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NEW YORK 230TH ANNUAL LEGISLATIVE SESSION
2007-2008 Regular Sessions

CHAPTER 14

ASSEMBLY BILL 3736

2007 N.Y. ALS 14; 2007 N.Y. LAWS 14; 2007 N.Y. A.N. 3736

SYNOPSIS: AN ACT to amend the executive law, in relation to establishing the commission on public integrity; to amend the public officers law, in relation to prohibiting advertisements by elected government officials and candidates with funds of the state, and places restrictions on the receipt of gifts and hiring by public officials, imposes violations; to amend the civil service law, in relation to prohibitions against certain political activities; to amend the legislative law, in relation to the creation of a legislative ethics commission, and in relation to making amendments to the lobbying act; and to amend chapter 2 of the laws of 1999, amending the legislative law relating to enacting the lobbying act, in relation to making certain provisions permanent; and to repeal certain provisions of the legislative law and paragraph j of subdivision 3 of section 74 of the public officers law relating thereto

NOTICE:

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED **<A]**

[D> Text within these symbols is deleted **<D]**

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

[*1] Section 1. This act shall be known as the public employee ethics reform act of 2007.

[*2] Section 2. The section heading and subdivisions 1, 2, 3, 4, 5, 6, 7 and 8 of section 94 of the executive law, as added by chapter 813 of the laws of 1987, subdivision 1 as amended by chapter 165 of the laws of 2005, are amended to read as follows:

[D> State ethics commission **<D]** **[A>** COMMISSION ON PUBLIC INTEGRITY **<A]** ; functions, powers and duties; review of financial disclosure statements; advisory opinions; investigation and enforcement. 1. There is established within the department of state a **[D>** state ethics **<D]** commission **[A>** ON PUBLIC INTEGRITY **<A]** which shall consist of **[D>** five **<D]** **[A>** THIRTEEN **<A]** members and shall have and exercise the powers and duties set forth in this section only with respect to statewide elected officials and state officers and employees, as defined in sections seventy-three and seventy-three-a of the public officers law, candidates for statewide elected office, and the political party chairman as that term is defined in section seventy-three-a of the public officers law, **[A>** LOBBYISTS AND THE CLIENTS OF LOBBYISTS AS SUCH TERMS ARE DEFINED IN ARTICLE ONE-A OF THE LEGISLATIVE LAW, **<A]** and individuals who have formerly held such positions, **[A>**

WERE LOBBYISTS OR CLIENTS OF LOBBYISTS, AS SUCH TERMS ARE DEFINED IN ARTICLE ONE-A OF THE LEGISLATIVE LAW, <A> or who have formerly been such candidates. [A] THIS SECTION SHALL NOT REVOKE OR RESCIND ANY REGULATIONS OR ADVISORY OPINIONS ISSUED BY THE STATE ETHICS COMMISSION AND THE TEMPORARY LOBBYING COMMISSION IN EFFECT UPON THE EFFECTIVE DATE OF A CHAPTER OF THE LAWS OF TWO THOUSAND SEVEN WHICH AMENDED THIS SECTION TO THE EXTENT THAT SUCH REGULATIONS OR OPINIONS ARE NOT INCONSISTENT WITH ANY LAW OF THE STATE OF NEW YORK, BUT SUCH REGULATIONS AND OPINIONS SHALL APPLY ONLY TO MATTERS OVER WHICH SUCH COMMISSIONS HAD JURISDICTION AT THE TIME SUCH REGULATIONS AND OPINIONS WERE PROMULGATED OR ISSUED. THE COMMISSION SHALL UNDERTAKE A COMPREHENSIVE REVIEW OF ALL SUCH REGULATIONS AND OPINIONS, WHICH WILL ADDRESS THE CONSISTENCY OF SUCH REGULATIONS AND OPINIONS AMONG EACH OTHER AND WITH THE NEW STATUTORY LANGUAGE. THE COMMISSION SHALL, BEFORE APRIL FIRST, TWO THOUSAND EIGHT, REPORT TO THE GOVERNOR AND LEGISLATURE REGARDING SUCH REVIEW AND SHALL PROPOSE ANY REGULATORY CHANGES AND ISSUE ANY ADVISORY OPINIONS NECESSITATED BY SUCH REVIEW. <A>

2. The members of the commission shall be appointed by the governor provided, however, that one member shall be appointed on the nomination of the comptroller [D] and <D> [A] , <A> one member shall be appointed on the nomination of the attorney general [A] , ONE MEMBER SHALL BE APPOINTED ON THE NOMINATION OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE MEMBER SHALL BE APPOINTED ON THE NOMINATION OF THE SPEAKER OF THE ASSEMBLY, ONE MEMBER SHALL BE APPOINTED ON THE NOMINATION OF THE MINORITY LEADER OF THE SENATE, AND ONE MEMBER SHALL BE APPOINTED ON THE NOMINATION OF THE MINORITY LEADER OF THE ASSEMBLY <A> . Of the [D] three <D> [A] SEVEN <A> members appointed by the governor without prior nomination, no more than [D] two <D> [A] FOUR <A> members shall belong to the same political party and [D] at least two <D> [A] NO <A> members shall [D] not <D> be public officers or employees or hold any public office, elected or appointed. No member shall [D] hold office in any political party or be employed as a lobbyist <D> [A] BE A MEMBER OF THE LEGISLATURE, A CANDIDATE FOR MEMBER OF THE LEGISLATURE, AN EMPLOYEE OF THE LEGISLATURE, A POLITICAL PARTY CHAIRMAN AS DEFINED IN PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, OR A LOBBYIST AS DEFINED IN SUBDIVISION (A) OF SECTION ONE-C OF THE LEGISLATIVE LAW <A> .

3. Members of the commission shall serve for terms of five years; provided, however, that of the members first appointed without prior nomination, one shall serve for one year, [A] ONE SHALL SERVE FOR TWO YEARS, <A> one shall serve for three years, and one shall serve for [D] five <D> [A] FOUR <A> years, as designated by the governor; the [D] member <D> [A] MEMBERS <A> first appointed on the [D] nomination <D> [A] NOMINATIONS <A> of the comptroller [A] AND THE TEMPORARY PRESIDENT OF THE SENATE <A> shall serve for four years and the [D] member <D> [A] MEMBERS <A> first appointed on the [D] nomination <D> [A] NOMINATIONS <A> of the attorney general [A] AND THE SPEAKER OF THE ASSEMBLY <A> shall serve for two years.

4. The governor shall designate the chairman of the commission from among the members thereof, who shall serve as chairman at the pleasure of the governor. The chairman or any [D] three <D> [A] SEVEN <A> members of the commission may

call a meeting.

5. Any vacancy occurring on the commission shall be filled within sixty days of its occurrence, by the governor, in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he succeeds.

6. **[D]** Three **<D]** **[A]** SEVEN **<A]** members of the commission shall constitute a quorum, and the commission shall have power to act by majority vote of the total number of members of the commission without vacancy.

7. Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.

8. The members of the commission shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

[*2xa] 2-a. Subdivisions 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of section 94 of the executive law, as added by chapter 813 of the laws of 1987, subdivision 11 as amended and paragraph (c) of subdivision 12 as added by chapter 165 of the laws of 2005, paragraph (a) of subdivision 12 and subdivisions 13 and 16 as amended by chapter 242 of the laws of 1989, are amended and three new subdivisions 13-a, 16-a and 18 are added to read as follows:

9. The commission shall:

(a) Appoint an executive director who shall act in accordance with the policies of the commission. The commission may delegate authority to the executive director to act in the name of the commission between meetings of the commission provided such delegation is in writing and the specific powers to be delegated are enumerated;

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

(c) Adopt, amend, and rescind rules and regulations to govern procedures of the commission, which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted;

(d) **[D]** Promulgate guidelines **<D]** **[A]** ADOPT, AMEND, AND RESCIND RULES AND REGULATIONS **<A]** to assist appointing authorities in determining which persons hold policy-making positions for purposes of section seventy-three-a of the public officers law;

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

(f) Review financial disclosure statements in accordance with the provisions of this section, provided however, that the commission may delegate all or part of this review function to the executive director who shall be responsible for completing staff review of such statements in a manner consistent with the terms of the commission's delegation;

(g) Receive complaints **[A]** AND REFERRALS **<A>** alleging **[D]** a violation **<D>** **[A]** VIOLATIONS **<A>** of section seventy-three, seventy-three-a or seventy-four of the public officers law **[A]** , ARTICLE ONE-A OF THE LEGISLATIVE LAW OR SECTION ONE HUNDRED SEVEN OF THE CIVIL SERVICE LAW **<A>** ;

(h) Permit any person **[A]** SUBJECT TO THE JURISDICTION OF THE COMMISSION WHO IS **<A>** required to file a financial disclosure statement to request the commission to delete from the copy thereof made available for public inspection **[A]** AND COPYING **<A>** one or more items of information which may be deleted by the commission **[D]** , after denial of a request for deletion by the public advisory council as provided in subdivision eighteen of this section, **<D>** upon a finding by **[D]** a majority of the total number of members of **<D>** the commission **[D]** without vacancy **<D>** that the information which would otherwise be required to be made available for public inspection **[A]** AND COPYING **<A>** will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision thirteen of this section **[D]** . The commission shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council **<D>** ;

