STATE OF NEW YORK

7593

IN SENATE

January 29, 2018

Introduced by Sen. STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to enacting the "fair elections act"; to amend the election law, the state finance law and the tax law, in relation to providing for optional partial public financing of certain election campaigns in this state; and to amend the general business law, in relation to additional surcharges

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

Section 1. Short title. This act shall be known and may be cited as the "fair elections act".

§ 2. Legislative findings and declarations. The legislature declares that is in the public interest to create and ensure a truly democratic political system in which citizens, irrespective of their income, status, or financial connections, are enabled and encouraged to compete for public office. Therefore, the legislature finds it necessary to establish a system of public financing for all qualified candidates for state elective offices and constitutional convention delegates. The legislature further finds that a new system of public financing would be best administered by a new "fair elections board" empowered with effective oversight and enforcement capabilities dedicated to working with and assisting candidates excel in the public financing system.

§ 3. Section 3-102 of the election law is amended by adding two new subdivisions 3-a and 16-b to read as follows:

3-a. notwithstanding subdivision three of this section, the fair elections board enforcement counsel, established pursuant to subdivision six of section 14-216 of this chapter, as it may deem necessary, after the fair elections board has considered the matter or matters in question shall conduct any investigation necessary to enforce the provisions of title two of article fourteen of this chapter on behalf of the board of elections. Such investigations shall be kept confidential until brought to the fair elections board for review and consideration.

16-b. hear and consider the recommendations of the fair elections board enforcement counsel regarding the enforcement of violations of

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

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title two of article fourteen of this chapter, as it may deem necessary, after the fair elections board has considered the matter or matters in question;

§ 4. Subdivision 1 of section 3-104 of the election law is amended by adding a new paragraph (a-1) to read as follows:

(a-1) There shall also be a unit known as the fair elections enforcement unit established within the fair elections board. The head of such unit shall be the enforcement counsel. Such unit shall have sole authority within the state board of elections to investigate alleged violations and complaints arising under title two of article fourteen of this chapter.

§ 5. Section 3-104 of the election law is amended by adding twelve new subdivisions 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 to read as follows:

9. If the fair election board enforcement counsel determines that a violation of title two of article fourteen of this chapter has occurred which could warrant a civil penalty, the enforcement counsel shall, upon his or her discretion, seek to resolve the matter extra-judicially or commence a special proceeding in the supreme court pursuant to section 16-114 of this chapter.

10. Upon receipt of a complaint and supporting information alleging any other violation of title two of article fourteen of this chapter, the fair elections board enforcement counsel shall analyze the complaint to determine if an investigation should be undertaken. The fair elections board enforcement counsel shall, if necessary, request additional information from the complainant to assist such counsel in making this determination. Such analysis shall be confidential and include the following: first, whether the allegations, if true, would constitute a violation of article fourteen of this chapter and, second, whether the allegations are supported by credible evidence.

11. If the fair elections board enforcement counsel determines that the allegations, if true, would not constitute a violation of title two of article fourteen of this chapter or that the allegations are not supported by credible evidence, he or she shall issue a letter to the complainant dismissing the complaint.

12. If the fair elections board enforcement counsel determines that the allegations, if true, would constitute a violation of title two of article fourteen of this chapter and that the allegations appear to be supported by credible evidence, he or she shall notify the fair elections board of (a) his or her intent to resolve the matter extra-judicially due to the de minimus nature of the violation; or (b) his or her intent to commence an investigation, no later than the fair elections board's next regularly scheduled meeting. Notification shall summarize the relevant facts and the applicable law and shall, to the extent possible, protect from public disclosure the identity of the complainant and the individual subject to the complaint. In determining whether a violation is de minimus in nature the enforcement counsel shall consider the following factors: (a) whether any unforeseen extraordinary circumstances, such as a natural disaster, contributed to the violation alleged in the complaint; (b) whether the participating candidate or such candidate's campaign treasurer exercised due diligence to abide by the applicable rules; (c) whether the participating candidate or such candidate's campaign treasurer has used such candidate's or treasurer's personal funds to remedy any alleged violations or reimburse the candidate's committee for any alleged improper expenditures; (d) whether the participating candidate or such candidate's campaign treas-

urer agrees to pay any penalties assessed by the board in relation to any potential excess expenditure; and (e) whether the subject of the complaint has made a good faith effort to correct any alleged violation.

13. If, upon considering the fair elections board enforcement counsel's notice of intent to commence an investigation, the fair elections board believes that the allegations, if true, would not constitute a violation of article fourteen of this chapter, or the allegations are not supported by credible evidence or, that on balance, the equities favor a dismissal of the complaint, the board shall publicly direct that an investigation not be undertaken no later than sixty days after the receipt of notification from the fair elections board enforcement counsel of his or her intent to commence an investigation. In determining whether the equities favor a dismissal of the complaint, the fair elections board shall consider the following factors: (a) whether the complaint alleges a de minimus violation of article fourteen of this chapter; (b) whether the subject of the complaint has made a good faith effort to correct the violation; and (c) whether the subject of the complaint has a history of similar violations. Determinations of the fair elections board to dismiss a complaint and not proceed with a formal investigation shall be voted upon as provided in subdivision twelve of section 14-216 of this chapter at an open meeting pursuant to article seven of the public officers law, and shall be made on a fair and equitable basis and without regard to the status of the subject of the complaint.

14. Absent a timely determination by the fair elections board that an investigation shall not be undertaken, the fair elections board enforcement counsel shall commence an investigation on a timely basis. If the fair elections board enforcement counsel determines that additional investigative powers, as provided for in subdivisions four, five and six of section 3-102 of this title, are needed to complete the counsel's investigation, he or she shall request, upon approval of the fair elections board, such additional powers from the state board of elections. Such powers shall be granted by the board in public, as provided in subdivision four of section 3-100 of this title, only when the board finds that further investigation is warranted and justified.

15. At the conclusion of its investigation, the fair elections board enforcement counsel shall provide the fair elections board with a written recommendation as to: (a) whether substantial reason exists to believe a violation of title two of article fourteen of this chapter has occurred and, if so, the nature of the violation and any applicable penalty, as defined in section 14-126, 14-220 or 14-222 of this chapter, based on the nature of the violation; (b) whether the matter should be resolved extra-judicially; (c) whether a special proceeding should be commenced in the supreme court to recover a civil penalty; and (d) whether a referral should be made to a district attorney or the attorney general pursuant to subdivision seventeen of this section because reasonable cause exists to believe a violation warranting criminal prosecution has taken place.

