF THE COMPLAINT.

35 11. (A) IF THE STATE BOARD OF ELECTIONS DETERMINES, AS PROVIDED IN
36 SUBDIVISION TEN OF THIS SECTION, THAT SUBSTANTIAL REASON EXISTS TO
37 BELIEVE THAT A PERSON, ACTING AS OR ON BEHALF OF A CANDIDATE OR POLI-
38 TICAL COMMITTEE UNDER CIRCUMSTANCES EVINCING AN INTENT TO VIOLATE SUCH
39 LAW, HAS UNLAWFULLY ACCEPTED A CONTRIBUTION IN EXCESS OF A CONTRIBUTION
40 LIMITATION ESTABLISHED IN ARTICLE FOURTEEN OF THIS CHAPTER, WHICH COULD
41 WARRANT A CIVIL PENALTY AS PROVIDED FOR IN SUBDIVISION THREE OF SECTION
42 14-126 OF THIS CHAPTER, THE BOARD SHALL DIRECT THE COMMENCEMENT OF A
43 SPECIAL PROCEEDING IN THE SUPREME COURT PURSUANT TO SECTION 16-120 OF
44 THIS CHAPTER.

45 (B) IF THE STATE BOARD OF ELECTIONS DETERMINES, AS PROVIDED IN SUBDI-
46 VISION TEN OF THIS SECTION THAT REASONABLE CAUSE EXISTS TO BELIEVE A
47 VIOLATION WARRANTING CRIMINAL PROSECUTION HAS TAKEN PLACE, THE BOARD
48 SHALL REFER THE MATTER TO A DISTRICT ATTORNEY AND SHALL MAKE AVAILABLE
49 TO SUCH DISTRICT ATTORNEY ALL PAPERS, DOCUMENTS, TESTIMONY AND FINDINGS
50 RELEVANT TO ITS INVESTIGATION.

51 12. UPON NOTIFICATION THAT A SPECIAL PROCEEDING HAS BEEN COMMENCED BY
52 A PARTY OTHER THAN THE STATE BOARD OF ELECTIONS, PURSUANT TO SECTION
53 16-114 OF THIS CHAPTER, THE STATE BOARD OF ELECTIONS SHALL DIRECT THE
54 ENFORCEMENT COUNSEL TO INVESTIGATE THE ALLEGED VIOLATIONS UNLESS OTHER-
55 WISE DIRECTED BY THE COURT.

13. THE ENFORCEMENT COUNSEL SHALL PREPARE A REPORT, TO BE INCLUDED IN THE ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE, SUMMARIZING THE ACTIVITIES OF THE UNIT DURING THE PREVIOUS YEAR. SUCH REPORT SHALL INCLUDE: (I) THE NUMBER OF COMPLAINTS RECEIVED; (II) THE NUMBER OF COMPLAINTS THAT WERE FOUND TO NEED INVESTIGATION AND THE NATURE OF EACH COMPLAINT; AND (III) THE NUMBER OF MATTERS THAT HAVE BEEN RESOLVED. THE REPORT SHALL NOT CONTAIN ANY INFORMATION FOR WHICH DISCLOSURE IS NOT PERMITTED.

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

S 25. The state of New York shall appropriate during each fiscal year to the New York state board of elections enforcement unit, not less than thirty-five percent of the appropriation available from the general fund for the state board of elections to pay for the expenses of such enforcement unit.

S 26. The election law is amended by adding a new section 3-111 to read as follows:

S 3-111. PERSONAL USE OF CAMPAIGN FUNDS. UPON WRITTEN REQUEST FROM ANY PERSON WHO IS SUBJECT TO THE REQUIREMENTS OF SECTION 14-130 OF THIS CHAPTER, THE STATE BOARD OF ELECTIONS SHALL RENDER FORMAL OPINIONS ON THE REQUIREMENTS OF SAID PROVISION. AN OPINION RENDERED BY THE BOARD, UNTIL AND UNLESS AMENDED OR REVOKED, SHALL BE BINDING ON THE BOARD IN ANY SUBSEQUENT PROCEEDING CONCERNING THE PERSON WHO REQUESTED THE OPINION AND WHO ACTED IN GOOD FAITH, UNLESS MATERIAL FACTS WERE OMITTED OR MISSTATED BY THE PERSON IN THE REQUEST FOR AN OPINION. SUCH OPINION MAY ALSO BE RELIED UPON BY SUCH PERSON, AND MAY BE INTRODUCED AND SHALL BE DEFENSE IN ANY CRIMINAL OR CIVIL ACTION. SUCH REQUEST SHALL BE CONFIDENTIAL, BUT THE BOARD SHALL PUBLISH SUCH OPINIONS PROVIDED THAT THE NAME OF THE REQUESTING PERSON AND OTHER IDENTIFYING DETAILS SHALL NOT BE INCLUDED IN THE PUBLICATION.