(i) Permit any person **[A]** SUBJECT TO THE JURISDICTION OF THE COMMISSION WHO IS **<A>** required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted by the commission **[D]** , after denial of a request for exemption by the public advisory council as provided in subdivision eighteen of this section, **<D>** upon a finding by **[D]** a majority of the total number of members of **<D>** the commission **[D]** without vacancy **<D>** that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision thirteen of this section **[D]** . The commission shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council **<D>** ;

(j) Advise and assist any state agency in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former statewide elected officials and state officers and employees;

(k) Permit any person who has not been determined by his or her appointing authority to hold a policy-making position but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in

accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the commission deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the commission, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:

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

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

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

(iv) the adoption or repeal of any rule or regulation having the force and effect of law; **[D>** and **<D]**

(l) Prepare an annual report to the governor and the legislature summarizing the activities of the commission and recommending changes in the laws governing the conduct of statewide elected officials, state officers and employees and political party **[D>** chairmen. **<D]** **[A>** CHAIRS; AND **<A]**

(m) **[D>** Upon certification of a question by the public advisory council to the commission, as provided in paragraph (k) of subdivision eighteen of this section, the commission may determine **<D]** DETERMINE a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition of requests for exemption or deletion or prevent undue complication in complying with the requirements of such section.

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

11. If a person required to file a financial disclosure statement with the commission has failed to file a disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency: (a) to the reporting person; **[D>** and **<D]** (b) in the case of a statewide elected official, to the temporary president of the senate and the speaker of the assembly; and (c) in the case of a state officer or employee, to the appointing authority for such person. Such notice of delinquency may be sent at any time during the reporting person's service as a statewide elected

official, state officer or employee, political party chair or while a candidate for statewide office, or within one year after termination of such service or candidacy. The jurisdiction of the commission, when acting pursuant to subdivision thirteen of this section with respect to financial disclosure, shall continue notwithstanding that the reporting person separates from state service, or ceases to hold office as **[A]** A STATEWIDE ELECTED OFFICIAL OR **<A]** political party chair, or ceases to be a candidate, provided the commission notifies such person of the alleged failure to file or deficient filing pursuant to this subdivision.

12. (a) If the commission receives a sworn complaint alleging a violation of section seventy-three, seventy-three-a or seventy-four of the public officers law, **[A]** SECTION ONE HUNDRED SEVEN OF THE CIVIL SERVICE LAW OR ARTICLE ONE-A OF THE LEGISLATIVE LAW **<A]** by a **[D]** state officer or employee **<D]** **[A]** PERSON OR ENTITY **<A]** subject to **[D]** the provisions of section seventy-three or seventy-three-a of the public officers law **<D]** **[A]** THE JURISDICTION OF THE COMMISSION **<A]** , or if a reporting individual has filed a statement which reveals a possible violation **[D]** of section seventy-three, seventy-three-a or seventy-four of the public officers law **<D]** **[A]** OF THESE PROVISIONS **<A]** , or if the commission determines on its own initiative to investigate a possible violation, the commission shall notify the individual in writing, describe the possible or alleged violation of such **[D]** section seventy-three, seventy-three-a or seventy-four **<D]** **[A]** LAWS **<A]** and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the commission thereafter makes a determination that further inquiry is justified, it shall give the individual an opportunity to be heard. The commission shall also inform the individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the commission determines at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the individual and the complainant, if any. All of the foregoing proceedings shall be confidential.

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

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

13. An individual **[A]** SUBJECT TO THE JURISDICTION OF THE COMMISSION **<A]** who knowingly and intentionally violates the provisions of subdivisions two through five **[D]** or subdivision **<D]** **[A]** , **<A]** seven, eight **[D]** or **<D]** **[A]** , **<A]** twelve **[A]** OR FOURTEEN THROUGH SEVENTEEN **<A]** of section seventy-three of the

public officers law, **[A]** SECTION ONE HUNDRED SEVEN OF THE CIVIL SERVICE LAW, **<A]** or a reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement **[A]** OR FRAUDULENT OMISSION **<A]** or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law shall be subject to a civil penalty in an amount not to exceed **[D]** ten **<D]** **[A]** FORTY **<A]** thousand dollars **[A]** AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. AN INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH B, C, D OR I OF SUBDIVISION THREE OF SECTION SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. AN INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH A, E OR G OF SUBDIVISION THREE OF SECTION SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. AN INDIVIDUAL SUBJECT TO THE JURISDICTION OF THE COMMISSION WHO KNOWINGLY AND WILLFULLY VIOLATES ARTICLE ONE-A OF THE LEGISLATIVE LAW SHALL BE SUBJECT TO CIVIL PENALTY AS PROVIDED FOR IN THAT ARTICLE **<A]** . Assessment of a civil penalty hereunder shall be made by the commission with respect to persons subject to its jurisdiction. **[A]** IN ASSESSING THE AMOUNT OF THE CIVIL PENALTIES TO BE IMPOSED, THE COMMISSION SHALL CONSIDER THE SERIOUSNESS OF THE VIOLATION, THE AMOUNT OF GAIN TO THE INDIVIDUAL AND WHETHER THE INDIVIDUAL PREVIOUSLY HAD ANY CIVIL OR CRIMINAL PENALTIES IMPOSED PURSUANT TO THIS SECTION, AND ANY OTHER FACTORS THE COMMISSION DEEMS APPROPRIATE. **<A]** For a violation of this subdivision, other than for conduct which constitutes a violation of **[D]** subdivision **<D]** **[A]** SECTION ONE HUNDRED SEVEN OF THE CIVIL SERVICE LAW, SUBDIVISIONS TWELVE OR FOURTEEN THROUGH SEVENTEEN OF SECTION SEVENTY-THREE OR SECTION SEVENTY-FOUR **<A]** of the public officers law **[A]** OR ARTICLE ONE-A OF THE LEGISLATIVE LAW **<A]** , the commission may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, **[D]** but only after such referral, **<D]** such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of section seventy-three of the public officers law, except that the appointing authority may impose disciplinary action as otherwise provided by law. **[A]** THE COMMISSION MAY REFER VIOLATIONS OF THIS SUBDIVISION TO THE APPOINTING AUTHORITY FOR DISCIPLINARY ACTION AS OTHERWISE PROVIDED BY LAW. **<A]** The **[D]** state ethics **<D]** commission 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 and commission denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in paragraph (h) or paragraph (i) of subdivision nine of this section. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural

mechanisms substantially similar to those set forth in **[D]** such **<D]** article three **[A]** OF THE STATE ADMINISTRATIVE PROCEDURE ACT **<A]** but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or commission denial of such a request shall be final unless modified, suspended or vacated within thirty days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the **[D]** state ethics **<D]** commission, pursuant to article seventy-eight of the civil practice law and rules.

[A] 13-A. IF THE COMMISSION HAS A REASONABLE BASIS TO BELIEVE THAT ANY PERSON SUBJECT TO THE JURISDICTION OF THE LEGISLATIVE ETHICS COMMISSION MAY HAVE VIOLATED ANY PROVISIONS OF SECTION SEVENTY-THREE OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, IT SHALL REFER SUCH VIOLATION TO THE LEGISLATIVE ETHICS COMMISSION UNLESS THE COMMISSION DETERMINES THAT SUCH A REFERRAL WOULD COMPROMISE THE PROSECUTION OR CONFIDENTIALITY OF ITS INVESTIGATIONS AND, IF SO, SHALL MAKE SUCH A REFERRAL AS SOON AS PRACTICABLE. THE REFERRAL BY THE COMMISSION TO THE LEGISLATIVE ETHICS COMMISSION SHALL INCLUDE ANY INFORMATION RELATING THERETO COMING INTO THE CUSTODY OR UNDER THE CONTROL OF THE COMMISSION AT ANY TIME PRIOR OR SUBSEQUENT TO THE TIME OF THE REFERRAL. **<A]**

14. A copy of any notice of delinquency or notice of reasonable cause sent pursuant to subdivisions eleven and twelve of this section shall be included in the reporting person's file and be available for public inspection **[A]** AND COPYING **<A]** .

15. Upon written request from any person who is subject to the requirements of sections seventy-three, seventy-three-a **[D]** and **<D]** **[A]** OR **<A]** seventy-four of the public officers law, the commission shall render advisory opinions on the requirements of said provisions. An opinion rendered by the commission, until and unless amended or revoked, shall be binding on the commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense, in any criminal or civil action. Such requests shall be confidential but the commission may publish such opinions provided that the name of the requesting person and other identifying details shall not be included in the publication.