16. The fair elections board shall accept, modify or reject the enforcement counsel's recommendation no later than sixty days after receipt of such recommendation. In making its determination, the board shall again consider: (a) whether the complaint alleges a de minimus violation of article fourteen of this chapter; (b) whether the subject of the complaint has made a good faith effort to correct the violation; and (c) whether the subject of the complaint has a history of similar violations. All such determinations shall be voted upon as provided in

subdivision twelve of section 14-216 of this chapter at an open meeting pursuant to article seven of the public officers law, and shall be made on a fair and equitable basis, without regard to the status of the subject of the complaint.

17. (a) If the fair elections board determines, as provided in subdivision sixteen of this section, that substantial reason exists to believe that a person, acting as or on behalf of a candidate or political committee under circumstances evincing an intent to violate such law, has unlawfully accepted a contribution in excess of a contribution limitation established in title two of article fourteen of this chapter, which could warrant a civil penalty as provided for in subdivision three of section 14-126 or subdivision two of section 14-222 of this chapter, the board shall direct the commencement of a special proceeding in the supreme court.

(b) If the fair elections board determines, as provided in subdivision sixteen of this section that reasonable cause exists to believe a violation of title two of article fourteen of this chapter warranting criminal prosecution has taken place, the board shall refer the matter to a district attorney and shall make available to such district attorney all papers, documents, testimony and findings relevant to its investigation. Where reasonable cause exists to believe that a candidate for the office of attorney general has violated title two of article fourteen of this chapter, the board shall refer the matter to the district attorney of the appropriate county.

(c) If the fair elections board determines, as provided in subdivision sixteen of this section that reasonable cause exists to believe a violation of title two of article fourteen of this chapter, warranting criminal prosecution has taken place, the board shall, except as provided in paragraph (b) of this subdivision, refer the matter to the attorney general and shall make available to the same all papers, documents, testimony and findings relevant to its investigation.

18. Upon notification that a special proceeding has been commenced by a party other than the fair elections board, pursuant to section 16-114 of this chapter, the fair elections board shall direct the fair elections board enforcement counsel to investigate the alleged violations unless otherwise directed by the court.

19. The fair elections board 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.

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

§ 6. The state of New York shall appropriate during each fiscal year to the New York state fair elections board 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. Notwithstanding section fifty-one of the state finance law, such funding shall not be decreased by interchange with any other appropriation.

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

§ 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 fair elections board shall render formal and advisory 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 and reliance on such opinion, 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.

§ 8. Section 14-100 of the election law is amended by adding a new subdivision 17 to read as follows:

17. "intermediary" means an individual, corporation, partnership, political committee, labor organization, or other entity which, other than in the regular course of business as a postal, delivery, or messenger service, delivers any contribution from another person or entity to a candidate or an authorized committee.

"Intermediary" shall not include spouses, parents, children, or siblings of the person making such contribution.

§ 9. Subdivision 1 of section 14-102 of the election law, as amended by chapter 8 and as redesignated by chapter 9 of the laws of 1978, is amended 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 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~~] title 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, intermediary, or person from whom received, and if the transferor, contributor, intermediary, 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. An intermediary need not be reported for a contribution that was collected from a contributor in connection with a party or other candidate-related event held at the residence of the person delivering the contribution, unless the expenses of such event at such residence for such candidate exceed five hundred dollars or the aggregate contributions received from that contributor at such event exceed five hundred dollars. 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~~] title.

§ 10. Section 14-110 of the election law, as amended by chapter 46 of the laws of 1984, is amended to read as follows:

§ 14-110. Place for filing statements. The places for filing the statements required by this article shall be determined by rule or regulation of the state board of elections; provided, however, that the statements of a candidate for election to the office of governor, lieutenant governor, attorney general, comptroller, member of the legislature, delegate to a constitutional convention, justice of the supreme court or for nomination for any such office at a primary election and of any committee aiding or taking part in the designation, nomination, election or defeat of candidates for one or more of such offices or promoting the success or defeat of a question to be voted on by the voters of the entire state shall be filed with the state board of elections and in such other places as the state board of elections may, by rule or regulation provide. **Upon filing, the state board of elections shall make all statements filed therewith readily available and accessible to the fair elections board.**

§ 11. Section 14-112 of the election law, as amended by section 8 of part A of chapter 286 of the laws of 2016, is amended to read as follows:

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

§ 12. Section 14-116 of the election law, subdivision 1 as redesignated by chapter 9 of the laws of 1978 and subdivision 2 as amended by chapter 260 of the laws of 1981, is amended to read as follows:

§ 14-116. Political contributions by certain organizations. 1. No corporation**, limited liability company** or joint-stock association doing business in this state, except [~~a corporation or association~~] **an entity** organized or maintained for political purposes only, shall directly or indirectly pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for, or in aid of, any corporation, **limited liability company,** joint-stock or other association organized or maintained for political purposes, or for, or in aid of, any candidate for political office or for nomination for such office, or for any political purpose whatever, or for the reimbursement or indemnification of any person for moneys or property so used. Any officer, director, stock-holder, attorney or agent of any corporation**, limited liability company** or joint-stock association which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violations, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor.

2. Notwithstanding the provisions of subdivision one of this section, any corporation or an organization financially supported in whole or in part, by such corporation**, and any limited liability company** may make expenditures, including contributions, not otherwise prohibited by law,

for political purposes, in an amount not to exceed five thousand dollars in the aggregate in any calendar year; provided that no public utility shall use revenues received from the rendition of public service within the state for contributions for political purposes unless such cost is charged to the shareholders of such a public service corporation.

§ 13. Subdivision 3 of section 14-124 of the election law, as amended by section 1 of part B of chapter 286 of the laws of 2016, is amended to read as follows:

3. The contribution and receipt limits of this article shall not apply to monies received and expenditures made by a party committee or constituted committee to maintain a permanent headquarters and staff and carry on ordinary activities which are not for the express purpose of promoting the candidacy of specific candidates; provided that such monies described in this subdivision shall be deposited in a segregated account. **Provided that the funds described in this subdivision shall be prohibited from being transferred. Provided further, that expenditures made by a party committee or constituted committee for a political communication in accordance with the provisions of this subdivision shall not include the name, likeness or voice of any candidate or elected official.**

§ 13-a. Sections 14-100 through 14-132 of article 14 of the election law are designated title 1 and a new title heading is added to read as follows:

CAMPAIGN RECEIPTS AND EXPENDITURES

§ 14. The election law is amended by adding a new section 14-134 to read as follows:

§ 14-134. Use of contributions in violation of federal postal regulations prohibited. No party or constituted committee which has been designated as a not-for-profit organization by the United States Internal Revenue Service shall make expenditures, of direct or indirect contributions or transfers received by such committee, in violation of United States Postal Service regulations.

