

# STATE OF NEW YORK

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5841--A

2017-2018 Regular Sessions

## IN ASSEMBLY

February 16, 2017

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Introduced by M. of A. ABINANTI, GALEF, JAFFEE, COLTON, MONTESANO, SIMON, THIELE, GOTTFRIED, STECK -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to statements of campaign receipts, contributions, transfers and expenditures to and by political committees; to amend the election law, in relation to establishing a contribution limit for certain contributions to a party committee or constituted committee; to amend the election law, in relation to public financing; to amend the state finance law, in relation to the New York state campaign finance fund; to amend the tax law, in relation to the New York state campaign finance fund check-off; to amend the election law, in relation to enforcement proceedings; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subdivision 1 of section 14-102 of the election law, as  
2 amended by chapter 8 and as redesignated by chapter 9 of the laws of  
3 1978, is amended to read as follows:  
4 1. The treasurer of every political committee which, or any officer,  
5 member or agent of any such committee who, in connection with any  
6 election, receives or expends any money or other valuable thing or  
7 incurs any liability to pay money or its equivalent shall file state-  
8 ments sworn, or subscribed and bearing a form notice that false state-  
9 ments made therein are punishable as a class A misdemeanor pursuant to  
10 section 210.45 of the penal law, at the times prescribed by this [~~arti-~~  
11 ~~cle~~] title setting forth all the receipts, contributions to and the  
12 expenditures by and liabilities of the committee, and of its officers,  
13 members and agents in its behalf. Such statements shall include the

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

LBD08884-03-8

1 dollar amount of any receipt, contribution or transfer, or the fair  
2 market value of any receipt, contribution or transfer, which is other  
3 than of money, the name and address of the transferor, contributor, or  
4 person from whom received, and if the transferor, contributor or person  
5 is a political committee; the name of and the political unit represented  
6 by the committee, the date of its receipt, the dollar amount of every  
7 expenditure, the name and address of the person to whom it was made or  
8 the name of and the political unit represented by the committee to which  
9 it was made and the date thereof, and shall state clearly the purpose of  
10 such expenditure. Any statement reporting a loan shall have attached to  
11 it a copy of the evidence of indebtedness. Expenditures in sums under  
12 fifty dollars need not be specifically accounted for by separate items  
13 in said statements, and receipts and contributions aggregating not more  
14 than ninety-nine dollars, from any one contributor need not be specif-  
15 ically accounted for by separate items in said statements, provided  
16 however, that such expenditures, receipts and contributions shall be  
17 subject to the other provisions of section 14-118 of this [~~article~~]  
18 title.

19 § 2. The article heading of article 14 of the election law is amended  
20 to read as follows:

21 [~~Campaign Receipts and Expenditures~~]  
22 CAMPAIGN RECEIPTS AND EXPENDITURES;  
23 PUBLIC FINANCING

24 § 3. Paragraph b of subdivision 1 of section 14-114 of the election  
25 law, as amended by chapter 659 of the laws of 1994, is amended and a new  
26 paragraph d is added to read as follows:

27 b. In any other election for party position or for election to a  
28 public office or for nomination for any such office, no contributor may  
29 make a contribution to any candidate or political committee and no such  
30 candidate or political committee may accept any contribution from any  
31 contributor, which is in the aggregate amount greater than: (i) in the  
32 case of any election for party position, or for nomination to public  
33 office, the product of the total number of enrolled voters in the candi-  
34 date's party in the district in which he is a candidate, excluding  
35 voters in inactive status, multiplied by \$.05, and (ii) in the case of  
36 any election for a public office, the product of the total number of  
37 registered voters in the district, excluding voters in inactive status,  
38 multiplied by \$.05, except in the case of a candidate for supreme court  
39 justice or district attorney not participating in the state's judicial  
40 public campaign financing system defined in title two of this article,  
41 multiplied by \$.03 and in the case of a candidate for supreme court  
42 justice or district attorney participating in the state's judicial  
43 public campaign financing system defined in title two of this article,  
44 multiplied by \$.01, however in the case of a nomination within the city  
45 of New York for the office of mayor, public advocate or comptroller,  
46 such amount shall be not less than four thousand dollars nor more than  
47 twelve thousand dollars as increased or decreased by the cost of living  
48 adjustment described in paragraph c of this subdivision; in the case of  
49 an election within the city of New York for the office of mayor, public  
50 advocate or comptroller, twenty-five thousand dollars as increased or  
51 decreased by the cost of living adjustment described in paragraph c of  
52 this subdivision; in the case of a nomination for state senator, four  
53 thousand dollars as increased or decreased by the cost of living adjust-  
54 ment described in paragraph c of this subdivision; in the case of an  
55 election for state senator, six thousand two hundred fifty dollars as  
56 increased or decreased by the cost of living adjustment described in

paragraph c of this subdivision; in the case of an election or nomination for a member of the assembly, twenty-five hundred dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; but in no event shall any such maximum exceed fifty thousand dollars or be less than one thousand dollars; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any election for party position or nomination for public office an amount equivalent to the number of enrolled voters in the candidate's party in the district in which he is a candidate, excluding voters in inactive status, multiplied by \$.25 and in the case of any election to public office, an amount equivalent to the number of registered voters in the district, excluding voters in inactive status, multiplied by \$.25; or twelve hundred fifty dollars, whichever is greater, or in the case of a nomination or election of a state senator, twenty thousand dollars, whichever is greater, or in the case of a nomination or election of a member of the assembly twelve thousand five hundred dollars, whichever is greater, but in no event shall any such maximum exceed one hundred thousand dollars.

d. Notwithstanding any other contribution limit in this section, participating candidates as defined in subdivision fourteen of section 14-201 of this article may contribute, out of their own money, three times the applicable contribution limit for non-participating candidates to their own authorized political committee.