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

(a) Promulgate rules concerning restrictions on outside activities and limitations on the receipt of **[A]** GIFTS AND **<A]** honoraria by persons subject to its jurisdiction, provided, however, a violation of such rules in and of itself shall not be punishable pursuant to subdivision thirteen of this section unless the conduct constituting the violation would otherwise constitute a violation of this section; and

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

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

(d) Conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the commission may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material **[D>** . **<D]** **[A>** ; **<A]**

[A> 16-A. WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE COMMISSION SHALL CREATE AND THEREAFTER MAINTAIN A PUBLICLY ACCESSIBLE WEBSITE WHICH SHALL SET FORTH THE PROCEDURE FOR FILING A COMPLAINT WITH THE COMMISSION, AND WHICH SHALL CONTAIN THE DOCUMENTS IDENTIFIED IN SUBDIVISION SEVENTEEN OF THIS SECTION, OTHER THAN FINANCIAL DISCLOSURE STATEMENTS, AND ANY OTHER RECORDS OR INFORMATION WHICH THE COMMISSION DETERMINES TO BE APPROPRIATE. **<A]**

17. (a) Notwithstanding the provisions of article six of the public officers law, the only records of the commission which shall be available for public inspection **[A>** AND COPYING **<A]** are:

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

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

(3) notices of reasonable cause sent under paragraph (b) of subdivision twelve of this section; **[D>** and **<D]**

(4) notices of civil assessments imposed under this section **[A>** WHICH SHALL INCLUDE A DESCRIPTION OF THE NATURE OF THE ALLEGED WRONGDOING, THE PROCEDURAL HISTORY OF THE COMPLAINT, THE FINDINGS AND DETERMINATIONS MADE BY THE COMMISSION, AND ANY SANCTION IMPOSED; AND **<A]**

[A> (5) THE TERMS OF ANY SETTLEMENT OR COMPROMISE OF A COMPLAINT OR REFERRAL WHICH INCLUDES A FINE, PENALTY OR OTHER REMEDY **<A]** .

(b) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding, including any such proceeding contemplated under paragraph (h) or (i) of subdivision nine of this section, of the commission shall be open to the public, except if expressly provided otherwise by the commission.

[D> 18. (a) There is established within the state ethics commission a public advisory council which shall consist of five members and shall have and exercise the powers and duties set forth in this subdivision. **<D]**

[D> (b) The members of the public advisory council shall be appointed by the governor provided, however, that one member shall be appointed on the nomination of the comptroller and one member shall be appointed on the nomination of the attorney general. Of the three members appointed by the governor without prior nomination, no more than two members shall belong to the same political party and at least two members shall not be public officers or employees or hold any public office, elected or appointed. No member shall hold office in any political party or be

employed as a lobbyist. <D]

[D> (c) Members of the public advisory council shall serve for terms of four years concurrent with the terms of office of the governor with respect to members appointed without prior nomination or concurrent with the term of office of the comptroller or attorney general, as the case may be, who nominated their appointment by the governor. The initial members appointed by the governor shall serve until December thirty-first, nineteen hundred ninety or until his successor is qualified if later than such date. <D]

[D> (d) The governor shall designate the chairman of the public advisory council from among the members thereof, who shall serve as chairman at the pleasure of the governor. The chairman or any three members of the public advisory council may call a meeting. <D]

[D> (e) Any vacancy occurring on the public advisory council shall be filled within sixty days of its occurrence, by the governor, in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he succeeds. <D]

[D> (f) Three members of the public advisory council shall constitute a quorum, and the public advisory council shall have power to act by majority vote of the total number of members of the public advisory council without vacancy. Members of the council may be removed by the governor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section after written notice and opportunity for reply. <D]

[D> (g) The members of the public advisory council shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties. <D]

[D> (h) The public advisory council shall: (1) Permit any person required to file a financial disclosure statement to request the public advisory council to delete from the copy thereof made available for public inspection one or more items of information which may be deleted upon a finding by a majority of the total number of members of the public advisory council without vacancy that the information which would otherwise be available for public inspection will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the public advisory council, in its notification of denial, shall inform the person of his or her right to appeal the public advisory council's determination to the commission pursuant to the commission's rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision thirteen of this section; and <D]

[D> (2) Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted upon a finding by a majority of the total number of members of the public advisory council without vacancy that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material

bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the public advisory council, in its notification of denial, shall inform the person of his or her right to appeal the public advisory council's determination to the commission pursuant to the commission's rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision thirteen of this section. <D>

[D> (i) <D] [A> (C) <A] Pending any application for deletion or exemption [D> either <D] to the [D> public advisory council or to the commission upon appeal of an adverse determination by the public advisory council <D] [A> COMMISSION <A] , all information which is the subject or a part of the application shall remain confidential. Upon an adverse determination by the commission, the reporting individual may request, and upon such request the commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns his office and holds no other office subject to the jurisdiction of the commission, the information shall not be made public and shall be expunged in its entirety.

[D> (j) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding, including any such proceeding contemplated under paragraph (h) or (i) of subdivision nine of this section, of the commission shall be open to the public, except if expressly provided otherwise by the public advisory council. <D>

[D> (k) Where the council is of the opinion that a determination of a question common to a class or defined category of persons or items of information with respect to requests for deletion or exemption will prevent undue repetition of such requests or undue complication, the council may certify the question to the commission for resolution and disposition in accordance with paragraph (m) of subdivision nine of this section. <D>

[A> 18. IF ANY PART OR PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON OR ORGANIZATION IS ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR OTHERWISE INVALID, SUCH JUDGMENT SHALL NOT AFFECT OR IMPAIR ANY OTHER PART OR PROVISION OR THE APPLICATION THEREOF TO ANY OTHER PERSON OR ORGANIZATION, BUT SHALL BE CONFINED IN ITS OPERATION TO SUCH PART OR PROVISION. <A]

[*3] Section 3. Paragraph (l) of subdivision 9 of section 94 of the executive law, as amended by section two-a of this act, is amended to read as follows:

(l) [D> Prepare an annual report to the governor and the legislature summarizing the activities of the commission and recommending changes in the laws governing the conduct of statewide elected officials, state officers and employees and political party chairmen <D] [A> PREPARE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE SUMMARIZING THE ACTIVITIES OF THE COMMISSION DURING THE PREVIOUS YEAR AND RECOMMENDING ANY CHANGES IN THE LAWS GOVERNING THE CONDUCT OF PERSONS SUBJECT TO THE JURISDICTION OF THE COMMISSION, OR THE RULES, REGULATIONS AND PROCEDURES GOVERNING THE COMMISSION'S CONDUCT. SUCH REPORT SHALL INCLUDE: (I) A LISTING BY ASSIGNED NUMBER OF EACH COMPLAINT AND REFERRAL RECEIVED WHICH ALLEGED A POSSIBLE VIOLATION WITHIN ITS JURISDICTION, INCLUDING THE CURRENT STATUS OF EACH

COMPLAINT, AND (II) WHERE A MATTER HAS BEEN RESOLVED, THE DATE AND NATURE OF THE DISPOSITION AND ANY SANCTION IMPOSED, SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF THIS SECTION, PROVIDED, HOWEVER, THAT SUCH ANNUAL REPORT SHALL NOT CONTAIN ANY INFORMATION FOR WHICH DISCLOSURE IS NOT PERMITTED PURSUANT TO SUBDIVISION SEVENTEEN OF THIS SECTION; **<A]** and

[*4] Section 4. Paragraph (c) of subdivision 12 of section 94 of the executive law, as amended by section two-a of this act, is amended to read as follows:

(c) The jurisdiction of the commission when acting pursuant to this section shall continue notwithstanding that a statewide elected official or a state officer or employee separates from state service, or a political party chair ceases to hold such office, or a candidate ceases to be a candidate, **[A>** OR A LOBBYIST OR CLIENT OF A LOBBYIST CEASES TO ACT AS SUCH, **<A]** provided that the commission notifies such individual **[A>** OR ENTITY **<A]** of the alleged violation of law pursuant to paragraph (a) of this subdivision within one year from his or her separation from state service or his or her termination of party service or candidacy, **[A>** OR FROM HIS, HER OR ITS LAST REPORT FILED PURSUANT TO ARTICLE ONE-A OF THE LEGISLATIVE LAW **<A]** . Nothing in this section shall serve to limit the jurisdiction of the commission in enforcement of subdivision eight of section seventy-three of the public officers law.

[*5] Section 5. Subdivision 15 of section 94 of the executive law, as amended by section two-a of this act, is amended to read as follows:

15. Upon written request from any person who is subject to **[A>** THE JURISDICTION OF THE COMMISSION AND **<A]** the requirements of sections seventy-three, seventy-three-a or seventy-four of the public officers law, the commission shall render advisory opinions on the requirements of said provisions. An opinion rendered by the commission, until and unless amended or revoked, shall be binding on the commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense, in any criminal or civil action. Such requests shall be confidential but the commission may publish such opinions provided that the name of the requesting person and other identifying details shall not be included in the publication.