§ 14-a. The article heading of article 14 of the election law is amended to read as follows:

CAMPAIGN RECEIPTS AND EXPENDITURES**; MATCHING FINANCING**

§ 15. Article 14 of the election law is amended by adding a new title 2 to read as follows:

TITLE II

PUBLIC FINANCING

Section 14-200. Applicability of title.
14-202. Definitions.
14-204. Reporting requirements.
14-206. Eligibility.
14-208. Qualified campaign expenditures.
14-210. Optional public financing.
14-212. Contribution and receipt limitations.
14-214. Limitations on the receipt of public funds.
14-216. Fair elections board; general powers and duties.
14-218. Examinations and audits.
14-220. Civil enforcement.
14-222. Criminal penalties.
14-224. Reports.
14-226. Debates.
14-228. Distributions from fair elections fund.

§ 14-200. Applicability of title. This title shall only apply to those candidates who elect to participate in the optional public financing system.

§ 14-202. Definitions. As used in this title, unless another meaning is clearly indicated:

1. The term "board" or "fair elections board" means the board created by section 14-216 of this title to administer the fair elections fund.

2. The term "eligible candidate" shall mean a candidate for nomination or election to any of the offices of governor, lieutenant governor, comptroller, attorney general, member of the state legislature, at-large delegate to a constitutional convention or district delegate to a constitutional convention.

3. The term "participating committee" shall mean a single authorized political committee which a candidate certifies is the committee that will solely be used to participate in the public financing system established by this title after January first of the year in which the primary, general or special election is held for the public office sought. A multi-candidate committee may not be a participating committee.

4. The term "participating candidate" shall mean a candidate who is eligible to participate in the optional public financing system established by this title, has met the threshold for eligibility and has elected to participate in the public financing system.

5. The term "nonparticipating candidate" shall mean a candidate for any office eligible for optional public financing under this title for a covered election who fails to file a statement in the form of an affidavit pursuant to section 14-210 of this title.

6. The term "matchable contributions" shall mean that portion of the aggregate contributions made (a) in the case of a primary or general election, after January first of the year in which the primary or general election is held for the public office sought or (b) in the case of a special election, within six months of such election by natural persons resident in the state of New York to a candidate for nomination or election to any of the offices covered by the provisions of this title which do not exceed two hundred fifty dollars, which have been reported in full by the candidate's participating committee to the fair elections board, including the contributor's full name and residential address. A loan may not be treated as a matchable contribution. The following contributions are not matchable:

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

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

(c) contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or similar drawing for valuable prizes;

(d) money order contributions from any one contributor that are, in the aggregate, greater than one hundred dollars;

(e) contributions from individuals under the age of eighteen years;

(f) contributions from individual vendors to whom the participating candidate or his or her principal committee makes an expenditure, in furtherance of the nomination for election or election covered by the candidate's certification, unless such expenditure is reimbursing an advance.

(g) All contributions received between the day after the general election in which the participating candidate is seeking office and the thirty-first day of December of the year before the year in which the next general election is to be held, inclusively.

7. The term "qualified campaign expenditure" shall mean an expenditure for which public funds may be used.

8. The term "fund" shall mean the New York state fair elections fund created by section ninety-two-y of the state finance law.

9. The term "threshold for eligibility" shall mean the amount of total matchable contributions that the participating committee of an otherwise eligible candidate must receive, as required by section 14-206 of this title, in order to qualify for optional public financing pursuant to this title.

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

11. The term "election cycle" shall mean the two year period starting the day after the last general election for candidates for the state legislature and shall mean the four year period starting after the day after the last general election for candidates for statewide office.

§ 14-204. Reporting requirements. 1. Every participating candidate shall not designate more than one authorized committee. Before receiving any contribution or making any expenditure for a covered election, each participating candidate shall notify the fair elections board as to the existence of his or her authorized committee that has been designated and approved by such candidate. Each such authorized committee shall, before opening a committee bank account, receiving any contribution or making any expenditure for a covered election:

(a) designate a treasurer; and

(b) obtain a tax identification number from the internal revenue service.

2. Disclosure. (a) Every participating candidate shall file financial disclosure reports with the state board of elections as required by title one of this article. Copies of such reports shall also be submitted to the fair elections board created pursuant to this article at the same time such reports are filed with the state board of elections.

(b) The fair elections board shall review each disclosure report filed with the state board of elections pursuant to title one of this article and shall inform participating candidates and political committees including the authorized committee, of relevant questions the fair elections board has concerning: (i) compliance with requirements of this title and of the rules issued by the fair elections board; and (ii) qualification for receiving public matching funds pursuant to this title. In the course of such review, the fair elections board shall give candidates and political committees including the authorized committee, an opportunity to respond to and correct potential violations and give candidates an opportunity to address questions the board has concerning their matchable contribution claims or other issues concerning eligibility for receiving public matching funds pursuant to this title. Nothing in this paragraph shall preclude the board from subsequently reviewing such a disclosure report and taking any action otherwise authorized by this title.

(c) Only itemized contributions contained in reports filed with the fair elections board shall be eligible for matching funds pursuant to this title.

§ 14-206. Eligibility. 1. To be eligible for optional public financing under this title, a candidate for nomination or election must:

(a) Meet all the requirements of this chapter and other provisions of law to have his or her name on the ballot;

(b) Be a candidate for statewide office, the state legislature or delegate to a constitutional convention at a primary, general or special

election and meet the threshold for eligibility set forth in subdivision two of this section;

(c) Elect to participate in the public financing system established by this title not later than seven days after the last day to file designating petitions for the office such candidate is seeking or, in the case of a special election, not later than the last day to file nominating certificates for such office;

(d) Agree to obtain and furnish to the fair elections board any evidence it may reasonably request relating to his or her campaign expenditures or contributions and furnish such other proof of compliance with this title as may be requested by the board;

(e) Have a single authorized political committee which he or she certifies as the participating committee for the purposes of this title;

(f) Agree to identify accurately in all campaign materials the person or entity that paid for such campaign material; and

(g) For any candidate electing to participate in the optional public financing system in the year in which such optional public financing system is first effective, for the covered office being sought by such candidate, and, in each subsequent year, those candidates who did not elect to participate in the optional public financing system in the year immediately preceding the current year, agree not to expend for campaign purposes any portion of any pre-existing funds raised for any public office or party position prior to the date of electing to participate in the public financing system as set forth in paragraph (c) of this subdivision. Nothing in this paragraph shall be construed to limit, in any way, any candidate or public official from expending any portion of pre-existing campaign funds for any lawful purpose other than those related to his or her campaign.

(h) Agree not to accept contributions in excess of the limits set forth in section 14-212 of this title from the time he or she elects to participate in the optional public financing system, as set forth by paragraph (c) of this section, through the thirty-first day of December of the year before the year in which the next general election is to be held.