§ 4. Sections 14-100 through 14-132 of the election law are designated title I and a new title heading is added to read as follows:

#### CAMPAIGN RECEIPTS AND EXPENDITURES

§ 5. Article 14 of the election law is amended by adding a new title II to read as follows:

#### TITLE II

#### PUBLIC FINANCING

#### Section 14-200. Legislative findings and intent.

#### 14-201. Definitions.

#### 14-202. Reporting requirements.

#### 14-203. Contributions.

#### 14-204. Proof of compliance.

#### 14-205. Eligibility.

#### 14-206. Limits on public financing.

#### 14-207. Payment of public matching funds.

#### 14-208. Use of public matching funds; qualified campaign expenditures.

#### 14-209. Powers and duties of the board.

#### 14-210. Audits and repayments.

#### 14-211. Enforcement and penalties for violations and other proceedings.

#### 14-212. Reports.

#### 14-213. Severability.

§ 14-200. Legislative findings and intent. The legislature finds and determines that the judiciary and prosecutors for the state fulfill a unique role in government, substantively distinct from non-judicial and prosecutorial offices.

1 The legislature also finds and determines that justices and district  
2 attorneys are not elected to represent the views of voters, but rather  
3 are elected to uphold the law.

4 The legislature additionally finds and determines that judicial and  
5 prosecutorial impartiality and independence are critical to maintaining  
6 public confidence and the rule of law.

7 The legislature additionally finds and determines that judges and  
8 district attorneys must maintain impartiality and independence and the  
9 appearance of impartiality and independence, unlike non-judicial or  
10 prosecutorial offices.

11 The legislature additionally finds and determines that the rules of  
12 judicial conduct and the rules of prosecutorial conduct recognize the  
13 distinct nature of the judicial branch and responsibilities of prosecu-  
14 tors, in contrast to the legislative and executive branches, by  
15 restricting judges and justices from engaging in various campaign-relat-  
16 ed political activity not imposed on non-judicial offices.

17 The legislature additionally finds and determines that many state and  
18 federal judicial offices are not elected, but rather appointed posi-  
19 tions, due to the nonpolitical nature of the office.

20 The legislature additionally finds and determines that raising the  
21 funds necessary to run for the office of the supreme court, in a manner  
22 that comports with judicial rules of conduct, further distinguishes the  
23 office of supreme court from other elective offices and would be appro-  
24 priate to apply to the office of district attorney.

25 The legislature additionally finds and determines that raising the  
26 necessary funds to run for the office of the supreme court or district  
27 attorney has the potential to reduce the appearance of judicial or  
28 prosecutorial impartiality and the confidence of those appearing before  
29 the court.

30 The legislature additionally finds and determines that the heightened  
31 restrictions imposed on judicial candidates, and appropriate for candi-  
32 dates for district attorney, necessary to maintain impartiality, are  
33 furthered by a judicial and prosecutorial public campaign finance  
34 system.

35 The legislature additionally finds and determines that a judicial and  
36 prosecutorial public campaign finance system for candidates for the  
37 office of supreme court justice and district attorney reduces the poten-  
38 tial for judicial or prosecutorial partiality or the appearance of judi-  
39 cial or prosecutorial partiality of those appearing before the court.

40 § 14-201. Definitions. For the purposes of this title, the following  
41 terms shall have the following meanings:

42 1. The term "authorized political committee" shall mean the single  
43 political committee designated by a candidate pursuant to section 14-202  
44 of this title to receive contributions and make expenditures in support  
45 of the candidate's campaign.

46 2. The term "board" shall mean the state board of elections.

47 3. The term "contribution" shall have the same meaning as appears in  
48 subdivision nine of section 14-100 of this article.

49 4. The term "contributor" shall mean any person or entity that makes a  
50 contribution.

51 5. The term "covered election" shall mean any general election for the  
52 office of supreme court justice or district attorney.

53 6. The term "election cycle" shall mean the window period defined in  
54 22 NYCRR Part 100 for the office of supreme court justice and, for the  
55 office of district attorney, any primary or general election for nomi-  
56 nation for election or election, to the office of district attorney.

1     7. The term "expenditure" shall mean any gift, subscription, advance,  
2 payment, or deposit of money or anything of value, or a contract to make  
3 any gift, subscription, payment, or deposit of money or anything of  
4 value, made in connection with the nomination for election, or election,  
5 of any candidate. Expenditures made by contract are deemed made when  
6 such funds are obligated.