[*6] Section 6. Paragraphs (a) and (b) of subdivision 17 of section 94 of the executive law, as amended by section two-a of this act, is amended to read as follows:

(a) Notwithstanding the provisions of article six of the public officers law, the only records of the commission which shall be available for public inspection and copying are:

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

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

(3) notices of reasonable cause sent under paragraph (b) of subdivision twelve of this section; **[D>** and **<D]**

(4) notices of civil assessments imposed under this section which shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the commission, and any sanction imposed; **[D>** and **<D]**

(5) the terms of any settlement or compromise of a complaint or referral which includes a fine, penalty or other remedy **[D>** . **<D]** **[A>** ; AND **<A]**

[A> (6) THOSE REQUIRED TO BE HELD OR MAINTAINED PUBLICLY AVAILABLE PURSUANT TO ARTICLE ONE-A OF THE LEGISLATIVE LAW **<A]** .

(b) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding, including any such proceeding contemplated under paragraph (h) or (i) of subdivision nine of this section, of the commission shall be open to the public, except if expressly provided otherwise by the commission **[A>** OR AS IS REQUIRED BY ARTICLE ONE-A OF THE LEGISLATIVE LAW **<A]** .

[*7] Section 7. Subdivision 5 of section 107 of the civil service law, as added by section thirty-two of this act, is amended to read as follows:

5. Violation of this section. Complaints alleging a violation of this section by a statewide elected official or a state officer or employee, as defined in section seventy-three of the public officers law, may be directed to the **[D>** state ethics **<D]** commission **[A>** ON PUBLIC INTEGRITY **<A]** .

[*8] Section 8. Subdivision (f) of section 1-c of the legislative law, as added by chapter 2 of the laws of 1999, is amended to read as follows:

(f) The term "commission" shall mean the **[D>** New York temporary state commission on lobbying created by section one-d of this article **<D]** **[A>** COMMISSION ON PUBLIC INTEGRITY CREATED BY SECTION NINETY-FOUR OF THE EXECUTIVE LAW **<A]** .

[*9] Section 9. Subdivision (j) of section 1-c of the legislative law is REPEALED and a new subdivision (j) is added to read as follows:

[A> (J) THE TERM "GIFT" SHALL MEAN ANYTHING OF MORE THAN NOMINAL VALUE GIVEN TO A PUBLIC OFFICIAL IN ANY FORM INCLUDING, BUT NOT LIMITED TO MONEY, SERVICE, LOAN, TRAVEL, LODGING, MEALS, REFRESHMENTS, ENTERTAINMENT, DISCOUNT, FORBEARANCE, OR PROMISE, HAVING A MONETARY VALUE. THE FOLLOWING ARE EXCLUDED FROM THE DEFINITION OF A GIFT: **<A]**

[A> (I) COMPLIMENTARY ATTENDANCE, INCLUDING FOOD AND BEVERAGE, AT BONA FIDE CHARITABLE OR POLITICAL EVENTS, AND FOOD AND BEVERAGE OF A NOMINAL VALUE OFFERED OTHER THAN AS PART OF A MEAL; **<A]**

[A> (II) COMPLIMENTARY ATTENDANCE, FOOD AND BEVERAGE OFFERED BY THE SPONSOR OF AN EVENT THAT IS WIDELY ATTENDED OR WAS IN GOOD FAITH INTENDED TO BE WIDELY ATTENDED, WHEN ATTENDANCE AT THE EVENT IS

RELATED TO THE ATTENDEE'S DUTIES OR RESPONSIBILITIES AS A PUBLIC OFFICIAL OR ALLOWS THE PUBLIC OFFICIAL TO PERFORM A CEREMONIAL FUNCTION APPROPRIATE TO HIS OR HER POSITION; **<A>**

[A> (III) AWARDS, PLAQUES, AND OTHER CEREMONIAL ITEMS WHICH ARE PUBLICLY PRESENTED, OR INTENDED TO BE PUBLICLY PRESENTED, IN RECOGNITION OF PUBLIC SERVICE, PROVIDED THAT THE ITEM OR ITEMS ARE OF THE TYPE CUSTOMARILY BESTOWED AT SUCH OR SIMILAR CEREMONIES AND ARE OTHERWISE REASONABLE UNDER THE CIRCUMSTANCES, AND FURTHER PROVIDED THAT THE FUNCTIONALITY OF SUCH ITEMS SHALL NOT DETERMINE WHETHER SUCH ITEMS ARE PERMITTED UNDER THIS PARAGRAPH; **<A>**

[A> (IV) AN HONORARY DEGREE BESTOWED UPON A PUBLIC OFFICIAL BY A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY; **<A>**

[A> (V) PROMOTIONAL ITEMS HAVING NO SUBSTANTIAL RESALE VALUE SUCH AS PENS, MUGS, CALENDARS, HATS, AND T-SHIRTS WHICH BEAR AN ORGANIZATION'S NAME, LOGO, OR MESSAGE IN A MANNER WHICH PROMOTES THE ORGANIZATION'S CAUSE; **<A>**

[A> (VI) GOODS AND SERVICES, OR DISCOUNTS FOR GOODS AND SERVICES, OFFERED TO THE GENERAL PUBLIC OR A SEGMENT OF THE GENERAL PUBLIC DEFINED ON A BASIS OTHER THAN STATUS AS A PUBLIC OFFICIAL AND OFFERED ON THE SAME TERMS AND CONDITIONS AS THE GOODS OR SERVICES ARE OFFERED TO THE GENERAL PUBLIC OR SEGMENT THEREOF; **<A>**

[A> (VII) GIFTS FROM A FAMILY MEMBER, MEMBER OF THE SAME HOUSEHOLD, OR PERSON WITH A PERSONAL RELATIONSHIP WITH THE PUBLIC OFFICIAL, INCLUDING INVITATIONS TO ATTEND PERSONAL OR FAMILY SOCIAL EVENTS, WHEN THE CIRCUMSTANCES ESTABLISH THAT IT IS THE FAMILY, HOUSEHOLD, OR PERSONAL RELATIONSHIP THAT IS THE PRIMARY MOTIVATING FACTOR; IN DETERMINING MOTIVATION, THE FOLLOWING FACTORS SHALL BE AMONG THOSE CONSIDERED: (A) THE HISTORY AND NATURE OF THE RELATIONSHIP BETWEEN THE DONOR AND THE RECIPIENT, INCLUDING WHETHER OR NOT ITEMS HAVE PREVIOUSLY BEEN EXCHANGED; (B) WHETHER THE ITEM WAS PURCHASED BY THE DONOR; AND (C) WHETHER OR NOT THE DONOR AT THE SAME TIME GAVE SIMILAR ITEMS TO OTHER PUBLIC OFFICIALS; THE TRANSFER SHALL NOT BE CONSIDERED TO BE MOTIVATED BY A FAMILY, HOUSEHOLD, OR PERSONAL RELATIONSHIP IF THE DONOR SEEKS TO CHARGE OR DEDUCT THE VALUE OF SUCH ITEM AS A BUSINESS EXPENSE OR SEEKS REIMBURSEMENT FROM A CLIENT; **<A>**

[A> (VIII) CONTRIBUTIONS REPORTABLE UNDER ARTICLE FOURTEEN OF THE ELECTION LAW; **<A>**

[A> (IX) TRAVEL REIMBURSEMENT OR PAYMENT FOR TRANSPORTATION, MEALS AND ACCOMMODATIONS FOR AN ATTENDEE, PANELIST OR SPEAKER AT AN INFORMATIONAL EVENT WHEN SUCH REIMBURSEMENT OR PAYMENT IS MADE BY A GOVERNMENTAL ENTITY OR BY AN IN-STATE ACCREDITED PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION THAT HOSTS THE EVENT ON ITS CAMPUS, PROVIDED, HOWEVER, THAT THE PUBLIC OFFICIAL MAY ONLY ACCEPT LODGING FROM AN INSTITUTION OF HIGHER EDUCATION: (A) AT A LOCATION ON OR WITHIN CLOSE PROXIMITY TO THE HOST CAMPUS; AND (B) FOR THE NIGHT PRECEDING AND THE NIGHTS OF THE DAYS ON WHICH THE ATTENDEE, PANELIST OR SPEAKER

ACTUALLY ATTENDS THE EVENT; <A]

[A> (X) PROVISION OF LOCAL TRANSPORTATION TO INSPECT OR TOUR FACILITIES, OPERATIONS OR PROPERTY OWNED OR OPERATED BY THE ENTITY PROVIDING SUCH TRANSPORTATION, PROVIDED, HOWEVER, THAT PAYMENT OR REIMBURSEMENT OF LODGING, MEALS OR TRAVEL EXPENSES TO AND FROM THE LOCALITY WHERE SUCH FACILITIES, OPERATIONS OR PROPERTY ARE LOCATED SHALL BE CONSIDERED TO BE GIFTS UNLESS OTHERWISE PERMITTED UNDER THIS SUBDIVISION; AND <A]

[A> (XI) MEALS OR REFRESHMENTS WHEN PARTICIPATING IN A PROFESSIONAL OR EDUCATIONAL PROGRAM AND THE MEALS OR REFRESHMENTS ARE PROVIDED TO ALL PARTICIPANTS. <A]

[*10] Section 10. Subparagraphs (C) and (D) of paragraph (iii) and paragraph (v) of subdivision (1) of section 1-c of the legislative law, as added by chapter 2 of the laws of 1999, are amended to read as follows:

(C) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies [D> other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis <D] ,

(D) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, [D> who receive compensation other than on a per diem basis, <D] and employees of such authorities, corporations and commissions;

(v) municipal officers and employees including an officer or employee of a [D> municipal entity <D] [A> MUNICIPALITY <A] , whether paid or unpaid, including members of any administrative board, commission or other agency thereof and in the case of a county, shall be deemed to also include any officer or employee paid from county funds. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.