2. The threshold for eligibility for public funding for candidates in a primary, general or special election for the following offices shall be:

(a) Governor in a primary or general election. Not less than six hundred fifty thousand dollars from at least six thousand five hundred matchable contributions made up of sums of up to two hundred fifty dollars per individual contributor who resides in New York state.

(b) Lieutenant governor in a primary election and comptroller or attorney general in a primary or general election. Not less than two hundred thousand dollars from at least two thousand matchable contributions made up of sums of up to two hundred fifty dollars per individual contributor who resides in New York state.

(c) Members of the state senate in a primary, general or special election. Not less than twenty thousand dollars from at least two hundred matchable contributions made up of sums of up to two hundred fifty dollars per individual contributor who resides in New York state including at least ten thousand dollars from at least one hundred individual contributors who reside in the senate district or reside in any portion of any county which constitutes any measure of the district in which the seat is to be filled.

(d) Members of the assembly in a primary, general or special election. Not less than ten thousand dollars from at least one hundred matchable

contributions made up of sums of up to two hundred fifty dollars per individual contributor who resides in New York state including at least five thousand dollars from at least fifty individuals who reside in the assembly district or reside in any portion of any county which constitutes any measure of the district in which the seat is to be filled.

(e) At-large delegate to a constitutional convention in a primary or general election. Not less than twenty thousand dollars from at least two hundred matchable contributions made up of sums of up to two hundred fifty dollars per individual contributor who resides in New York state.

(f) District delegate to a constitutional convention in a primary or general election. Not less than five thousand dollars from at least fifty matchable contributions made up of sums of up to two hundred fifty dollars per individual contributor who resides in the district or in the constituent county or resides in any portion of any county which constitutes any measure of the district in which the seat is to be filled.

3. In order to be eligible to receive public funds in a primary election a candidate must agree, that in the event such candidate is a candidate for such office in the general election in such year, that such candidate will be bound by the provisions of this title, including, but not limited to, the public funds receipt limits of this title.

4. Candidates who are contested in a primary election and who do not seek public funds shall not be eligible for public funds for the general election in that year. The provisions of this subdivision shall not apply to candidates for the office of lieutenant governor.

5. Candidates who are unopposed in a general or special election shall not be eligible to receive public funds.

6. No candidate for election to an office in a primary, general or special election who has elected to participate in the public financing system shall be deemed opposed and receive public funds unless there is at least one other candidate, as defined by subdivision seven of section 14-100 of this article for such office in such election.

§ 14-208. Qualified campaign expenditures. 1. Public funds provided under the provisions of this title may only be used for expenditures by the participating committee authorized by the candidate to make expenditures on such candidate's behalf, to further the candidate's nomination or election after January first of the year in which the primary or general election is held for the office sought, for services, materials, facilities or other things of value used during that election cycle or, in the case of a special election, for expenditures during the period commencing three months before and ending one month after such special election.

2. Such public funds may not be used for:

(a) An expenditure in violation of any law of the United States or of this state;

(b) Payments or anything of value given or made to the candidate, a relative of the candidate, or to a business entity in which any such person has a ten percent or greater ownership interest or of which any such person is an officer, director or employee in excess of the fair market value of such services, materials, facilities or other things of value received in exchange;

(c) Payment in excess of the fair market value of services, materials, facilities or other things of value received in exchange;

(d) Any expenditure made after the participating candidate, or the only remaining opponent of such candidate, has been disqualified or had such candidate's petitions declared invalid by a board of elections or a

court of competent jurisdiction until and unless such finding is reversed by a higher authority.

(e) Any expenditure made to challenge the validity of any petition of designation or nomination or any certificate of nomination, acceptance, authorization, declination or substitution;

(f) Expenditure for noncampaign related food, drink or entertainment;

(g) Gifts, except brochures, buttons, signs, or other printed campaign materials; and

(h) Contributions or transfers to a political committee.

§ 14-210. Optional public financing. 1. Participating candidates for nomination or election in primary, general and special elections may obtain payment to a participating committee from public funds for qualified campaign expenditures. No such public funds shall be paid to a participating committee until the candidate has qualified to appear on the ballot and filed a sworn statement with the fair elections board electing to participate in the optional public financing system and agreeing to abide by the requirements of this title. Payments shall not exceed the amounts specified in this title, and shall be made only in accordance with the provisions of this title. Such payments may only be made to a participating candidate's participating committee. No public funds shall be used except as reimbursement or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenditures.

2. The participating committee of each participating candidate shall be entitled to six dollars in public funds for each one dollar of matchable contributions obtained and reported to the fair elections board in accordance with the provisions of this title, provided, however, such public funds shall only be used for qualified campaign expenditures.

3. (a) No participating candidate for nomination for an office who is unopposed in a primary election shall be entitled to payment from the fund for qualified campaign expenditures.

(b) Where there is a contest in such primary for the nomination of at least one other party for such office, the participating committee of an unopposed participating candidate for nomination may raise and spend an amount equal to one-half the public funds receipt limit for such office, as fixed by this title for candidates who have elected to accept public funds, with contributions of up to two thousand dollars per contributor. Such payment can only be expended for property, services or facilities used on or before the date of such primary election.

4. The fair elections board shall promptly examine all reports of contributions to determine whether, on their face, they meet the requirements for matchable contributions, and shall keep a record of such contributions.

5. The fair elections board shall promulgate regulations for the certification of the amount of funds payable by the comptroller, from the fund established pursuant to section ninety-two-y of the state finance law, to a participating candidate that has qualified to receive such payment. These regulations shall include the promulgation and distribution of forms on which contributions and expenditures are to be reported, the periods during which such reports must be filed and the verification required. The board shall institute procedures which will make possible payment by the fund within two business days after receipt of the required forms and verifications.

§ 14-212. Contribution and receipt limitations. 1. In any primary, special or general election for any statewide office, state legislative office or constitutional convention delegate no contributor may make a

contribution to any participating candidate or such candidate's participating committee, and no participating candidate or participating committee may accept any contribution from any contributor which, in the aggregate amount, is greater than two thousand dollars.

2. (a) Notwithstanding the public funds receipt limit for such office as fixed by this title for candidates who have elected to accept public funds, a participating candidate for governor or lieutenant governor in a primary or general election or such candidate's participating committee may accept from a state constituted committee which has nominated such candidate services in an amount which, in the aggregate, does not exceed two million five hundred thousand dollars; provided, however, that twenty-five percent of such amount may be accepted in the form of a transfer.