7     8. The term "fund" shall mean the New York state judicial campaign  
8 finance fund or the district attorney campaign fund.

9     9. The term "immediate family" shall mean a spouse, domestic partner,  
10 child, sibling or parent.

11     10. The term "intermediary" shall mean an individual, corporation,  
12 partnership, political committee, employee organization or other entity  
13 which bundles, causes to be delivered or otherwise delivers any contrib-  
14 ution from another person or entity to a candidate's authorized poli-  
15 tical committee, other than in the regular course of business as a  
16 postal, delivery or messenger service. Provided, however, that an  
17 "intermediary" shall not include spouses, domestic partners, parents,  
18 children or siblings of the person making such contribution or a staff  
19 member or volunteer of the campaign identified in writing to the state  
20 board of elections.

21     11. The term "item with significant intrinsic and enduring value"  
22 shall mean any item, including tickets to an event, that are valued at  
23 twenty-five dollars or more.

24     12. (a) The term "matchable contribution" shall mean a lawful contrib-  
25 ution, contributions or a portion of a contribution or contributions for  
26 any covered elections held in the same election cycle, made by a natural  
27 person and resident of the district in which the office is to be filled  
28 to a participating candidate's authorized political committee, that has  
29 been reported in full to the board in accordance with sections 14-102  
30 and 14-104 of this article by the candidate's authorized political  
31 committee and has been contributed on or before the day of the applica-  
32 ble general election. Any contribution, contributions, or a portion of a  
33 contribution determined to be invalid for matching funds by the board  
34 may not be treated as a matchable contribution for any purpose.

35     (b) The following contributions are not matchable:

36     (i) loans;

37     (ii) in-kind contributions of property, goods, or services;

38     (iii) contributions in the form of the purchase price paid for an item  
39 with significant intrinsic and enduring value;

40     (iv) transfers from a party or constituted committee;

41     (v) contributions whose source is not itemized as required by section  
42 14-202 of this title;

43     (vi) contributions gathered during a previous election cycle;

44     (vii) illegal contributions;

45     (viii) contributions from minors;

46     (ix) contributions from vendors for campaigns; and

47     (x) contributions from lobbyists registered pursuant to subdivision  
48 (a) of section one-c of the legislative law.

49     13. The term "nonparticipating candidate" shall mean a candidate for a  
50 covered election who does not file a written certification in the form  
51 of an affidavit under section 14-205 of this title by the applicable  
52 deadline.

53     14. The term "participating candidate" shall mean any candidate for  
54 election to the office of supreme court justice or district attorney,  
55 who files a written certification in the form of an affidavit pursuant  
56 to section 14-205 of this title.

1 15. The term "post-election period" shall mean the six months follow-  
2 ing an election.

3 16. The term "qualified campaign expenditure" shall mean an expendi-  
4 ture for which public matching funds may be used.

5 17. The term "threshold for eligibility" shall mean the amount of  
6 matchable contributions that a candidate's authorized political commit-  
7 tee must receive in total in order for such candidate to qualify for  
8 voluntary public financing under this title.

9 18. The term "transfer" shall mean any exchange of funds between a  
10 party or constituted committee and a candidate or any of his or her  
11 authorized political committees.

12 § 14-202. Reporting requirements. 1. Political committee registra-  
13 tion. Political committees as defined pursuant to subdivision one of  
14 section 14-100 of this article shall register with the board before  
15 making any contribution or expenditure. The board shall publish a cumu-  
16 lative list of political committees that have registered, including on  
17 its webpage, and regularly update it.

18 2. Only one authorized political committee per candidate per elective  
19 office sought. Before receiving any contribution or making any expendi-  
20 ture for a covered election, each candidate shall notify the board as to  
21 the existence of his or her authorized political committee that has been  
22 approved by such candidate. Each candidate shall have one and only one  
23 authorized political committee per elective office sought. Each author-  
24 ized political committee shall have a treasurer and is subject to the  
25 restrictions found in section 14-112 of this article.

26 3. (a) Detailed reporting. In addition to each authorized political  
27 committee reporting to the board every contribution and loan received  
28 and every expenditure made in the time and manner prescribed by sections  
29 14-102, 14-104 and 14-108 of this article, each authorized political  
30 committee of a candidate intending to participate in the judicial public  
31 financing system shall also submit disclosure reports on March fifteenth  
32 and May fifteenth of each election year reporting to the board every  
33 contribution and loan received and every expenditure made. For contrib-  
34 utors who make contributions of five hundred dollars or more, each  
35 authorized political committee shall report to the board the occupation,  
36 and employer of each contributor, lender, and intermediary. The board  
37 shall revise, prepare and post forms on its webpage that facilitate  
38 compliance with the requirements of this section.