[*11] Section 11. Section 1-d of the legislative law, as amended by chapter 1 of the laws of 2005, is amended to read as follows:

1-d. [D> New York temporary state commission on lobbying. (a) There shall be established a commission to be known as the New York temporary state commission on lobbying which shall consist of six members. The members of the commission shall be appointed by the governor, provided, however, that one member shall be appointed on nomination of the temporary president of the senate, one member shall be appointed on nomination of the speaker of the assembly, one member shall be appointed on nomination of the minority leader of the senate, and one member shall be appointed on nomination of the minority leader of the assembly. Of the two members appointed by the governor without prior nomination by a legislative leader, one shall be a member of the same political party as the temporary president of the senate and one shall be a member of the same political party as the minority leader of the senate. The term of office of the members shall be for two years commencing with the first day of January, two thousand. No member of the commission shall hold any other state or local public office for which he or she receives compensation; nor

shall any member be employed by the state or any local political subdivision. No person subject to the jurisdiction of the commission and the provisions of this article may serve on the commission. The chair and the vice-chair of the commission shall be elected by a majority of the members of the commission to serve a one year term, provided, however, that the commission shall be required to elect either as chair or vice-chair one of the members appointed by the governor without prior nomination by a legislative leader. The chair shall be a member of a different political party than the chair of the commission during the preceding term. The chair and vice-chair shall each be a member of a different major political party as such term is defined in the election law. Vacancies in the membership of the commission occurring for any cause shall be filled for the balance of the unexpired term in the same manner as the original appointment of the member whose office becomes vacant. Any matter upon which the commission must act by a vote of the membership must be by an affirmative vote of a majority of the members of the commission. No such vote may be taken until all members of the original commission are appointed; thereafter, each member shall continue to serve until a successor is appointed in the manner provided in this section. Each of the members of the commission shall receive, as compensation for his or her services hereunder, a per diem allowance in the sum of one hundred dollars for each day actually spent in the performance of his or her duties hereunder, not exceeding, however, the sum of five thousand dollars in any calendar year, and, in addition thereto, shall be reimbursed for all expenses actually and necessarily incurred by him or her in the performance of his or her duties under this article. **<D>**

[D> (b) The chief administrative officer of the commission shall be the executive director, who shall be appointed jointly by the chair and vice-chair of the commission and shall serve a two year term, except that he or she may be removed from such position by joint action of the chair and the vice-chair. **<D>**

[D> (c) **<D>** **[A>** LOBBY-RELATED POWERS OF THE COMMISSION. **<A>** In addition to any other powers and duties **[D>** specified by law **<D>** **[A>** PROVIDED BY SECTION NINETY-FOUR OF THE EXECUTIVE LAW **<A>** , the commission shall, **[A>** WITH RESPECT TO ITS LOBBYING-RELATED FUNCTIONS ONLY, **<A>** have the power and duty to:

[D> (1) **<D>** **[A>** (A) **<A>** administer and enforce all the provisions of this article; **[D>** (2) conduct any investigation necessary to carry out the provisions of this article. Pursuant to this power and duty, the commission may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material; **<D>**

[D> (2-a) In addition to the authority provided by paragraph two of this subdivision, the commission is authorized and empowered to **<D>** **[A>** (B) **<A>** conduct a program of random audits subject to the terms and conditions of this section. Any such program shall be carried out in the following manner:

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

(ii) The commission shall develop protocols for the conduct of such random audits.

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

(iii) The commission shall contract with an outside accounting entity, which shall monitor the process pursuant to which the commission selects statements or reports for audit and carries out the provisions of **[D]** subparagraphs **<D>** **[A]** PARAGRAPHS **<A>** (i) and (ii) of this **[D]** paragraph **<D>** **[A]** SUBDIVISION **<A>** and certifies that such process complies with the provisions of such **[D]** subparagraphs **<D>** **[A]** PARAGRAPHS **<A>** .

(iv) Upon completion of a random audit conducted in accordance with the provisions of **[D]** subparagraphs **<D>** **[A]** PARAGRAPHS **<A>** (i), (ii) and (iii) of this **[D]** paragraph **<D>** **[A]** SUBDIVISION **<A>** , the commission shall determine whether there is reasonable cause to believe that any such statement or report is inaccurate or incomplete. Upon a determination that such reasonable cause exists, the commission may require the production of further books, records or memoranda, subpoena witnesses, compel their attendance and testimony and administer oaths or affirmations, to the extent the commission determines such actions are necessary to obtain information relevant and material to investigating such inaccuracies or omissions;

[D] (3) **<D>** **[A]** (C) **<A>** conduct hearings pursuant to article seven of the public officers law. Any hearing may be conducted as a video conference in accordance with the provisions of subdivision four of section one hundred four of the public officers law;

[D] (4) **<D>** **[A]** (D) **<A>** prepare uniform forms for the statements and reports required by this article;

[D] (5) **<D>** **[A]** (E) **<A>** meet at least once during each bi-monthly reporting period of the year as established by subdivision (a) of section one-h of this article and may meet at such other times as the commission, or the chair and vice-chair jointly, shall determine;

[D] (6) **<D>** **[A]** (F) **<A>** issue advisory opinions to those under its jurisdiction. Such advisory opinions, which shall be published and made available to the public, shall not be binding upon such commission except with respect to the person to whom such opinion is rendered, provided, however, that a subsequent modification by such commission of such an advisory opinion shall operate prospectively only; and

[D] (7) **<D>** **[A]** (G) **<A>** submit by the first day of March next following the year for which such report is made to the governor and the members of the legislature an annual report summarizing the commission's work, listing the lobbyists and clients required to register pursuant to this article and the expenses and compensation reported pursuant to this article and making recommendations with respect to this article. The commission shall make this report available free of charge to the public.

[*12] Section 12. Paragraph 1 of subdivision (c) of section 1-e of the legislative law, as amended by chapter 1 of the laws of 2005, is amended to read as follows:

(1) the name, address and telephone number of the lobbyist **[A>** , AND IF THE LOBBYIST IS AN ORGANIZATION THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF ANY OFFICER OR EMPLOYEE OF SUCH LOBBYIST WHO ENGAGES IN ANY LOBBYING ACTIVITIES OR WHO IS EMPLOYED IN AN ORGANIZATION'S DIVISION THAT ENGAGES IN LOBBYING ACTIVITIES OF THE ORGANIZATION **<A]** ;

[*13] Section 13. Subdivision (a) of section 1-h of the legislative law, as amended by section 1 of part K of chapter 56 of the laws of 2006, is amended to read as follows:

(a) Any lobbyist required to file a statement of registration pursuant to section one-e of this article who in any lobbying year **[D>** expends, receives or incurs **<D]** **[A>** REASONABLY ANTICIPATES THAT DURING THE YEAR SUCH LOBBYIST WILL EXPEND, INCUR OR RECEIVE **<A]** combined reportable compensation and expenses in an amount in excess of five thousand dollars, as provided in paragraph five of subdivision (b) of this section, for the purpose of lobbying, shall file with the commission a bi-monthly written report, on forms supplied by the commission, by the fifteenth day next succeeding the end of the reporting period in which the lobbyist was first required to file a statement of registration. Such reporting periods shall be the period of January first to the last day of February, March first to April thirtieth, May first to June thirtieth, July first to August thirty-first, September first to October thirty-first and November first to December thirty-first.

[*14] Section 14. Paragraph 3 of subdivision (b) of section 1-h of the legislative law, as amended by chapter 1 of the laws of 2005, is amended to read as follows:

(3) the following information on which the lobbyist **[D>** expects to lobby **<D]** **[A>** HAS LOBBIED **<A]** : (i) a description of the general subject or subjects, (ii) the legislative bill numbers of any bills, (iii) the numbers or subject matter (if there are no numbers) of gubernatorial executive orders or executive orders issued by the chief executive officer of a municipality, (iv) the subject matter of and tribes involved in tribal-state compacts, memoranda of understanding, or any other state-tribal agreements and any state actions related to class III gaming as provided in [25 U.S.C. S 2701](#), (v) the rule, regulation, and ratemaking or municipal ordinance or resolution numbers of any rules, regulations, or rates or ordinance or proposed rules, regulations, or rates or municipal ordinances or resolutions, and (vi) the titles and any identifying numbers of any procurement contracts and other documents disseminated by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body in connection with a governmental procurement;

[*15] Section 15. Subdivision (a) of section 1-i of the legislative law, as amended by section 2 of part K of chapter 56 of the laws of 2006, is amended to read as follows:

(a) Every public corporation required to file a statement of registration pursuant to section one-e of this article which in any lobbying year **[D>** expends or incurs **<D]** **[A>** REASONABLY ANTICIPATES THAT DURING THE YEAR IT WILL EXPEND OR INCUR **<A]** expenses in an amount in excess of five thousand dollars, as provided in paragraph six of subdivision (b) of this section, for the purpose of lobbying shall file with the commission a bi-monthly written report, on forms supplied by the commission, by the fifteenth day next succeeding the end of the reporting period in which the public corporation was first required to file a statement of registration.