S 27. Section 14-100 of the election law is amended by adding three new subdivisions 12, 13 and 14 to read as follows:

12. "CLEARLY IDENTIFIED CANDIDATE" MEANS THAT:

(A) THE NAME OF THE CANDIDATE INVOLVED APPEARS;

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

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

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

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

S 28. Subdivision 5 of section 14-102 of the election law is REPEALED, subdivisions 1 and 3, as amended by chapter 8 of the laws of 1978,

subdivision 1 as redesignated by chapter 9 of the laws of 1978 and subdivision 3 as renumbered by chapter 70 of the laws of 1983, are amended and a new subdivision 5 is added to read as follows:

1. The treasurer of every political committee which, or any officer, member or agent of any such committee who, in connection with any election, receives or expends any money or other [valuable thing] ITEM OF VALUE or incurs any liability to pay money or its equivalent shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth all the receipts, contributions to and the expenditures by and liabilities of the committee, and of its officers, members and agents in its behalf. Such statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other than of money, the name and address of the transferor, contributor or person from whom received, and if the transferor, contributor or person is a political committee; the name of and the political unit represented by the committee, the date of its receipt, the dollar amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof, and shall state clearly the purpose of such expenditure. IF ANY ONE EXPENDITURE IS MADE FOR MORE THAN ONE PURPOSE, OR AS PAYMENT FOR GOODS OR SERVICES SUPPLIED BY MORE THAN ONE SUPPLIER, SUCH STATEMENT SHALL SET FORTH SEPARATELY EACH SUCH PURPOSE OR SUPPLIER AND THE AMOUNT EXPENDED FOR EACH SUCH PURPOSE OR TO EACH SUCH SUPPLIER.

Any statement reporting a loan shall have attached to it a copy of the evidence of indebtedness. Expenditures in sums under fifty dollars need not be specifically accounted for by separate items in said statements, and receipts and contributions aggregating not more than ninety-nine dollars, from any one contributor need not be specifically accounted for by separate items in said statements, provided however, that such expenditures, receipts and contributions shall be subject to the other provisions of section 14-118 of this article.

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

5. (A) PURSUANT TO THE PROVISIONS OF THIS SECTION, ANY CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE STATEMENTS WITH A COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF ELECTIONS OF THE CITY OF NEW YORK, WHICH RAISES OR SPENDS OR EXPECTS TO RAISE OR SPEND MORE THAN ONE THOUSAND DOLLARS DURING ANY CALENDAR YEAR, IN ADDITION TO FILING SUCH STATEMENTS WITH SUCH BOARDS OF ELECTIONS IN THE FILING FORMAT REQUIRED THEREBY, SHALL ALSO FILE SUCH STATEMENTS ELECTRONICALLY WITH THE STATE BOARD OF ELECTIONS PURSUANT TO ITS ELECTRONIC REPORTING SYSTEM, ESTABLISHED PURSUANT TO SUBDIVISION NINE-A OF SECTION 3-102 OF THIS CHAPTER, OR ON PAPER IF AN EXEMPTION FROM THE ELECTRONIC FILING REQUIREMENTS HAS BEEN GRANTED BY THE STATE BOARD OF ELECTIONS PURSUANT TO SUBDIVISION FOUR OF THIS SECTION OR SUBDIVISION TWO OF SECTION 14-104 OF THIS TITLE.

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, ANY STATEMENTS FILED ELECTRONICALLY, OR ON PAPER IF EXEMPTED, WITH