39 (b) Board review. The board shall review each disclosure report filed  
40 and shall inform the treasurer of the authorized political committee of  
41 relevant questions it has concerning: (i) compliance with requirements  
42 of this title and of the rules issued by the board; and (ii) qualifica-  
43 tion for receiving public matching funds pursuant to this title. In the  
44 course of this review, it shall give authorized political committees an  
45 opportunity to respond to and correct potential violations and give  
46 candidates an opportunity to address questions it has concerning their  
47 matchable contribution claims or other issues concerning eligibility for  
48 receiving public matching funds pursuant to this title. Upon completion  
49 of the compliance review, nothing in this paragraph shall preclude the  
50 chief enforcement counsel from subsequently reviewing such disclosure  
51 reports and taking any action otherwise authorized under this title.

52 (c) Itemization. Contributions that are not itemized in reports filed  
53 with the board shall not be matchable.

54 (d) Option to file more frequently. Participating candidates may file  
55 reports of contributions as frequently as once a week on Monday so that  
56 their matching funds may be paid at the earliest allowable date.



1     § 14-203. Contributions. Recipients of funds pursuant to this title  
2 shall be subject to the applicable contribution limits set forth in  
3 section 14-114 of this article.

4     § 14-204. Proof of compliance. Authorized political committees shall  
5 maintain such records of receipts and expenditures for a covered  
6 election as required by the board. The treasurer of an authorized poli-  
7 tical committee shall obtain and furnish to the board any information it  
8 may request relating to financial transactions or contributions and  
9 furnish such documentation and other proof of compliance with this title  
10 as may be requested. In compliance with section 14-108 of this article,  
11 authorized political committees shall maintain copies of such records  
12 for a period of five years.

13     § 14-205. Eligibility. 1. Terms and conditions. To be eligible for  
14 voluntary public financing under this title, a candidate must:

15     (a) be a candidate in a covered election;

16     (b) meet all the requirements of law to have his or her name on the  
17 ballot;

18     (c) in the case of a covered election, be opposed by another candidate  
19 on the ballot who is not a write-in candidate;

20     (d) submit a certification in the form of an affidavit, in such form  
21 as may be prescribed by the board, that sets forth his or her acceptance  
22 of and agreement to comply with the terms and conditions for the  
23 provision of such funds in each covered election and such certification  
24 shall be submitted at least four months before the election but no  
25 earlier than nine months before the nomination pursuant to a schedule  
26 promulgated by the board;

27     (e) be certified as a participating candidate by the board;

28     (f) not make, and not have made, expenditures from or use his or her  
29 personal funds or property or the personal funds or property jointly  
30 held with his or her spouse, or unemancipated children in connection  
31 with his or her election to a covered office, but may make a contrib-  
32 ution to his or her authorized political committee in an amount that  
33 does not exceed three times the applicable contribution limit from an  
34 individual contributor to non-participating candidates for the office  
35 that he or she is seeking;

36     (g) meet the threshold for eligibility set forth in subdivision two of  
37 this section;

38     (h) continue to abide by all requirements during the post-election  
39 period;

40     (i) not have accepted contributions in amounts exceeding the contrib-  
41 ution limits set forth for participating candidates in paragraph b of  
42 subdivision one of section 14-114 of this article during the election  
43 cycle for which the candidate seeks certification;

44     (i) Provided however, that, if a candidate accepted contributions  
45 exceeding such limits before certification, such acceptance shall not  
46 prevent the candidate from being certified by the board if the candidate  
47 immediately pays to the fund or returns to the contributor the portion  
48 of any contribution that exceeded the applicable contribution limit.

49     (ii) If the candidate is unable to return such funds immediately  
50 because they have already been spent, acceptance of contributions  
51 exceeding the limits shall not prevent the candidate from being certi-  
52 fied by the board if the candidate submits an affidavit agreeing to pay  
53 to the fund from non-public funds all portions of any contributions that  
54 exceeded the limit no later than thirty days before the general  
55 election. If a candidate provides the board with such an affidavit, any  
56 disbursement of public funds to the candidate made under section 14-207

1 of this title shall be reduced by no more than twenty-five percent until  
2 the total amount owed by the candidate is repaid.

3 (iii) Contributions received and expenditures made by the candidate's  
4 authorized political committee prior to the effective date of this title  
5 shall not constitute a violation of this title; and

6 (j) comply with the rules governing judicial conduct pursuant to 22  
7 NYCRR Part 100 and the rules governing prosecutorial conduct pursuant to  
8 Rule 3.8 of Part 1200, Rules of Professional Conduct of the New York  
9 State Unified Court System, as applicable.

10 2. Threshold for eligibility. The threshold for eligibility for public  
11 funding for participating candidates shall be not less than ten thousand  
12 dollars in matchable contributions including at least one hundred match-  
13 able contributions comprised of sums between ten and two hundred fifty  
14 dollars per contributor, from residents of the district in which the  
15 office is to be filled.

16 § 14-206. Limits on public financing. In any general election,  
17 receipt of public funds by a participating candidate's authorized poli-  
18 tical committee shall not exceed the sum of one hundred fifty thousand  
19 dollars.