Such reporting periods shall be the period of January first to the last day of February, March first to April thirtieth, May first to June thirtieth, July first to August thirty-first, September first to October thirty-first and November first to December thirty-first.

[*16] Section 16. Subdivision (a) of section 1-j of the legislative law, as amended by chapter 1 of the laws of 2005, is amended to read as follows:

(a) Semi-annual reports shall be filed by any client retaining, employing or designating a lobbyist or lobbyists, whether or not any such lobbyist was required to file a bi-monthly report, if **[D>** during the year **<D]** such client **[D>** expended or incurred **<D]** **[A>** REASONABLY ANTICIPATES THAT DURING THE YEAR SUCH CLIENT WILL EXPEND OR INCUR **<A]** an amount in excess of **[D>** two thousand dollars in years prior to calendar year two thousand six, and **<D]** five thousand dollars **[D>** commencing in calendar year two thousand six and thereafter **<D]** of combined reportable compensation and expenses, as provided in paragraph five of subdivision (c) of this section, for the purposes of lobbying.

[*17] Section 17. Paragraph 3 of subdivision (a) of section 1-k of the legislative law, as amended by chapter 1 of the laws of 2005, is amended to read as follows:

(3) any determination by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body with respect to a governmental procurement **[A>** OR A GRANT, LOAN OR AGREEMENT INVOLVING THE DISBURSEMENT OF PUBLIC MONIES **<A]** .

[*18] Section 18. Section 1-1 of the legislative law is REPEALED and a new section 1-1 is added to read as follows:

[A> SECTION 1-1. REPORTS OF LOBBYING INVOLVING DISBURSEMENT OF PUBLIC MONIES. (A) ANY LOBBYIST REQUIRED TO FILE A STATEMENT OF REGISTRATION PURSUANT TO SECTION ONE-E OF THIS ARTICLE WHO IN ANY LOBBYING YEAR REASONABLY ANTICIPATES THAT DURING THE YEAR THEY WILL EXPEND, INCUR OR RECEIVE COMBINED REPORTABLE COMPENSATION AND EXPENSES IN AN AMOUNT IN EXCESS OF FIVE THOUSAND DOLLARS SHALL FILE WITH THE COMMISSION, ON FORMS SUPPLIED BY THE COMMISSION, A REPORT OF ANY ATTEMPTS TO INFLUENCE A DETERMINATION BY A PUBLIC OFFICIAL, OR BY A PERSON OR ENTITY WORKING IN COOPERATION WITH A PUBLIC OFFICIAL, WITH RESPECT TO THE SOLICITATION, AWARD OR ADMINISTRATION OF A GRANT, LOAN, OR AGREEMENT INVOLVING THE DISBURSEMENT OF PUBLIC MONIES IN EXCESS OF FIFTEEN THOUSAND DOLLARS OTHER THAN A GOVERNMENTAL PROCUREMENT AS DEFINED IN SECTION ONE-C OF THIS ARTICLE. **<A]**

[A> (B) SUCH PUBLIC MONIES LOBBYING REPORTS SHALL CONTAIN: **<A]**

[A> (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE LOBBYIST AND THE INDIVIDUALS EMPLOYED BY THE LOBBYIST ENGAGED IN SUCH PUBLIC MONIES LOBBYING ACTIVITIES; **<A]**

[A> (II) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CLIENT BY WHOM OR ON WHOSE BEHALF THE LOBBYIST IS RETAINED, EMPLOYED OR DESIGNATED ON WHOSE BEHALF THE LOBBYIST HAS ENGAGED IN LOBBYING REPORTABLE UNDER THIS PARAGRAPH; **<A]**

[A> (III) A DESCRIPTION OF THE GRANT, LOAN, OR AGREEMENT INVOLVING THE DISBURSEMENT OF PUBLIC MONIES ON WHICH THE LOBBYIST HAS LOBBIED; **<A]**

[A> (IV) THE NAME OF THE PERSON, ORGANIZATION, OR LEGISLATIVE BODY BEFORE WHICH THE LOBBYIST HAS ENGAGED IN LOBBYING REPORTABLE UNDER THIS PARAGRAPH; AND **<A]**

[A> (V) THE COMPENSATION PAID OR OWED TO THE LOBBYIST, AND ANY EXPENSES EXPENDED, RECEIVED OR INCURRED BY THE LOBBYIST FOR THE PURPOSE OF LOBBYING REPORTABLE UNDER THIS PARAGRAPH. **<A]**

[A> (C) PUBLIC MONIES LOBBYING REPORTS REQUIRED PURSUANT TO THIS SECTION SHALL BE FILED IN ACCORDANCE WITH THE SCHEDULE APPLICABLE TO THE FILING OF BI-MONTHLY REPORTS PURSUANT TO SECTION ONE-H OF THIS ARTICLE AND SHALL BE FILED NOT LATER THAN THE FIFTEENTH DAY NEXT SUCCEEDING THE END OF SUCH REPORTING PERIOD. **<A]**

[A> (D) IN ADDITION TO ANY OTHER FEES AUTHORIZED BY THIS SECTION, THE COMMISSION MAY IMPOSE A FEE FOR LATE FILING OF A REPORT REQUIRED BY THIS SUBDIVISION NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH DAY THAT THE REPORT REQUIRED TO BE FILED IS LATE, EXCEPT THAT IF THE LOBBYIST MAKING A LATE FILING HAS NOT PREVIOUSLY BEEN REQUIRED BY STATUTE TO FILE SUCH A REPORT, THE FEE FOR LATE FILING SHALL NOT EXCEED TEN DOLLARS FOR EACH DAY THAT THE REPORT REQUIRED TO BE FILED IS LATE. **<A]**

[A> (E) ALL REPORTS FILED PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT TO REVIEW BY THE COMMISSION. SUCH REPORTS SHALL BE KEPT IN ELECTRONIC FORM BY THE COMMISSION AND SHALL BE AVAILABLE FOR PUBLIC INSPECTION. **<A]**

[*19] Section 19. Section 1-m of the legislative law is REPEALED and a new section 1-m is added to read as follows:

[A> SECTION 1-M. PROHIBITION OF GIFTS. NO INDIVIDUAL OR ENTITY REQUIRED TO BE LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO THIS ARTICLE SHALL OFFER OR GIVE A GIFT TO ANY PUBLIC OFFICIAL AS DEFINED WITHIN THIS ARTICLE, UNLESS UNDER THE CIRCUMSTANCES IT IS NOT REASONABLE TO INFER THAT THE GIFT WAS INTENDED TO INFLUENCE SUCH PUBLIC OFFICIAL. NO INDIVIDUAL OR ENTITY REQUIRED TO BE LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO THIS ARTICLE SHALL OFFER OR GIVE A GIFT TO THE SPOUSE OR UNEMANCIPATED CHILD OF ANY PUBLIC OFFICIAL AS DEFINED WITHIN THIS ARTICLE UNDER CIRCUMSTANCES WHERE IT IS REASONABLE TO INFER THAT THE GIFT WAS INTENDED TO INFLUENCE SUCH PUBLIC OFFICIAL. NO SPOUSE OR UNEMANCIPATED CHILD OF AN INDIVIDUAL REQUIRED TO BE LISTED ON A STATEMENT OF REGISTRATION PURSUANT TO THIS ARTICLE SHALL OFFER OR GIVE A GIFT TO A PUBLIC OFFICIAL UNDER CIRCUMSTANCES WHERE IT IS REASONABLE TO INFER THAT THE GIFT WAS INTENDED TO INFLUENCE SUCH PUBLIC OFFICIAL. THIS SECTION SHALL NOT APPLY TO GIFTS TO OFFICERS, MEMBERS OR DIRECTORS OF BOARDS, COMMISSIONS, COUNCILS, PUBLIC AUTHORITIES OR PUBLIC BENEFIT CORPORATIONS WHO RECEIVE NO COMPENSATION OR ARE COMPENSATED ON A PER DIEM BASIS, UNLESS THE PERSON LISTED ON THE STATEMENT OF REGISTRATION APPEARS OR HAS MATTERS PENDING BEFORE THE BOARD,

COMMISSION OR COUNCIL ON WHICH THE RECIPIENT SITS. <A]

[*20] Section 20. Section 1-o of the legislative law is REPEALED and a new section 1-o is added to read as follows:

[A> SECTION 1-O. PENALTIES. (A) (I) ANY LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND WILFULLY FAILS TO FILE TIMELY A REPORT OR STATEMENT REQUIRED BY THIS SECTION OR KNOWINGLY AND WILFULLY FILES FALSE INFORMATION OR KNOWINGLY AND WILFULLY VIOLATES SECTION ONE-M OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A MISDEMEANOR; AND <A]