1 THE STATE BOARD OF ELECTIONS BY A CANDIDATE AND/OR POLITICAL COMMITTEE
2 WHICH IS REQUIRED TO FILE SUCH STATEMENTS ELECTRONICALLY WITH THE STATE
3 BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, SHALL
4 SATISFY THE FILING REQUIREMENTS OF THIS SECTION WITH REGARDS TO FILING
5 WITH THE APPLICABLE COUNTY OR CITY BOARD OF ELECTIONS. THE COUNTY AND
6 CITY BOARDS OF ELECTIONS SHALL MAKE STATEMENTS FILED WITH THE STATE
7 BOARD OF ELECTIONS, WHICH WOULD OTHERWISE HAVE BEEN FILED SPECIFICALLY
8 WITH THEIR INDIVIDUAL BOARD PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVI-
9 SION, AVAILABLE FOR PUBLIC INSPECTION AND COPYING VIA ELECTRONIC
10 CONNECTION TO THE STATE BOARD OF ELECTIONS' WEBSITE, WHICH WILL CONTAIN
11 SUCH STATEMENTS, OR BY SUCH OTHER MODE OF ELECTRONIC COMMUNICATION THAT
12 IS AVAILABLE AND APPROVED BY THE STATE BOARD OF ELECTIONS FOR SUCH
13 PURPOSES.

14 (C) ANY CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE
15 STATEMENTS WITH A COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF
16 ELECTIONS OF THE CITY OF NEW YORK PURSUANT TO THE PROVISIONS OF THIS
17 SECTION, WHICH IS NOT REQUIRED TO FILE SUCH STATEMENTS WITH THE STATE
18 BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, MAY
19 NOT ELECT TO FILE SUCH STATEMENTS WITH THE STATE BOARD OF ELECTIONS
20 PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION IN SUBSTITUTION FOR, OR IN
21 SATISFACTION OF, THE REQUIREMENT TO FILE WITH THE APPLICABLE COUNTY OR
22 CITY BOARD OF ELECTIONS.

23 S 29. Subdivision 3 of section 14-104 of the election law is REPEALED
24 and a new subdivision 3 is added to read as follows:

25 3. (A) PURSUANT TO THE PROVISIONS OF THIS SECTION, ANY CANDIDATE
26 AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE STATEMENTS WITH A
27 COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF ELECTIONS OF THE CITY OF
28 NEW YORK, WHICH RAISES OR SPENDS OR EXPECTS TO RAISE OR SPEND MORE THAN
29 ONE THOUSAND DOLLARS DURING ANY CALENDAR YEAR, IN ADDITION TO FILING
30 SUCH STATEMENTS WITH SUCH BOARDS OF ELECTIONS IN THE FILING FORMAT
31 REQUIRED THEREBY, SHALL ALSO FILE SUCH STATEMENTS ELECTRONICALLY WITH
32 THE STATE BOARD OF ELECTIONS PURSUANT TO ITS ELECTRONIC REPORTING
33 SYSTEM, ESTABLISHED PURSUANT TO SUBDIVISION NINE-A OF SECTION 3-102 OF
34 THIS CHAPTER, OR ON PAPER IF AN EXEMPTION FROM THE ELECTRONIC FILING
35 REQUIREMENTS HAS BEEN GRANTED BY THE STATE BOARD OF ELECTIONS PURSUANT
36 TO SUBDIVISION FOUR OF SECTION 14-102 OF THIS TITLE OR SUBDIVISION TWO
37 OF THIS SECTION.

38 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
39 SION, ANY STATEMENTS FILED ELECTRONICALLY, OR ON PAPER IF EXEMPTED, WITH
40 THE STATE BOARD OF ELECTIONS BY A CANDIDATE AND/OR POLITICAL COMMITTEE
41 WHICH IS REQUIRED TO FILE SUCH STATEMENTS ELECTRONICALLY WITH THE STATE
42 BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, SHALL
43 SATISFY THE FILING REQUIREMENTS OF THIS SECTION WITH REGARDS TO FILING
44 WITH THE APPLICABLE COUNTY OR CITY BOARD OF ELECTIONS. THE COUNTY AND
45 CITY BOARDS OF ELECTIONS SHALL MAKE STATEMENTS FILED WITH THE STATE
46 BOARD OF ELECTIONS, WHICH WOULD OTHERWISE HAVE BEEN FILED SPECIFICALLY
47 WITH THEIR INDIVIDUAL BOARD PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVI-
48 SION, AVAILABLE FOR PUBLIC INSPECTION AND COPYING VIA ELECTRONIC
49 CONNECTION TO THE STATE BOARDS OF ELECTIONS' WEBSITE, WHICH WILL CONTAIN
50 SUCH STATEMENTS, OR BY SUCH OTHER MODE OF ELECTRONIC COMMUNICATION THAT
51 IS AVAILABLE AND APPROVED BY THE STATE BOARD OF ELECTIONS FOR SUCH
52 PURPOSES.