20 § 14-207. Payment of public matching funds. 1. Determination of eligi-  
21 bility. No public matching funds shall be paid to an authorized poli-  
22 tical committee unless the board determines that the participating  
23 candidate has met the eligibility requirements of this title. Payment  
24 shall not exceed the amounts specified in subdivision two of this  
25 section, and shall be made only in accordance with the provisions of  
26 this title. Such payment may be made only to the participating candi-  
27 date's authorized political committee. No public matching funds shall be  
28 used except as reimbursement or payment for qualified campaign expendi-  
29 tures actually and lawfully incurred or to repay loans used to pay qual-  
30 ified campaign expenditures.

31 2. Calculation of payment. If the threshold for eligibility is met,  
32 the participating candidate's authorized political committee shall  
33 receive payment for qualified campaign expenditures of two dollars of  
34 public matching funds for each one dollar of matchable contributions,  
35 for the first two hundred fifty dollars of eligible private funds per  
36 contributor, obtained and reported to the board in accordance with the  
37 provisions of this title. The maximum payment of public matching funds  
38 shall be limited to the amounts set forth in section 14-206 of this  
39 title for the covered election.

40 3. Timing of payment. The board shall make any payment of public  
41 matching funds to participating candidate's authorized political commit-  
42 tees as soon as is practicable. But in all cases, it shall verify eligi-  
43 bility for public matching funds within four business days, excluding  
44 weekends and holidays, of receiving a campaign contribution report filed  
45 in compliance with section 14-104 of this article. Within two business  
46 days of determining that a candidate for a covered office is eligible  
47 for public matching funds, it shall authorize payment of the applicable  
48 matching funds owed to the candidate. However, it shall not make any  
49 payments of public money earlier than the earliest dates for making such  
50 payments as provided by this title. If any of such payments would  
51 require payment on a weekend or federal holiday, payment shall be made  
52 on the next business day.

53 4. Electronic funds transfer. The board shall, in consultation with  
54 the office of the comptroller, promulgate rules to facilitate electronic  
55 funds transfers directly from the campaign finance fund into an author-  
56 ized committee's bank account.



1     § 14-208. Use of public matching funds; qualified campaign expendi-  
2 tures. 1. Public matching funds provided under the provisions of this  
3 title may be used only by an authorized political committee for expendi-  
4 tures to further the participating candidate's election, including  
5 paying for debts incurred within nine months prior to a nomination to  
6 further the participating candidate's election.

7     2. Such public matching funds may not be used for:

8     (a) an expenditure in violation of any law;

9     (b) an expenditure in excess of the fair market value of services,  
10 materials, facilities or other things of value received in exchange;

11     (c) an expenditure made after the candidate has been finally disquali-  
12 fied from the ballot and all judicial remedies have been exhausted;

13     (d) an expenditure made after the only remaining opponent of the  
14 candidate has been finally disqualified from the general election ballot  
15 and all judicial remedies have been exhausted;

16     (e) an expenditure made by cash payment;

17     (f) a contribution or loan or transfer made to or expenditure to  
18 support another candidate or political committee or party, committee or  
19 constituted committee;

20     (g) an expenditure to support or oppose a candidate for an office  
21 other than that which the participating candidate seeks;

22     (h) gifts, except brochures, buttons, signs and other printed campaign  
23 material;

24     (i) legal fees to defend against a criminal charge;

25     (j) payments to immediate family members of the participating candi-  
26 date;

27     (k) any expenditure made to challenge the validity of any petition of  
28 designation or nomination or any certificate of nomination, declination  
29 or substitution;

30     (l) any impermissible personal use under section 14-130 of this arti-  
31 cle; or

32     (m) any use which would violate the rules governing judicial conduct  
33 pursuant to 22 NYCRR Part 100 or prosecutorial conduct pursuant to Rule  
34 3.8 of Part 1200, Rules of Professional Conduct of the New York State  
35 Unified Court System, as applicable.

36     § 14-209. Powers and duties of the board. 1. Advisory opinions. The  
37 board shall render advisory opinions with respect to questions arising  
38 under this title upon the written request of a candidate, an officer of  
39 a political committee or member of the public, or upon its own initi-  
40 ative. The board shall promulgate rules regarding reasonable times to  
41 respond to such requests. The board shall make public the questions of  
42 interpretation for which advisory opinions will be considered by the  
43 board and its advisory opinions, including by publication on its webpage  
44 with identifying information redacted as the board determines to be  
45 appropriate.

46     2. Public information and candidate education. The board shall develop  
47 a program for informing candidates and the public as to the purpose and  
48 effect of the provisions of this title, including by means of a webpage.  
49 The board shall prepare in plain language and make available educational  
50 materials, including compliance manuals and summaries and explanations  
51 of the purposes and provisions of this title. The board shall prepare or  
52 have prepared and make available materials, including access to an elec-  
53 tronic recordkeeping and filing system, to facilitate the task of  
54 compliance with the disclosure and recordkeeping requirements of this  
55 title.

1 3. Rules and regulations. The board shall have the authority to  
2 promulgate such rules and regulations and provide such forms as it deems  
3 necessary for the administration of this title.