[A> (II) ANY LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND WILFULLY FAILS TO FILE TIMELY A REPORT OR STATEMENT REQUIRED BY THIS SECTION OR KNOWINGLY AND WILFULLY FILES FALSE INFORMATION OR KNOWINGLY AND WILFULLY VIOLATES SECTION ONE-M OF THIS ARTICLE, AFTER HAVING PREVIOUSLY BEEN CONVICTED IN THE PRECEDING FIVE YEARS OF THE CRIME DESCRIBED IN PARAGRAPH (I) OF THIS SUBDIVISION, SHALL BE GUILTY OF A CLASS E FELONY. ANY LOBBYIST CONVICTED OF OR PLEADING GUILTY TO A FELONY UNDER THE PROVISIONS OF THIS SECTION MAY BE BARRED FROM ACTING AS A LOBBYIST FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE CONVICTION. FOR THE PURPOSES OF THIS SUBDIVISION, THE CHIEF ADMINISTRATIVE OFFICER OF ANY ORGANIZATION REQUIRED TO FILE A STATEMENT OR REPORT SHALL BE THE PERSON RESPONSIBLE FOR MAKING AND FILING SUCH STATEMENT OR REPORT UNLESS SOME OTHER PERSON PRIOR TO THE DUE DATE THEREOF HAS BEEN DULY DESIGNATED TO MAKE AND FILE SUCH STATEMENT OR REPORT. <A]

[A> (B)(I) A LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND WILFULLY FAILS TO FILE A STATEMENT OR REPORT WITHIN THE TIME REQUIRED FOR THE FILING OF SUCH REPORT OR KNOWINGLY AND WILFULLY VIOLATES SECTION ONE-M OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY FOR EACH SUCH FAILURE OR VIOLATION, IN AN AMOUNT NOT TO EXCEED THE GREATER OF TWENTY-FIVE THOUSAND DOLLARS OR THREE TIMES THE AMOUNT THE PERSON FAILED TO REPORT PROPERLY OR UNLAWFULLY CONTRIBUTED, EXPENDED, GAVE OR RECEIVED, TO BE ASSESSED BY THE COMMISSION. <A]

[A> (II) A LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND WILFULLY FILES A FALSE STATEMENT OR REPORT SHALL BE SUBJECT TO A CIVIL PENALTY, IN AN AMOUNT NOT TO EXCEED THE GREATER OF FIFTY THOUSAND DOLLARS OR FIVE TIMES THE AMOUNT THE PERSON FAILED TO REPORT PROPERLY, TO BE ASSESSED BY THE COMMISSION. <A]

[A> (III)(A) A LOBBYIST OR CLIENT WHO KNOWINGLY AND WILFULLY VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF SECTION ONE-N OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS FOR AN INITIAL VIOLATION. <A]

[A> (B) IF, AFTER A LOBBYIST OR CLIENT HAS BEEN FOUND TO HAVE VIOLATED SUBDIVISION ONE OF SECTION ONE-N OF THIS ARTICLE, A LOBBYIST OR CLIENT KNOWINGLY AND WILFULLY VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF SECTION ONE-N OF THIS ARTICLE WITHIN FOUR YEARS OF SUCH FINDING, THE LOBBYIST OR CLIENT SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS. <A]

[A> (IV) ANY LOBBYIST OR CLIENT THAT KNOWINGLY AND WILFULLY FAILS TO FILE A STATEMENT OR REPORT WITHIN THE TIME REQUIRED FOR THE FILING OF SUCH REPORT, KNOWINGLY AND WILFULLY FILES A FALSE STATEMENT OR REPORT, OR KNOWINGLY AND WILFULLY VIOLATES SECTION ONE-M OF THIS ARTICLE, AFTER HAVING BEEN FOUND BY THE COMMISSION TO HAVE KNOWING AND WILFULLY COMMITTED SUCH CONDUCT OR VIOLATION IN THE PRECEDING FIVE YEARS, MAY BE SUBJECT TO A DETERMINATION THAT THE LOBBYIST OR CLIENT IS PROHIBITED FROM ENGAGING IN LOBBYING ACTIVITIES, AS THAT TERM IS DEFINED IN PARAGRAPH (V) OF SUBDIVISION (C) OF SECTION ONE-C OF THIS ARTICLE, FOR A PERIOD OF ONE YEAR. **<A]**

[A> (V) ANY LOBBYIST OR CLIENT THAT KNOWINGLY AND WILFULLY ENGAGES IN LOBBYING ACTIVITIES, AS THAT TERM IS DEFINED IN PARAGRAPH (V) OF SUBDIVISION (C) OF SECTION ONE-C OF THIS ARTICLE, DURING THE PERIOD IN WHICH THEY ARE PROHIBITED FROM ENGAGING IN LOBBYING ACTIVITIES, AS THAT TERM IS DEFINED IN PARAGRAPH (V) OF SUBDIVISION (C) OF SECTION ONE-C OF THIS ARTICLE PURSUANT TO THIS SUBDIVISION, MAY BE SUBJECT TO A DETERMINATION THAT THE LOBBYIST OR CLIENT IS PROHIBITED FROM ENGAGING IN LOBBYING ACTIVITIES, AS THAT TERM IS DEFINED IN PARAGRAPH (V) OF SUBDIVISION (C) OF SECTION ONE-C OF THIS ARTICLE, FOR A PERIOD OF UP TO FOUR YEARS, AND SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIFTY THOUSAND DOLLARS, PLUS A CIVIL PENALTY IN AN AMOUNT EQUAL TO FIVE TIMES THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF THE VIOLATION. **<A]**

[A> (VI) A LOBBYIST, PUBLIC CORPORATION, OR CLIENT WHO KNOWINGLY AND WILFULLY FAILS TO RETAIN THEIR RECORDS PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ONE-E OF THIS ARTICLE, SUBPARAGRAPH (V) OF PARAGRAPH FIVE OF SUBDIVISION (B) OF SECTION ONE-H OF THIS ARTICLE, OR PARAGRAPH FIVE OF SUBDIVISION (B) OF SECTION ONE-J OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT OF TWO THOUSAND DOLLARS PER VIOLATION TO BE ASSESSED BY THE COMMISSION. **<A]**

[A> (C)(I) ANY ASSESSMENT OR ORDER TO DEBAR SHALL BE DETERMINED ONLY AFTER A HEARING AT WHICH THE PARTY SHALL BE ENTITLED TO APPEAR, PRESENT EVIDENCE AND BE HEARD. ANY ASSESSMENT OR ORDER TO DEBAR PURSUANT TO THIS SECTION MAY ONLY BE IMPOSED AFTER THE COMMISSION SENDS BY CERTIFIED AND FIRST-CLASS MAIL WRITTEN NOTICE OF INTENT TO ASSESS A PENALTY OR ORDER TO DEBAR AND THE BASIS FOR THE PENALTY OR ORDER TO DEBAR. ANY ASSESSMENT MAY BE RECOVERED IN AN ACTION BROUGHT BY THE ATTORNEY GENERAL. **<A]**

[A> (II) IN ASSESSING ANY FINE OR PENALTY PURSUANT TO THIS SECTION, THE COMMISSION SHALL CONSIDER: (A) AS A MITIGATING FACTOR THAT THE LOBBYIST, PUBLIC CORPORATION OR CLIENT HAS NOT PREVIOUSLY BEEN REQUIRED TO REGISTER, AND (B) AS AN AGGRAVATING FACTOR THAT THE LOBBYIST, PUBLIC CORPORATION OR CLIENT HAS HAD FINES OR PENALTIES ASSESSED AGAINST IT IN THE PAST. THE AMOUNT OF COMPENSATION EXPENDED, INCURRED OR RECEIVED SHALL BE A FACTOR TO CONSIDER IN DETERMINING A PROPORTIONATE PENALTY. **<A]**

[A> (III) ANY LOBBYIST, PUBLIC CORPORATION OR CLIENT WHO RECEIVES A NOTICE OF INTENT TO ASSESS A PENALTY FOR KNOWINGLY AND WILFULLY

FAILING TO FILE A REPORT OR STATEMENT PURSUANT TO SUBDIVISION (B) OF THIS SECTION AND WHO HAS NEVER PREVIOUSLY RECEIVED A NOTICE OF INTENT TO ASSESS A PENALTY FOR FAILING TO FILE A REPORT OR STATEMENT REQUIRED UNDER THIS SECTION SHALL BE GRANTED FIFTEEN DAYS WITHIN WHICH TO FILE THE STATEMENT OF REGISTRATION OR REPORT WITHOUT BEING SUBJECT TO THE FINE OR PENALTY SET FORTH IN SUBDIVISION (B) OF THIS SECTION. UPON THE FAILURE OF SUCH LOBBYIST, PUBLIC CORPORATION OR CLIENT TO FILE WITHIN SUCH FIFTEEN DAY PERIOD, SUCH LOBBYIST, PUBLIC CORPORATION OR CLIENT SHALL BE SUBJECT TO A FINE OR PENALTY PURSUANT TO SUBDIVISION (B) OF THIS SECTION. <A]

