

STATE OF NEW YORK

1674

2019-2020 Regular Sessions

IN ASSEMBLY

January 16, 2019

Introduced by M. of A. ABINANTI, GALEF, JAFFEE, COLTON, MONTESANO, SIMON, THIELE, GOTTFRIED, STECK -- Multi-Sponsored by -- M. of A. EPSTEIN -- read once and referred to the Committee on Election Law

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 judicial and district attorney campaign finance fund; to amend the tax law, in relation to the New York state judicial and district attorney 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 ~~ele~~] 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
14 dollar amount of any receipt, contribution or transfer, or the fair
15 market value of any receipt, contribution or transfer, which is other

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

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

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

19 CAMPAIGN RECEIPTS AND EXPENDITURES;
20 PUBLIC FINANCING

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

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

1 paragraph c of this subdivision; but in no event shall any such maximum
 2 exceed fifty thousand dollars or be less than one thousand dollars;
 3 provided however, that the maximum amount which may be so contributed or
 4 accepted, in the aggregate, from any candidate's child, parent, grand-
 5 parent, brother and sister, and the spouse of any such persons, shall
 6 not exceed in the case of any election for party position or nomination
 7 for public office an amount equivalent to the number of enrolled voters
 8 in the candidate's party in the district in which he is a candidate,
 9 excluding voters in inactive status, multiplied by \$.25 and in the case
 10 of any election to public office, an amount equivalent to the number of
 11 registered voters in the district, excluding voters in inactive status,
 12 multiplied by \$.25; or twelve hundred fifty dollars, whichever is great-
 13 er, or in the case of a nomination or election of a state senator, twen-
 14 ty thousand dollars, whichever is greater, or in the case of a nomi-
 15 nation or election of a member of the assembly twelve thousand five
 16 hundred dollars, whichever is greater, but in no event shall any such
 17 maximum exceed one hundred thousand dollars.

18 d. Notwithstanding any other contribution limit in this section,
 19 participating candidates as defined in subdivision fourteen of section
 20 14-201 of this article may contribute, out of their own money, three
 21 times the applicable contribution limit for non-participating candidates
 22 to their own authorized political committee.

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

25 CAMPAIGN RECEIPTS AND EXPENDITURES

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

28 TITLE II

29 PUBLIC FINANCING

30 Section 14-200. Legislative findings and intent.

31 14-201. Definitions.

32 14-202. Reporting requirements.

33 14-203. Contributions.

34 14-204. Proof of compliance.

35 14-205. Eligibility.

36 14-206. Limits on public financing.

37 14-207. Payment of public matching funds.

38 14-208. Use of public matching funds; qualified campaign expend-
 39 itures.

40 14-209. Powers and duties of the board.

41 14-210. Audits and repayments.

42 14-211. Enforcement and penalties for violations and other
 43 proceedings.

44 14-212. Reports.

45 14-213. Severability.

46 § 14-200. Legislative findings and intent. The legislature finds and
 47 determines that the judiciary and prosecutors for the state fulfill a
 48 unique role in government, substantively distinct from non-judicial and
 49 prosecutorial offices.

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

1 The legislature additionally finds and determines that judicial and
2 prosecutorial impartiality and independence are critical to maintaining
3 public confidence and the rule of law.

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

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

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

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

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

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

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

37 § 14-201. Definitions. For the purposes of this title, the following
38 terms shall have the following meanings:

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

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

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

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

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

50 6. The term "election cycle" shall mean the window period defined in
51 22 NYCRR Part 100 for the office of supreme court justice and, for the
52 office of district attorney, any primary or general election for nomi-
53 nation for election or election, to the office of district attorney.

54 7. The term "expenditure" shall mean any gift, subscription, advance,
55 payment, or deposit of money or anything of value, or a contract to make
56 any gift, subscription, payment, or deposit of money or anything of

1 value, made in connection with the nomination for election, or election,
2 of any candidate. Expenditures made by contract are deemed made when
3 such funds are obligated.

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

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

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

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

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

32 (b) The following contributions are not matchable:

33 (i) loans;

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

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

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

38 (v) contributions whose source is not itemized as required by section
39 14-202 of this title;

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

41 (vii) illegal contributions;

42 (viii) contributions from minors;

43 (ix) contributions from vendors for campaigns; and

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

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

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

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

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

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

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

10 § 14-202. Reporting requirements. 1. Political committee registra-
11 tion. Political committees as defined pursuant to subdivision one of
12 section 14-100 of this article shall register with the board before
13 making any contribution or expenditure. The board shall publish a cumu-
14 lative list of political committees that have registered, including on
15 its webpage, and regularly update it.

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

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

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

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

52 (d) Option to file more frequently. Participating candidates may file
53 reports of contributions as frequently as once a week on Monday so that
54 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-one.

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-two, 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 two 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-two, 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 twenty, every resident taxpayer whose New York state
50 income tax liability for the taxable year for which the return is filed
51 is forty dollars or more may designate on such return that forty dollars
52 be paid into the New York state judicial and district attorney campaign
53 finance fund established by section ninety-two-t of the state finance
54 law. Where a husband and wife file a joint return and have a New York
55 state income tax liability for the taxable year for which the return is
56 filed is eighty dollars or more, or file separate returns on a single

1 form, each such taxpayer may make separate designations on such return
2 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 twenty, for such taxpayer to make the
15 designations described in paragraph one of this subsection. Such return
16 form shall contain a concise explanation of the purpose of such optional
17 designations.

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

20 § 16-120. Enforcement proceedings. 1. The supreme court or a justice
21 thereof, in a proceeding instituted by the state board of elections, may
22 impose a civil penalty, as provided for in subdivisions one and two of
23 section 14-126 of this chapter and as provided for in subdivision one of
24 section 14-211 of this chapter.

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

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

38 § 10. Severability. If any clause, sentence, subdivision, paragraph,
39 section or part of title 2 of article 14 of the election law, as added
40 by section five of this act be adjudged by any court of competent juris-
41 diction to be invalid, such judgment shall not affect, impair or invali-
42 date the remainder thereof, but shall be confined in its operation to
43 the clause, sentence, subdivision, paragraph, section or part thereof
44 directly involved in the controversy in which such judgment shall have
45 been rendered.

46 § 11. This act shall take effect immediately; provided, however, all
47 affected candidates will be eligible to participate in voluntary public
48 financing beginning with the 2021 election and provided, further, this
49 act shall expire June 1, 2024 when upon such date the provisions of this
50 act shall be deemed repealed.