4 4. Database. The board shall develop an interactive, searchable  
5 computer database that shall contain all information necessary for the  
6 proper administration of this title including information on contribu-  
7 tions to and expenditures by candidates and their authorized political  
8 committee, independent expenditures in support or opposition of candi-  
9 dates for covered offices, and distributions of moneys from the fund.  
10 Such database shall be accessible to the public on the board's webpage  
11 no later than June first, two thousand twenty.

12 § 14-210. Audits and repayments. 1. Audits. The board shall audit and  
13 examine all matters relating to the proper administration of this title  
14 and shall complete such audit no later than six months after the  
15 election in question. Every candidate who receives public funds under  
16 this title shall be audited by the board. The cost of complying with a  
17 post-election audit shall be borne by the candidate's authorized poli-  
18 tical committee using public funds, private funds or any combination of  
19 such funds. The authorized political committee of a participating  
20 candidate must maintain a reserve of three percent of the public funds  
21 received to comply with the post-election audit. Any public reserve  
22 funds not used shall be remitted to the New York state judicial campaign  
23 finance fund. The board shall issue to each campaign audited a final  
24 audit report that details its findings.

25 2. Repayments. (a) If the board determines that any portion of the  
26 payment made to a candidate's authorized political committee from the  
27 fund was in excess of the aggregate amount of payments that such candi-  
28 date was eligible to receive pursuant to this title, it shall notify  
29 such committee and such committee shall pay to the board an amount equal  
30 to the amount of excess payments. Provided, however, that if the errone-  
31 ous payment was the result of an error by the board, then the erroneous  
32 payment will be deducted from any future payment, if any, and if no  
33 payment is to be made then neither the candidate nor the committee shall  
34 be liable to repay the excess amount to the board. The candidate, the  
35 treasurer and the candidate's authorized political committee are jointly  
36 and severally liable for any repayments to the board.

37 (b) If the board determines that any portion of the payment made to a  
38 candidate's authorized political committee from the fund was used for  
39 purposes other than qualified campaign expenditures and such expendi-  
40 tures were not approved by the board, it shall notify such committee of  
41 the amount so disqualified and such committee shall pay to the board an  
42 amount equal to such disqualified amount. The candidate, the treasurer  
43 and the candidate's authorized political committee are jointly and  
44 severally liable for any repayments to the board.

45 (c) If the total of payments from the fund received by a participating  
46 candidate's authorized political committee exceed the total campaign  
47 expenditures of such candidate's authorized political committee, such  
48 candidate's authorized political committee shall use such excess funds  
49 to reimburse the fund for payments received by such authorized political  
50 committee from the fund during such calendar year. Participating candi-  
51 dates' authorized political committees shall pay to the board unspent  
52 public campaign funds from an election not later than twenty-seven days  
53 after all liabilities for the election have been paid and in any event,  
54 not later than the day on which the board issues its final audit report  
55 for the participating candidate's authorized political committee;  
56 provided, however, that all unspent public campaign funds for a partic-

1 ipating candidate shall be immediately due and payable to the board upon  
2 a determination by the board that the participant has delayed the post-  
3 election audit. A participating candidate's authorized political commit-  
4 tee may make post-election expenditures with public funds only for  
5 routine activities involving nominal cost associated with winding up a  
6 campaign and responding to the post-election audit. Nothing in this  
7 title shall be construed to prevent a candidate or his or her authorized  
8 political committee from using campaign contributions received from  
9 private contributors for otherwise lawful expenditures.

10 3. Rules and regulations. The board shall promulgate regulations for  
11 the certification of the amount of funds payable by the comptroller,  
12 from the fund established pursuant to section ninety-two-t of the state  
13 finance law, to a participating candidate's authorized political commit-  
14 tee that has qualified to receive such payment. These regulations shall  
15 include the periods during which such reports must be filed and the  
16 verification required, and the board shall develop forms on which  
17 contributions and expenditures are to be reported. The board shall  
18 institute procedures which will make possible payment by the fund within  
19 four business days after receipt of the required forms and verifica-  
20 tions.

21 § 14-211. Enforcement and penalties for violations and other  
22 proceedings. 1. Civil penalties. Any person who, acting as or on behalf  
23 of a candidate or such candidate's authorized political committee,  
24 violates any provision of this title, under circumstances evincing an  
25 intent to violate such provision, shall be subject to a civil penalty in  
26 an amount not in excess of ten thousand dollars, to be recoverable in a  
27 special proceeding or civil action to be brought by the chief enforce-  
28 ment counsel pursuant to sections 3-104 and 3-104-a of this chapter.

29 2. Criminal conduct. Any person who knowingly and willfully furnishes  
30 or submits false statements or information to the board in connection  
31 with its administration of this title, shall be guilty of a misdemeanor  
32 in addition to any other penalty as may be imposed under this chapter or  
33 pursuant to any other law. Any referral for prosecution under this  
34 subdivision shall be made pursuant to section 3-104 of this chapter.  
35 Upon conviction, the chief enforcement counsel shall initiate a special  
36 proceeding or civil action to recover any public matching funds obtained  
37 as a result of such criminal conduct.