53 (C) ANY CANDIDATE AND/OR POLITICAL COMMITTEE WHICH IS REQUIRED TO FILE
54 STATEMENTS WITH A COUNTY BOARD OF ELECTIONS OR WITH THE BOARD OF
55 ELECTIONS OF THE CITY OF NEW YORK PURSUANT TO THE PROVISIONS OF THIS
56 SECTION, WHICH IS NOT REQUIRED TO FILE SUCH STATEMENTS WITH THE STATE

BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, MAY NOT ELECT TO FILE SUCH STATEMENTS WITH THE STATE BOARD OF ELECTIONS PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION IN SUBSTITUTION FOR, OR IN SATISFACTION OF, THE REQUIREMENT TO FILE WITH THE APPLICABLE COUNTY OR CITY BOARD OF ELECTIONS.

S 30. Section 14-106 of the election law, as amended by chapter 8 of the laws of 1978, is amended to read as follows:

S 14-106. Political [advertisements and literature] COMMUNICATION. 1. The statements required to be filed under the provisions of this article next succeeding a primary, general or special election shall be accompanied by a [facsimile or] copy of all BROADCAST, CABLE OR SATELLITE SCHEDULES AND SCRIPTS, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced [and a schedule of all radio or television time, and scripts used therein], AND REPRODUCTIONS OF STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICE, purchased in connection with such election by or under the authority of the person filing the statement or the committee or the person on whose behalf it is filed, as the case may be. Such [facsimiles,] copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof.

2. NO PERSON, POLITICAL PARTY OR COMMITTEE SHALL, DURING THE COURSE OF ANY CAMPAIGN FOR NOMINATION OR ELECTION TO PUBLIC OFFICE OR PARTY POSITION, PREPARE OR DISTRIBUTE ANY POLITICAL COMMUNICATION THAT FALSELY IDENTIFIES THE SOURCE OF SUCH COMMUNICATION.

S 31. The election law is amended by adding a new section 14-107 to read as follows:

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

(A) "INDEPENDENT EXPENDITURE" MEANS AN EXPENDITURE MADE BY A PERSON FOR AN AUDIO OR VIDEO COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA BROADCAST, CABLE OR SATELLITE OR A WRITTEN COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS, BROCHURES, LETTERHEADS OR OTHER PRINTED MATTER AND STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICES WHICH: (I) EXPRESSLY ADVOCATES THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED CANDIDATE OR THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL AND (II) SUCH CANDIDATE, THE CANDIDATE'S POLITICAL COMMITTEE OR ITS AGENTS, OR A POLITICAL COMMITTEE FORMED TO PROMOTE THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL OR ITS AGENTS, DID NOT AUTHORIZE, REQUEST, SUGGEST, FOSTER OR COOPERATE IN ANY SUCH COMMUNICATION.

(B) INDEPENDENT EXPENDITURES DO NOT INCLUDE:

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

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

(III) A COMMUNICATION WHICH CONSTITUTES AN EXPENDITURE MADE BY AN ENTITY REQUIRED TO REPORT SUCH EXPENDITURE WITH A BOARD OF ELECTIONS PURSUANT TO SECTIONS 14-102 AND 14-104 OF THIS ARTICLE.

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

1 2. WHENEVER ANY PERSON MAKES AN INDEPENDENT EXPENDITURE THAT COSTS
2 MORE THAN ONE THOUSAND DOLLARS IN THE AGGREGATE, SUCH COMMUNICATION
3 SHALL CLEARLY STATE THE NAME OF THE PERSON WHO PAID FOR, OR OTHERWISE
4 PUBLISHED OR DISTRIBUTED, THE COMMUNICATION AND STATE, WITH RESPECT TO
5 COMMUNICATIONS REGARDING CANDIDATES, THAT THE COMMUNICATION IS NOT
6 AUTHORIZED BY ANY CANDIDATE, ANY CANDIDATE'S POLITICAL COMMITTEE OR ANY
7 OF ITS AGENTS.