(b) Notwithstanding the public funds receipt limit for such office as fixed by this title for candidates who have elected to accept public funds, a participating candidate for attorney general or comptroller in a primary or general election or such candidate's participating committee may accept from a state constituted committee which has nominated such candidate services in an amount which, in the aggregate, does not exceed one million dollars; provided, however, that twenty-five percent of such amount may be accepted in the form of a transfer.

(c) Notwithstanding the public funds receipt limit for such office as fixed by this title for candidates who have elected to accept public funds, a participating candidate for state senator in a primary, general or special election or such candidate's participating committee may accept from a state constituted committee which has nominated such candidate services in an amount which, in the aggregate, does not exceed one hundred thousand dollars; provided, however, that twenty-five percent of such amount may be accepted in the form of a transfer.

(d) Notwithstanding the public funds receipt limit for such office as fixed by this title for candidates who have elected to accept public funds, a participating candidate for member of the assembly in a primary, general or special election or such candidate's participating committee may accept from a state constituted committee which has nominated such candidate services in an amount which, in the aggregate, does not exceed fifty thousand dollars; provided, however, that twenty-five percent of such amount may be accepted in the form of a transfer.

(e) Notwithstanding the public funds receipt limit for such office as fixed by this title for candidates who have elected to accept public funds, a participating candidate for delegate at-large to a constitutional convention in a general election or such candidate's participating committee may accept from a state constituted committee which has nominated such candidate services in an amount which, in the aggregate, does not exceed fifty thousand dollars; provided, however, that twenty-five percent of such amount may be accepted in the form of a transfer.

(f) Notwithstanding the public funds receipt limit for such office as fixed by this title for candidates who have elected to accept public funds, a participating candidate for district delegate to a constitutional convention in a general election or such candidate's participating committee may accept from a state constituted committee which has nominated such candidate services in an amount which, in the aggregate, does not exceed ten thousand dollars; provided, however, that twenty-five percent of such amount may be accepted in the form of a transfer.

(g) For purposes of this subdivision, the term state constituted committee includes any of its subcommittees.

3. Notwithstanding any public funds receipt limit in this subdivision, each county committee of any party which nominates a candidate for statewide office or state legislative office, including within the term county committee any of its subcommittees, may expend in support of such party's candidates for statewide office or state legislative office who has agreed to accept public financing, an amount which shall not exceed the sum of two cents for each voter registered in such county as determined by the records of the appropriate board of elections as of the preceding general election.

4. In computing the aggregate amount expended for purposes of this section, expenditures made by a state constituted committee or a county committee in support of more than one candidate shall be allocated among such candidates supported by the committee in accordance with formulas promulgated by the fair elections board or, in the absence of such official formulas, in accordance with a formula based upon reasonable standards. The statements filed by such constituted committee in accordance with this chapter shall set forth, in addition to the other information required, the total amount expended by the party committee on behalf of all such candidates and the amount allocated to each candidate by dollar amount and percentage. Expenditures by a party for activities which do not support or oppose the election of any candidate or candidates by name or by clear inference shall not be regarded as expenditures on behalf of or in opposition to a candidate.

5. A participating candidate for a public office for which public funds are available pursuant to this title shall not accept any contributions any earlier than one day after the previous general election for the office which such candidate is seeking, or any later than the day of the general election for the office sought, except that a participating candidate or participating committee which has a deficit on the day of the general election may, after such date, accept contributions which do not exceed the amount of such deficit and the expenses incurred in raising such contributions or the expenditure limit for such office as fixed by this title for candidates who have elected to accept public funds.

6. Except for the limitations specifically set forth in this section, participating candidates shall be subject to the provisions of this article.

§ 14-214. Limitations on the receipt of public funds. The following limitations apply to the total amount of public funds that may be provided to a participating candidate's authorized committee for an election cycle:

1. In any primary election, receipt of public funds by participating candidates and by their participating committees shall not exceed:

(i) for governor, the sum of nine million dollars;

(ii) for lieutenant governor, comptroller or attorney general, the sum of six million dollars;

(iii) for senator, the sum of three hundred fifty thousand dollars;

(iv) for member of the assembly, the sum of one hundred fifty thousand dollars;

(v) for at-large delegate to a constitutional convention, the sum of one hundred seventy-five thousand dollars;

(vi) for district delegates to a constitutional convention, the sum of fifty thousand dollars;

2. In any general or special election, receipt of public funds by participating candidates for the following offices and by their participating committees shall not exceed the following amounts:

Candidates for election to the office of:

Governor and lieutenant governor (combined)	$12,000,000
Attorney general	$8,000,000
Comptroller	$8,000,000
Member of senate	$400,000
Member of assembly	$200,000
Delegate at-large to a constitutional convention	$350,000
District delegate to a constitutional convention	$75,000

3. Participating candidates for office who are unopposed in the primary election may receive public funds before the primary election, for services, materials or facilities used on or before the date of such primary election, an amount equal to half the sum such candidates would be entitled to receive if their nomination was contested in such primary election provided there is a primary contest for the nomination of at least one other party for such office.

4. Nothing in this section shall be construed to limit the amount of private funds a participating candidate may receive subject to the contribution limits contained in section 14-212 of this title.

5. At the beginning of each second calendar year, commencing in two thousand nineteen, the fair elections board shall determine the percentage of the difference between the most recent available monthly consumer price index for all urban consumers published by the United States bureau of labor statistics and such consumer price index published for the same month four years previously. The amount of each public funds receipt limitation fixed in this section shall be adjusted by the amount of such percentage difference to the closest one hundred dollars by the state board which, not later than the first day of February in each such year, shall issue a regulation publishing the amount of each such contribution limit. Each public fund receipt limit as so adjusted shall be the public funds receipt limit in effect for any election held before the next such adjustment.

§ 14-216. Fair elections board; general powers and duties. 1. There shall be a board within the state board of elections known as the "fair elections board" composed of five members, of which one member shall be appointed by the governor and one member shall be appointed by each legislative leader of the senate and assembly. No member of the fair elections board shall hold elective office, nor shall any member be a lobbyist as defined in subdivision (a) of section one-c of the legislative law. The chair shall be responsible for managing the fair elections board. The members shall each serve for a term of four years.

2. The members of the fair elections board shall designate the chairman of the fair elections board from among the members thereof, who shall serve as chairman at the pleasure of the members of the fair elections board. The chairman or any three members of the fair elections board may call a meeting.

3. Each member's term shall commence on January first, two thousand nineteen. In case of a vacancy in the office of a member, a member shall be appointed according to the original manner of appointment. Each member shall be a resident of the state of New York and registered to vote therein. Each member shall agree not to make and shall not make contributions to any candidate or authorized committee for nomination for election. No member shall serve as an officer of a political party or committee or be a candidate or participate in any capacity in a campaign by a candidate for nomination for election. An officer or employee of the state or any state agency shall not be eligible to be a member of the fair elections board.