38 3. Proceedings as to public financing. (a) The determination of eligi-  
39 bility pursuant to this title and any question or issue relating to  
40 payments for campaign expenditures pursuant to this title may be  
41 contested in a proceeding instituted in the Supreme court, Albany coun-  
42 ty, by an aggrieved judicial candidate.

43 (b) A proceeding with respect to such a determination of eligibility  
44 or payment for qualified campaign expenditures pursuant to this chapter  
45 shall be instituted within fourteen days after such determination was  
46 made. The board shall be made a party to any such proceeding.

47 (c) Upon the board's failure to receive the amount due from a partic-  
48 ipating candidate or such candidate's authorized political committee  
49 after the issuance of written notice of such amount due, as required by  
50 this title, the chief enforcement counsel is authorized to seek recovery  
51 of such amount pursuant to sections 3-104 and 3-104-a of this chapter.

52 (d) Any such funds obtained or collected through judgment or settle-  
53 ment shall be remitted to the New York state judicial and district  
54 attorney campaign finance fund.

55 § 14-212. Reports. The board shall review and evaluate the effect of  
56 this title upon the conduct of election campaigns and shall submit an

1 annual report to the governor and the legislature on or before May  
2 first, two thousand twenty-one, and on or before May first of every year  
3 thereafter, and at any other time upon the request of the governor and  
4 at such other times as the board deems appropriate. These reports shall  
5 include:

6 1. a list of the participating and nonparticipating candidates in  
7 covered elections and the votes received by each candidate in those  
8 elections;

9 2. the amount of contributions and loans received, and expenditures  
10 made, on behalf of these candidates;

11 3. the amount of public matching funds each participating candidate  
12 received, spent, and repaid pursuant to this title;

13 4. analysis of the effect of this title on political campaigns,  
14 including its effect on the sources and amounts of private financing,  
15 the level of campaign expenditures, voter participation, the number of  
16 candidates, the candidates' ability to campaign effectively for public  
17 office, and the diversity of candidates seeking and elected to office;  
18 and

19 5. recommendations for amendments to this title, including changes in  
20 contribution limits, thresholds for eligibility, and any other features  
21 of the system.

22 § 14-213. Severability. If any clause, sentence, subdivision, para-  
23 graph, section or part of this title be adjudged by any court of compe-  
24 tent jurisdiction to be invalid, such judgment shall not affect, impair  
25 or invalidate the remainder thereof, but shall be confined in its opera-  
26 tion to the clause, sentence, subdivision, paragraph, section or part  
27 thereof directly involved in the controversy in which such judgment  
28 shall have been rendered.

29 Nothing in this title shall be construed to require candidates or  
30 candidates' authorized political committees to commit any act which  
31 would violate the rules governing judicial conduct pursuant to 22 NYCRR  
32 Part 100. To the extent that any provision in this title conflicts with  
33 such rules, the rules shall control.

34 § 6. The state finance law is amended by adding a new section 92-t to  
35 read as follows:

36 § 92-t. New York state judicial and district attorney campaign finance  
37 fund. 1. There is hereby established in the joint custody of the state  
38 comptroller and the commissioner of taxation and finance a fund to be  
39 known as the New York state judicial and district attorney campaign  
40 finance fund.

41 2. Such fund shall consist of all revenues received from the New York  
42 state judicial and district attorney campaign finance fund check-off  
43 pursuant to subsection (h) of section six hundred fifty-eight of the tax  
44 law, from the abandoned property fund pursuant to section ninety-five of  
45 this article, from the general fund, and from all other moneys credited  
46 or transferred thereto from any other fund or source pursuant to law.  
47 Such fund shall also receive contributions from private individuals,  
48 organizations, or other persons to fulfill the purposes of the judicial  
49 public financing system, as well as any funds remitted pursuant to  
50 section 14-211 of the election law.

51 3. Moneys of the fund, following appropriation by the legislature, may  
52 be expended for the purposes of making payments to candidates pursuant  
53 to title II of article fourteen of the election law and for administra-  
54 tive expenses related to the implementation of article fourteen of the  
55 election law. Moneys shall be paid out of the fund by the state comp-  
56 troller on vouchers certified or approved by the state board of

1 elections, or its duly designated representative, in the manner  
2 prescribed by law, not more than five business days after such voucher  
3 is received by the state comptroller.

4 4. Notwithstanding any provision of law to the contrary, if, in any  
5 state fiscal year, the state judicial and district attorney campaign  
6 finance fund lacks the amount of money to pay all claims vouchered by  
7 eligible candidates and certified or approved by the state board of  
8 elections, any such deficiency shall be paid by the state comptroller,  
9 from funds deposited in the general fund of the state not more than four  
10 business days after such voucher is received by the state comptroller.

11 5. Commencing in two thousand twenty-one, if the surplus in the fund  
12 on April first of the year after a year in which a governor is elected  
13 exceeds twenty-five percent of the disbursements from the fund over the  
14 previous four years, the excess shall revert to the general fund of the  
15 state.

16 6. No public funds shall be paid to any participating candidates in a  
17 general election any earlier than the last day to decline a judicial or  
18 district attorney nomination pursuant to subdivision seven of section  
19 6-158 of the election law.