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

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

17 4. EACH SUCH STATEMENT SHALL INCLUDE:

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

19 (B) THE NAME AND ADDRESS OF THE PERSON MAKING THE INDEPENDENT EXPENDI-
20 TURE;

21 (C) THE NAME AND ADDRESS OF ANY PERSON OR ENTITY PROVIDING A GIFT,
22 LOAN, ADVANCE OR DEPOSIT OF ONE HUNDRED DOLLARS OR MORE FOR THE INDE-
23 PENDENT EXPENDITURE, OR THE PROVISION OF SERVICES FOR THE SAME, AND THE
24 DATE IT WAS GIVEN; PROVIDED, HOWEVER, THE NAME AND ADDRESS OF A MEMBER
25 OF A LABOR ORGANIZATION IS NOT REQUIRED FOR A GIFT, LOAN, ADVANCE OR
26 DEPOSIT OF ONE HUNDRED DOLLARS OR MORE TO A LABOR ORGANIZATION; AND
27 PROVIDED FURTHER THAT THE NAME AND ADDRESS OF AN EMPLOYEE OF A BUSINESS
28 ENTITY OR A MEMBER OF A BUSINESS, TRADE OR PROFESSIONAL ASSOCIATION IS
29 NOT REQUIRED FOR A GIFT, LOAN, ADVANCE OR DEPOSIT OF ONE HUNDRED DOLLARS
30 OR MORE TO SUCH BUSINESS ENTITY OR BUSINESS, TRADE OR PROFESSIONAL ASSO-
31 CIATION RESPECTIVELY;

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

35 (E) THE ELECTION TO WHICH THE INDEPENDENT EXPENDITURE PERTAINS AND THE
36 NAME OF THE CLEARLY IDENTIFIED CANDIDATE OR THE BALLOT PROPOSAL REFER-
37 ENCED.

38 5. A COPY OF ALL MATERIALS THAT PERTAIN TO THE INDEPENDENT EXPENDI-
39 TURE, INCLUDING BUT NOT LIMITED TO BROADCAST, CABLE OR SATELLITE SCHED-
40 ULE AND SCRIPTS, ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS,
41 BROCHURES, LETTERHEADS AND OTHER PRINTED MATTER SHALL IMMEDIATELY BE
42 FILED WITH THE STATE BOARD OF ELECTIONS AS PROVIDED IN SECTION 14-108 OF
43 THIS ARTICLE.

44 6. WRITTEN EVIDENCE OF THE INDEBTEDNESS RELATED TO A LOAN THAT IS MADE
45 FOR AN INDEPENDENT EXPENDITURE SHALL BE PROVIDED TO THE STATE BOARD OF
46 ELECTIONS.

47 7. EVERY STATEMENT REQUIRED TO BE FILED PURSUANT TO THIS SECTION SHALL
48 BE FILED ELECTRONICALLY TO THE STATE BOARD OF ELECTIONS.

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

52 S 32. Subdivision 1 of section 14-108 of the election law, as amended
53 by chapter 955 of the laws of 1983, is amended to read as follows:

54 1. The statements required by this article shall be filed at such
55 times as the state board of elections, by rule or regulation, shall
56 specify; provided, however, that in no event shall the board provide for

1 fewer than three filings in the aggregate in connection with any prima-
2 ry, general or special election, or in connection with a question to be
3 voted on and two of said filings shall be before any such election,
4 including one such filing not less than thirty days nor more than
5 forty-five days prior to such election and one such filing not less than
6 eleven days nor more than fifteen days prior to such election. In addi-
7 tion, the board shall provide that every political committee which has
8 filed a statement of treasurer and depository shall make at least one
9 PERIODIC filing [every six months] DURING THE MONTHS OF JANUARY, MAY AND
10 JULY between the time such statement of treasurer and depository is
11 filed and the time such committee goes out of business. If any candi-
12 date or committee shall be required by the provisions of this section,
13 or by rule or regulation hereunder, to effect two filings within a peri-
14 od of five days OF EACH OTHER, the state board of elections may, by rule
15 or regulation, waive the requirement of filing the earlier of such
16 statements. If a statement filed by a candidate or committee after the
17 election to which it pertains is not a final statement showing satisfac-
18 tion of all liabilities and disposition of all assets, such candidate or
19 committee shall file such additional statements as the board shall, by
20 rule or regulation provide until such a final statement is filed.

21 S 33. Section 14-126 of the election law, as amended by chapter 8 of
22 the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of
23 1994 and subdivisions 2, 3 and 4 as redesignated by chapter 9 of the
24 laws of 1978, is amended to read as follows:

25 S 14-126. Violations; penalties. 1. Any person who fails to file a
26 statement required to be filed by this article shall be subject to a
27 civil penalty, not in excess of [five hundred] ONE THOUSAND dollars, to
28 be recoverable in a special proceeding or civil action to be brought by
29 the state board of elections [or other board of elections] ENFORCEMENT
30 COUNSEL PURSUANT TO SECTION 16-114 OF THIS CHAPTER. ANY PERSON WHO,
31 THREE OR MORE TIMES WITHIN A GIVEN ELECTION CYCLE FOR SUCH TERM OF
32 OFFICE, FAILS TO FILE A STATEMENT OR STATEMENTS REQUIRED TO BE FILED BY
33 THIS ARTICLE, SHALL BE SUBJECT TO A CIVIL PENALTY, NOT IN EXCESS OF TEN
34 THOUSAND DOLLARS, TO BE RECOVERABLE AS PROVIDED FOR IN THIS SUBDIVISION.