4. The members of the fair elections board shall be entitled to receive payment for actual and necessary expenses incurred in the performance of their duties as members of such board.

5. A member of the fair elections board may be removed for cause by the appointing authority upon notice and an opportunity for a hearing.

6. The fair elections board shall appoint a counsel, a deputy counsel, who shall be a member of a different major political party than the counsel, a special counsel, a deputy special counsel, who shall be a member of a different major political party than the special counsel, a director of public information, a deputy director of public information, who shall be a member of a different major political party than the director of public information. The fair elections board may utilize existing staff of the state board of elections as may be necessary, and make necessary expenditures subject to appropriation, provided however that the counsel, in consultation with the fair elections board, shall have the authority to hire at least four new fair elections board staff members. Such fair elections board staff members shall be dedicated to training and assisting participating candidates in complying with the requirements of optional public financing as provided for under this title. The fair elections board shall retain an independent auditor to perform ongoing audits of each covered election by contract entered into pursuant to section one hundred sixty-three of the state finance law.

7. The counsel and the special counsel shall each serve a term of four years and may only be removed for cause. Any time after the effective date of this section, the members, or in the case of a vacancy on the fair elections board, the members, of each of the same major political party as the incumbent counsel, deputy counsel, shall appoint such counsels, and deputies. Any vacancy in the office of counsel, deputy counsel, special counsel, special deputy counsel, director of public information and deputy director of public information shall be filled by the members of the fair elections board or in the case of a vacancy on the board, the members of the same major political party as the vacating incumbent for the remaining period of the term of such vacating incumbent.

8. The fair elections board shall:

(a)(i) render advisory opinions with respect to questions arising under this article upon the written request of a candidate, an officer of a political committee or member of the public, or upon its own initiative; (ii) promulgate rules regarding reasonable times to respond to such requests; and (iii) make public the questions of interpretation for which advisory opinions will be considered by the fair elections board and its advisory opinions, including by publication on its website;

(b) develop a program for informing and training candidates and the public as to the purpose and effect of the provisions of this title, including by means of a website;

(c) have the authority to promulgate such rules and regulations and prescribe such forms as the fair elections board deems necessary for the administration of this title; and

(d) in conjunction with the state board of elections develop an interactive, searchable computer database that shall contain all information necessary for the proper administration of this title including information on contributions to and expenditures by candidates and their authorized committees and distributions of moneys from the fund and shall be accessible to the public on the state board of elections' website.

9. Consistent with the provisions of the civil service law and subdivision seventeen of section seventy-three of the public officers law, and notwithstanding the provisions of any other law to the contrary, all positions on the staff of the fair elections board shall be classified in the exempt class of the civil service and such positions shall be filled, to the extent possible, with an equal number of persons from each of the two political parties for which the highest and the next highest number of votes were cast for the office of state comptroller at the last preceding general election for such office.

10. The fair elections board's administration of the fund shall be governed by the provisions of this title and section ninety-two-y of the state finance law.

11. The fair elections board and its proceedings shall be governed by the state administrative procedure act and subject to articles six and seven of the public officers law.

12. For the purposes of meetings, three commissioners shall constitute a quorum. The affirmative vote of three commissioners shall be required for any action of the fair elections board.

13. The fair elections board may take such other actions as are necessary and proper to carry out the purposes of this title.

§ 14-218. Examinations and audits. 1. The fair elections board may conduct a thorough examination and pre-election audit of the contributions and qualified campaign expenses of the participating committee of every participating candidate who received payments pursuant to section 14-210 of this title. Such audits shall be conducted as frequently as the fair elections board deems necessary to ensure compliance with this title. The fair elections board shall notify, in writing, any candidate's authorized committee prior to the commencement of such pre-election audit. No pre-election audit shall commence in the absence of the notice requirement of this subdivision. Every candidate who receives public matching funds under this title shall also be audited by the fair elections board post-election. The cost of complying with a post-election audit shall be borne by the candidate's authorized committee. A candidate who has received public matching funds under this title must maintain a reserve of at least one percent of the total amount of matching funds received by such candidate in his or her campaign account to comply with the post-election audit. A candidate who runs in both a primary and a general election, must maintain a reserve of one percent of the total amount of public matching funds received by such candidate for both his or her primary and general election. A candidate may use public matching funds, private funds or a combination of public and private funds to comply with a post-election audit. The fair elections board shall issue to each campaign audited the final post-election audit report that details its findings and shall provide such audit to the governor and legislative leaders and make such audit report available on the state board of elections' website. Final post-election audit reports shall be completed no later than twelve months after the date of the election or elections for which the candidate received public funds. This audit deadline shall not apply in cases involving potential campaign-related fraud, knowing and willful violations of this article or criminal activity.

2. (a) If the fair elections board determines that any portion of the payment made to a participating committee from the fund was in excess of the aggregate amount of payments to which such eligible candidate was entitled pursuant to section 14-210 of this title, it shall notify such committee of the excess amount and such committee shall pay to the fair

elections board an amount equal to the amount of excess payments; provided, however, that if the erroneous payment was due to an error made by the fair elections board, then the erroneous payment will be offset against any future payment, if any. The participating committee shall be liable for any repayments due to the fair elections board for deposit by such board into the New York state campaign fund.

(b) If the board determines that any amount of payment made to a participating committee from the fund was used for purposes other than to defray qualified campaign expenses, it shall notify such participating committee of the amount disqualified and such participating committee shall pay to the fair elections board an amount equal to such disqualified amount. Such monies shall be deposited into the New York state fair elections fund created pursuant to section ninety-two-y of the state finance law. The candidate's authorized committee shall be liable for any repayments due to the fair elections board.

(c) If the total of contributions and payments from the fund received by any participating candidate and such candidate's participating committee, exceeds the public funding receipt limitation of such candidate and committee, such candidate and committee shall use such excess funds to reimburse the fund for payments received by such committee from the fund not later than ten days after all permissible liabilities have been paid and in any event, not later than twenty days after the date on which the fair elections board issues its final audit report for the participating candidate's committee; provided, however, that all unspent matching funds for a participating candidate shall be immediately due and payable to the fair elections board for deposit into the New York state fair elections fund upon its determination that the participant willfully delayed the post-election audit process. A participating candidate may make post-election expenditures only for routine activities involving nominal costs associated with ending a campaign and responding to the post-election audit. Nothing in this section shall be construed to prohibit the post-election expenditure of public funds for debts incurred during the campaign for which public funds were eligible to be used.

3. If a court of competent jurisdiction disqualifies a candidate whose participating committee has received public funds on the grounds that such candidate committed fraudulent acts in order to obtain a place on the ballot and such decision is not reversed by a higher court, such candidate and such candidate's participating committee shall pay to the fair elections board an amount equal to the total of public funds received by such participating committee.