20 7. No public funds shall be paid to the authorized political committee  
21 of any participating candidate who has been disqualified or whose nomi-  
22 nation has been declared invalid by the appropriate board of elections  
23 or a court of competent jurisdiction until and unless such finding is  
24 reversed by a higher court in a final judgment. No payment from the  
25 fund in the possession of such participating candidate's authorized  
26 political committee on the date of such disqualification or invalidation  
27 may thereafter be expended for any purpose except the payment of liabil-  
28 ities incurred before such date. All other such moneys shall be repaid  
29 to the fund.

30 § 7. Section 95 of the state finance law is amended by adding a new  
31 subdivision 5 to read as follows:

32 5. (a) As often as necessary, the co-chairs of the state board of  
33 elections shall certify the amount such co-chairs have determined neces-  
34 sary to fund estimated payments from the fund established by section  
35 ninety-two-t of this article for the general election.

36 (b) Notwithstanding any provision of this section authorizing the  
37 transfer of any moneys in the abandoned property fund to the general  
38 fund, the comptroller, after receiving amounts sufficient to pay claims  
39 against the abandoned property fund, shall, based upon a certification  
40 of the state board of elections pursuant to paragraph (a) of this subdi-  
41 vision, and at the direction of the director of the budget, transfer the  
42 requested amount from remaining available monies in the abandoned prop-  
43 erty fund to the New York state judicial and district attorney campaign  
44 finance fund established by section ninety-two-t of this article.

45 § 8. Section 658 of the tax law is amended by adding a new subsection  
46 (h) to read as follows:

47 (h) New York state judicial and district attorney campaign finance  
48 fund check-off. (1) For each taxable year beginning on and after January  
49 first, two thousand nineteen, every resident taxpayer whose New York  
50 state income tax liability for the taxable year for which the return is  
51 filed is forty dollars or more may designate on such return that forty  
52 dollars be paid into the New York state judicial and district attorney  
53 campaign finance fund established by section ninety-two-t of the state  
54 finance law. Where a husband and wife file a joint return and have a New  
55 York state income tax liability for the taxable year for which the  
56 return is filed is eighty dollars or more, or file separate returns on a



1 single form, each such taxpayer may make separate designations on such  
2 return of forty dollars to be paid into the New York state judicial and  
3 district attorney campaign finance fund.

4 (2) The commissioner shall transfer to the New York state judicial and  
5 district attorney campaign finance fund, established pursuant to section  
6 ninety-two-t of the state finance law, an amount equal to forty dollars  
7 multiplied by the number of designations.

8 (3) For purposes of this subsection, the income tax liability of an  
9 individual for any taxable year is the amount of tax imposed under this  
10 article reduced by the sum of the credits (as shown in his or her  
11 return) allowable under this article.

12 (4) The department shall include a place on every personal income tax  
13 return form to be filed by an individual for a tax year beginning on or  
14 after January first, two thousand nineteen, for such taxpayer to make  
15 the designations described in paragraph one of this subsection. Such  
16 return form shall contain a concise explanation of the purpose of such  
17 optional designations.

18 § 9. Section 16-120 of the election law, as added by section 5 of  
19 part E of chapter 399 of the laws of 2011, is amended to read as  
20 follows:

21 § 16-120. Enforcement proceedings. 1. The supreme court or a justice  
22 thereof, in a proceeding instituted by the state board of elections, may  
23 impose a civil penalty, as provided for in subdivisions one and two of  
24 section 14-126 of this chapter and as provided for in subdivision one of  
25 section 14-211 of this chapter.

26 2. Upon proof that a violation of article fourteen of this chapter, as  
27 provided in subdivision one of this section, has occurred, the court may  
28 impose a civil penalty, pursuant to subdivisions one and two of section  
29 14-126 of this chapter and pursuant to subdivision one of section 14-211  
30 of this chapter, after considering, among other factors, the severity of  
31 the violation or violations, whether the subject of the violation made a  
32 good faith effort to correct the violation and whether the subject of  
33 the violation has a history of similar violations. All such determi-  
34 nations shall be made on a fair and equitable basis without regard to  
35 the status of the candidate or political committee.

36 3. The supreme court or a justice thereof, in a proceeding to recover  
37 public funds instituted pursuant to subdivision two of section 14-211 of  
38 this chapter, may order the recovery of such public funds.

39 § 10. Severability. If any clause, sentence, subdivision, paragraph,  
40 section or part of title II of article 14 of the election law, as added  
41 by section five of this act be adjudged by any court of competent juris-  
42 diction to be invalid, such judgment shall not affect, impair or invali-  
43 date the remainder thereof, but shall be confined in its operation to  
44 the clause, sentence, subdivision, paragraph, section or part thereof  
45 directly involved in the controversy in which such judgment shall have  
46 been rendered.

47 § 11. This act shall take effect immediately; provided, however, all  
48 affected candidates will be eligible to participate in voluntary public  
49 financing beginning with the 2020 election and provided, further, this  
50 act shall expire June 1, 2023 when upon such date the provisions of this  
51 act shall be deemed repealed.