35 2. ANY PERSON WHO ACTS, UNDER CIRCUMSTANCES EVINCING AN INTENT TO
36 VIOLATE SUCH LAW, UNLAWFULLY FAILS TO IDENTIFY INDEPENDENT EXPENDITURES
37 AS REQUIRED BY SUBDIVISION TWO OF SECTION 14-107 OF THIS ARTICLE SHALL
38 BE SUBJECT TO A CIVIL PENALTY EQUAL TO ONE THOUSAND DOLLARS OR THE COST
39 OF THE COMMUNICATION, WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR
40 CIVIL ACTION BROUGHT BY THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL
41 PURSUANT TO SECTION 16-120 OF THIS CHAPTER.

42 3. ANY PERSON WHO, ACTING AS OR ON BEHALF OF A CANDIDATE OR POLITICAL
43 COMMITTEE, UNDER CIRCUMSTANCES EVINCING AN INTENT TO VIOLATE SUCH LAW,
44 UNLAWFULLY ACCEPTS A CONTRIBUTION IN EXCESS OF A CONTRIBUTION LIMITATION
45 ESTABLISHED IN THIS ARTICLE, SHALL BE REQUIRED TO REFUND SUCH EXCESS
46 AMOUNT AND SHALL BE SUBJECT TO A CIVIL PENALTY EQUAL TO TWO TIMES THE
47 EXCESS AMOUNT PLUS A FINE OF UP TO TEN THOUSAND DOLLARS, TO BE RECOVERA-
48 BLE IN A SPECIAL PROCEEDING OR CIVIL ACTION TO BE BROUGHT BY THE STATE
49 BOARD OF ELECTIONS ENFORCEMENT COUNSEL PURSUANT TO SECTION 16-120 OF
50 THIS CHAPTER.

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

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

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

S 34. Section 16-100 of the election law is amended to read as follows:

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

2. The county court is vested with jurisdiction to summarily determine any question of law or fact except proceedings as to a nomination or election at a primary election or a nomination at a judicial convention, proceedings as to the casting and canvass of ballots [and], proceedings for examination or preservation of ballots AND PROCEEDINGS TO ENFORCE THE PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER.

S 35. The election law is amended by adding a new section 16-120 to read as follows:

S 16-120. ENFORCEMENT PROCEEDINGS. 1. THE SUPREME COURT OR A JUSTICE THEREOF, IN A PROCEEDING INSTITUTED BY THE STATE BOARD OF ELECTIONS ENFORCEMENT COUNSEL, MAY IMPOSE A CIVIL PENALTY, AS PROVIDED FOR IN SUBDIVISION TWO OR THREE OF SECTION 14-126 OF THIS CHAPTER.

2. UPON PROOF THAT A VIOLATION OF ARTICLE FOURTEEN OF THIS CHAPTER, AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION, HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY, PURSUANT TO SUBDIVISION TWO OR THREE OF SECTION 14-126 OF THIS CHAPTER, AFTER CONSIDERING, AMONG OTHER FACTORS, THE SEVERITY OF THE VIOLATION OR VIOLATIONS, WHETHER THE SUBJECT OF THE VIOLATION MADE A GOOD FAITH EFFORT TO CORRECT THE VIOLATION AND WHETHER THE SUBJECT OF THE VIOLATION HAS A HISTORY OF SIMILAR VIOLATIONS. ALL SUCH DETERMINATIONS SHALL BE MADE ON A FAIR AND EQUITABLE BASIS WITHOUT REGARD TO THE STATUS OF THE CANDIDATE OR POLITICAL COMMITTEE.

S 36. Separability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 37. This act shall take effect July 31, 2011; provided, however, sections five-a, five-b and fourteen of this act shall take effect January 1, 2012; provided further, that sections one, two, three-a, four, five, six through eight and nine through eleven of this act shall expire and be deemed repealed 4 years after such effective date; provided further that sections twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, and thirty-five of this act shall take effect on the sixtieth day after it shall have become a law; and provided further that section thirty-two of this act shall take effect on January 1, 2012.