4. The board must provide written notice of all payments due from a participating candidate or such candidate's committee to the board and provide an opportunity for the candidate or committee to rebut, in whole or in part, the alleged amount due. Upon a final written determination by the board, the amount due shall be paid to the board within thirty days of such determination.

5. All payments received by the board pursuant to this section shall be deposited in the New York state fair elections fund established by section ninety-two-y of the state finance law.

6. Any advice provided by the staff or members of the fair elections board to a participating or non-participating candidate in connection with any action under this article, when relied upon in good faith, shall be presumptive evidence that such candidate or his or her committee did not knowingly and willfully violate the provisions of this article.

§ 14-220. Civil enforcement. 1. Any person or authorized committee who knowingly and wilfully fails to make a filing required by the provisions of this title shall be subject to a civil penalty not to exceed the amount of five thousand dollars.

2. Any person or authorized committee who knowingly and intentionally violates any other provision of this title or any rule promulgated hereunder shall be subject to a civil penalty not to exceed the amount of ten thousand dollars.

3. Fines authorized under this section will be imposed by the fair elections board after a hearing at which the subject person or authorized committee shall be given an opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed by the rules of the fair elections board. For purposes of conducting such hearings, the fair elections board shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties herein authorized.

4. The fair elections board shall publish on the state board of elections' website the final order adjudicating any matter brought pursuant to this section.

5. All payments received by the fair elections board pursuant to this section shall be deposited in the New York state fair elections fund established by section ninety-two-y of the state finance law.

§ 14-222. Criminal penalties. 1. Any person who knowingly and willfully fails to make a filing required by the provisions of this title within ten days after the date provided for such, or anyone that knowingly and willfully violates any other provision of this title shall be guilty of a misdemeanor and, in addition to such other penalties as may be provided by law, shall be subject to a fine not to exceed the amount of ten thousand dollars.

2. Any person who knowingly and willfully contributes, accepts or aids or participates in the contribution or acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a misdemeanor and shall be subject to a fine not to exceed the amount of ten thousand dollars.

3. Any person who knowingly and willfully makes a false statement or knowingly omits a material fact to the fair elections board or an auditor designated by the fair elections board during any audit conducted pursuant to section 14-218 of this title shall be guilty of a class E felony.

4. In addition to any other sentence lawfully imposed upon a finding of guilt in a criminal prosecution commenced pursuant to the provisions of this section, the court may order a defendant to repay to the fair elections board any public matching funds obtained as a result of any criminal conduct.

5. All such prosecutions for criminal acts under this title shall be prosecuted by the attorney general of the state of New York.

6. Any and all fines imposed pursuant to this section shall be made payable to the fair elections board for deposit into the New York state fair elections fund.

§ 14-224. Reports. The fair elections board shall submit a report to the governor and legislative leaders on or before February first, two thousand nineteen, and every four years thereafter, which shall include:

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

2. the amount of contributions and loans received, and expenditures made, on behalf of participating and nonparticipating candidates;

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

4. analysis of the effect of this title on the election campaigns for all offices covered under section 14-206 of this title, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates, the candidates' abilities to campaign effectively for public office, and the diversity of candidates seeking and elected to office;

5. recommendations for changes or amendments to this title, including charges in contribution limits, thresholds for eligibility and limits on total matching funds as well as instituting a program of full public campaign financing for election for all statewide offices; and

6. any other information that the fair elections board deems relevant.

§ 14-226. Debates. The fair elections board shall promulgate regulations to facilitate debates among participating candidates. Participating candidates are required to participate in at least one debate before the primary election and in at least one debate before the general election for which the candidate receives public funds, unless the participating candidate is running unopposed. A nonparticipating candidate may be a party to such debates.

§ 14-228. Distributions from fair elections fund. 1. This section governs the fair elections board's distribution of funds from the fair elections fund created by section ninety-two-y of the state finance law, except as otherwise provided in this title.

2. No moneys shall be paid to participating candidates in a primary election any earlier than two weeks after the last day to file designating petitions for such primary election.

3. No moneys shall be paid to participating candidates in a general election any earlier than a week after the primary election held to nominate candidates for such election.

4. No moneys shall be paid to any participating candidate who has been disqualified by the fair elections board or whose designating petitions have been declared invalid by the state board of elections or a court of competent jurisdiction until and unless such finding is reversed by an appellate court.

5. No payment from the fund in the possession of such a candidate or such a candidate's authorized committee on the date of such disqualification or invalidation may thereafter be expended for any purpose except the payment of liabilities incurred before that date. All excess public moneys paid to a disqualified candidate shall be returned to the fund not less than thirty days after the general election for those participating candidates who received public moneys for the general election, and otherwise, not less than thirty days after the primary election for those participating candidates who received public moneys solely for the primary election.

6. (a) Participating candidates shall pay to the fair elections board unspent public campaign funds from an election not later than thirty days after all liabilities for the election have been paid and, in any event, not less than twenty days after the date upon which the fair elections board issues its final audit report for the participating candidate's committee; provided, however, that all unspent public

campaign funds for a participating candidate shall be immediately due and payable to the fair elections board upon its determination that the participating candidate has, without just cause, delayed the post-election audit process. Unspent campaign funds determinations made by the fair elections board shall be based on the participating candidate committee's receipts and expenditures. The fair elections board may also consider any other relevant information revealed in the course of its audits or investigations or the investigations by any other agency.

(b)(i) A participating candidate may not use receipts for any purpose other than disbursements in the preceding election until all unspent public campaign funds have been repaid. A participating candidate shall have the burden of demonstrating that a post-election expenditure is for the preceding election.

(ii) Before repaying unspent public campaign funds, a participating candidate may make post-election expenditures only for routine activities involving nominal costs associated with winding up a campaign and responding to the post-election audit. Such expenditures may include: payment of utility bills and rent; reasonable staff salaries and consultant fees for responding to a post-election audit; reasonable moving expenses related to closing a campaign office; a holiday card mailing to contributors, campaign volunteers, and staff members; thank you notes for contributors, campaign volunteers, and staff members; payment of taxes and other reasonable expenses for compliance with applicable tax laws; and interest expenses. Routine post-election expenditures that may be paid for with unspent campaign funds do not include such items as post-election mailings other than as specifically provided for in this subparagraph; making contributions; making bonus payments or gifts to staff members or volunteers; or holding any post-election day event, including, but not limited to, any meal or any party. Unspent campaign funds may not be used for transition or inauguration activities.

7. All monies received by the fair elections board pursuant to this section shall be deposited into the New York state fair elections fund pursuant to section ninety-two-y of the state finance law.

8. Any candidate who accepts a contribution or contributions in excess of the limits set forth in section 14-212 of this title, prior to electing to participate in the optional public financing system, as set forth by paragraph (c) of subdivision one of section 14-206 of this title, shall have his or her total public matching fund grant reduced by such excess amount. Such amount shall be deducted beginning from the first allowable disbursement from the fund until such excess amount is reached, at which point the public fund disbursement shall be provided to the candidate consistent with the provisions of this section.

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

§ 16-103. Proceedings as to public financing. 1. The determination of eligibility pursuant to section 14-206 of this chapter and any question or issue relating to payments for qualified campaign expenditures pursuant to section 14-210 of this chapter may be contested in a proceeding instituted in the Supreme Court, Albany county, by any aggrieved candidate.

2. A proceeding with respect to such a determination of eligibility or payment for qualified campaign expenditures pursuant to section 14-210 of this chapter shall be instituted within seven days after such determination was made. The fair elections board shall be made a party to any such proceeding.

3. Upon the fair elections board's failure to receive the amount due from a participating candidate or such candidate's committee after the issuance of written notice of such amount due, as required by subdivision four of section 14-218 of this chapter, such board is authorized to institute a special proceeding or civil action in Supreme Court, Albany county, to obtain a judgment for any amounts determined to be payable to the fair elections board.

4. The fair elections board is authorized to institute a special proceeding or civil action in Supreme Court, Albany county, to obtain a judgment for civil penalties determined to be payable to the fair elections board pursuant to section 14-218 of this chapter.

§ 17. The election law is amended by adding a new section 4-115 to read as follows:

§ 4-115. Notice to the state board of elections of candidates for the legislature. 1. Each board of elections with which petitions are filed for member of the state legislature shall, not later than one week after the last day to file such petitions, send notice to the state board of elections of such information about each such petition as the state board shall require.

2. Each such county board of elections shall, not later than the day after the last day to file a petition or certificate of nomination for a general or special election or a certificate of acceptance, declination or substitution for a general, primary or special election for any such office, send to the state board of elections such information about each such petition or certificate as the state board shall require.

3. If any such county board of elections should disqualify any such candidate or rule the petition or certificate designating or nominating any such candidate invalid, it shall forthwith notify the state board of elections of such decision.

4. If any such county board of elections shall be notified of a decision of a court of competent jurisdiction disqualifying any such candidate or declaring any such petition invalid or reversing any such decision by such board of elections or another court, such board of elections shall forthwith notify the state board of elections of such decision.

5. The state board of elections may prescribe forms for the notices required by this section and shall prescribe the manner in which such notices shall be given.

§ 18. The general business law is amended by adding a new section 359-gg to read as follows:

§ 359-gg. Additional surcharge. In addition to any penalty authorized by section three hundred fifty-nine-g of this article or any damages or other compensation recoverable including, but not limited to, any settlement authorized by section sixty-three or sixty-three-c of the executive law, there shall be assessed thereon an additional surcharge in the amount of ten percent of the total amount of such penalty, damages or settlement. Such surcharge shall be deposited in the New York state fair elections fund established by section ninety-two-y of the state finance law.

§ 19. The state finance law is amended by adding a new section 92-y to read as follows:

§ 92-y. New York state fair elections fund. 1. There is hereby established in the custody of the commissioner of taxation and finance a special fund to be known as the New York state fair elections fund.

2. Such fund shall consist of all revenues received from the surcharge imposed pursuant to section three hundred fifty-nine-gg of the general

business law, revenues received from fair elections fund check-off pursuant to section six hundred thirty-d of the tax law and all other moneys credited or transferred thereto from any other fund or source pursuant to law. Nothing contained in this section shall prevent the state from receiving grants, gifts, bequests or voluntary contributions for the purposes of the fund as defined in this section and depositing them into the fund according to law. Monies in the fund shall be kept separate from and not commingled with other funds held in the custody of the commissioner of taxation and finance.

3. Moneys of the fund, following appropriation by the legislature, may be expended for the purposes of making payments to candidates pursuant to title two of article fourteen of the election law. Moneys shall be paid out of the fund by the commissioner of taxation and finance on vouchers certified or approved by the fair elections board established pursuant to title two of article fourteen of the election law, or the duly designated representative of such board, in the manner prescribed by law, not more than one working day after a voucher duly certified, approved and executed by such board or its representative in the form prescribed by the commissioner of taxation and finance is received by the commissioner of taxation and finance.

4. Notwithstanding any provision of law to the contrary, if, in any state fiscal year, the state fair elections fund lacks the amount of money to pay all claims vouchered by eligible candidates and certified or approved by the fair elections board, any such deficiency shall be paid, upon audit and warrant of the state comptroller, from funds deposited in the general fund of the state not more than one working day after such voucher is received by the state comptroller.

5. Commencing in two thousand nineteen, if the surplus in the fund on April first of the year after an election cycle exceeds twenty-five percent of the disbursements from the fund over the previous four years, the excess shall revert to the general fund of the state.

6. No public funds shall be paid to any participating candidates in a primary election any earlier than the day that such candidate is certified as being on the ballot for such primary election.

7. No public funds shall be paid to any participating candidates in a general election any earlier than the day after the day of the primary election held to nominate candidates for such election.

8. No public funds shall be paid to any participating candidate who has been disqualified or whose designating petitions have been declared invalid by the appropriate board of elections or a court of competent jurisdiction until and unless such finding is reversed by a higher authority. No payment from the fund in the possession of such a candidate or such candidate's participating committee on the date of such disqualification or invalidation may thereafter be expended for any purpose except the payment of liabilities incurred before such date. All such moneys shall be repaid to the fund.

§ 20. The tax law is amended by adding a new section 630-f to read as follows:

§ 630-f. Contribution to New York state fair elections fund. Effective for any taxable year commencing on or after January first, two thousand eighteen, an individual in any taxable year may elect to contribute to the New York state fair elections fund. Such contribution shall be in the amount of five dollars and shall not reduce the amount of state tax owed by such individual. The commissioner shall include space on the personal income tax return to enable a taxpayer to make such contribution. Notwithstanding any other provision of law all reven-

ues collected pursuant to this section shall be credited to the New York state fair elections fund and used only for those purposes enumerated in section ninety-two-y of the state finance law.

§ 21. Severability. If any clause, sentence, subdivision, paragraph, section or part of title 2 of article 14 of the election law, as added by section fifteen of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 22. This act shall take effect immediately; provided, however, candidates for state legislature will be eligible to participate in the public financing system beginning with the 2020 election and all state candidates and constitutional convention delegates will be eligible to participate in the public financing system beginning with the 2022 election.