[A> (D) ALL MONEYS RECOVERED BY THE ATTORNEY GENERAL OR RECEIVED BY THE COMMISSION FROM THE ASSESSMENT OF CIVIL PENALTIES AUTHORIZED BY THIS SECTION SHALL BE DEPOSITED TO THE GENERAL FUND. <A]

[*21] Section 21. The public officers law is amended by adding a new section 73-b to read as follows:

[A> SECTION 73-B. ADVERTISEMENTS BY ELECTED GOVERNMENT OFFICIALS AND CANDIDATES MADE WITH PUBLIC FUNDS; PROHIBITED. 1. AS USED IN THIS SECTION: <A]

[A> (A) "POLITICAL SUBDIVISION" SHALL MEAN A COUNTY, CITY, TOWN, VILLAGE OR DISTRICT WITHIN THE STATE. <A]

[A> (B) "PUBLIC AUTHORITY" SHALL MEAN A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION CREATED BY OR EXISTING UNDER ANY LAW OF THE STATE, AT LEAST ONE OF WHOSE MEMBERS IS APPOINTED BY THE GOVERNOR (INCLUDING ANY SUBSIDIARIES OF SUCH PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION), OTHER THAN AN INTERSTATE OR INTERNATIONAL AUTHORITY OR PUBLIC BENEFIT CORPORATION. <A]

[A> (C) "APPEAR" OR "APPEARS" SHALL MEAN TO APPEAR BY LIKENESS, PICTURE OR VOICE. <A]

[A> (D) "CANDIDATE" SHALL HAVE THE MEANING SET FORTH IN SECTION 14-100 OF THE ELECTION LAW. <A]

[A> 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, (A) NO ELECTED GOVERNMENT OFFICIAL OR CANDIDATE FOR ELECTED LOCAL, STATE OR FEDERAL OFFICE SHALL KNOWINGLY APPEAR IN ANY ADVERTISEMENT OR PROMOTION, INCLUDING PUBLIC OR COMMUNITY SERVICE ANNOUNCEMENTS, PUBLISHED OR BROADCAST THROUGH ANY PRINT OR ELECTRONIC MEDIA (INCLUDING TELEVISION, RADIO AND INTERNET) BY ANY PRIVATE OR COMMERCIAL ENTITY OR ANY OTHER ENTITY THAT PUBLISHES SUCH ADVERTISEMENT FOR A FEE, IF THE ADVERTISEMENT OR PROMOTION IS PAID FOR OR PRODUCED IN WHOLE OR IN PART WITH FUNDS OF THE STATE, A POLITICAL SUBDIVISION THEREOF OR A PUBLIC AUTHORITY. <A]

[A> (B) NO PERSON SHALL KNOWINGLY USE THE FUNDS OF THE STATE, A POLITICAL SUBDIVISION THEREOF OR PUBLIC AUTHORITY TO PAY FOR OR PRODUCE, IN WHOLE OR IN PART, ANY ADVERTISEMENT OR PROMOTION THAT IS PROHIBITED BY PARAGRAPH (A) OF THIS SUBDIVISION. THIS PROHIBITION SHALL

NOT APPLY TO OTHERWISE LAWFUL EXPENDITURES OF PUBLIC CAMPAIGN FUNDS SPECIFICALLY PROVIDED FOR UNDER STATE, FEDERAL OR LOCAL LAW. <A]

[A> 3. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS. THE PENALTIES PRESCRIBED BY THIS SUBDIVISION MAY BE RECOVERED IN A CIVIL ACTION BROUGHT BY THE ATTORNEY GENERAL. <A]

[*22] Section 22. Subdivision 1 of section 73 of the public officers law is amended by adding two new paragraphs (l) and (m) to read as follows:

[A> (L) A PERSON HAS A "FINANCIAL INTEREST" IN ANY ENTITY IF THAT PERSON: <A]

[A> (I) OWNS OR CONTROLS TEN PERCENT OR MORE OF THE STOCK OF SUCH ENTITY (OR ONE PERCENT IN THE CASE OF A CORPORATION WHOSE STOCK IS REGULARLY TRADED ON AN ESTABLISHED SECURITIES EXCHANGE); OR <A]

[A> (II) SERVES AS AN OFFICER, DIRECTOR OR PARTNER OF THAT ENTITY. <A]

[A> (M) THE "RELATIVE" OF ANY INDIVIDUAL SHALL MEAN ANY PERSON LIVING IN THE SAME HOUSEHOLD AS THE INDIVIDUAL AND ANY PERSON WHO IS A DIRECT DESCENDANT OF THAT INDIVIDUAL'S GRANDPARENTS OR THE SPOUSE OF SUCH DESCENDANT. <A]

[*23] Section 23. Subdivision 5 of section 73 of the public officers law, as amended by chapter 355 of the laws of 2002, is amended to read as follows:

5. No statewide elected official, state officer or employee, individual whose name has been submitted by the governor to the senate for confirmation to become a state officer or employee, member of the legislature or legislative employee shall, directly or indirectly [D> , <D] [A> : <A]

[A> (A) <A] solicit, accept or receive any gift having [A> MORE THAN <A] a [A> NOMINAL <A] value [D> of seventy-five dollars or more <D] , whether in the form of money, service, loan, travel, [A> LODGING, MEALS, REFRESHMENTS, <A] entertainment, [D> hospitality, thing <D] [A> DISCOUNT, FORBEARANCE <A] or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. No person shall, directly or indirectly, offer or make any such gift to a statewide elected official, or any state officer or employee, member of the legislature or legislative employee under such circumstances.

[A> (B) SOLICIT, ACCEPT OR RECEIVE ANY GIFT, AS DEFINED IN SECTION ONE-C OF THE LEGISLATIVE LAW, FROM ANY PERSON WHO IS PROHIBITED FROM DELIVERING SUCH GIFT PURSUANT TO SECTION ONE-M OF THE LEGISLATIVE LAW UNLESS UNDER THE CIRCUMSTANCES IT IS NOT REASONABLE TO INFER THAT THE GIFT WAS INTENDED TO INFLUENCE HIM; OR <A]

[A> (C) PERMIT THE SOLICITATION, ACCEPTANCE, OR RECEIPT OF ANY GIFT, AS DEFINED IN SECTION ONE-C OF THE LEGISLATIVE LAW, FROM ANY PERSON WHO IS

PROHIBITED FROM DELIVERING SUCH GIFT PURSUANT TO SECTION ONE-M OF THE LEGISLATIVE LAW TO A THIRD PARTY INCLUDING A CHARITABLE ORGANIZATION, ON SUCH OFFICIAL'S DESIGNATION OR RECOMMENDATION OR ON HIS OR HER BEHALF, UNDER CIRCUMSTANCES WHERE IT IS REASONABLE TO INFER THAT THE GIFT WAS INTENDED TO INFLUENCE HIM. <A]

[*24] Section 24. Section 73 of the public officers law is amended by adding a new subdivision 5-a to read as follows:

[A> 5-A. (A) FOR THE PURPOSE OF THIS SUBDIVISION ONLY, THE TERM "HONORARIUM" SHALL MEAN ANY PAYMENT MADE IN CONSIDERATION FOR ANY SPEECH GIVEN AT A PUBLIC OR PRIVATE CONFERENCE, CONVENTION, MEETING, SOCIAL EVENT, MEAL OR LIKE GATHERING. <A]

[A> (B) NO STATEWIDE ELECTED OFFICIAL OR HEAD OF ANY CIVIL DEPARTMENT SHALL, DIRECTLY OR INDIRECTLY, SOLICIT, ACCEPT OR RECEIVE ANY HONORARIUM WHILE HOLDING SUCH ELECTED OFFICE OR APPOINTED POSITION. <A]

[A> (C) NO MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE SHALL, DIRECTLY OR INDIRECTLY, SOLICIT, ACCEPT OR RECEIVE ANY HONORARIUM WHILE HOLDING SUCH ELECTED OFFICE OR EMPLOYMENT, OTHER THAN HONORARIUM PAID IN CONSIDERATION FOR A SPEECH GIVEN ON A TOPIC UNRELATED TO THE INDIVIDUAL'S CURRENT PUBLIC EMPLOYMENT OR AS EARNED INCOME FOR PERSONAL SERVICES THAT ARE CUSTOMARILY PROVIDED IN CONNECTION WITH THE PRACTICE OF A BONA FIDE BUSINESS, TRADE OR PROFESSION, SUCH AS TEACHING, PRACTICING LAW, MEDICINE OR BANKING, UNLESS THE SOLE OR PREDOMINANT ACTIVITY THEREOF IS MAKING SPEECHES. <A]

[*25] Section 25. Subparagraph (iii) of paragraph (a) of subdivision 8 of section 73 of the public officers law, as amended by chapter 299 of the laws of 1995, is amended to read as follows:

(iii) No person who has served as a member of the legislature shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature. No legislative employee **[D>** who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this chapter shall during the term of office of the legislature in which he or she was so employed, receive compensation at any time during the remainder of such term after leaving the employ of the legislature for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature in relation to any matter with respect to which such person was directly concerned and in which he personally participated during the period of his service or employment. A legislative employee who acted primarily in a supervisory capacity in such matter and who was not personally involved in the development, negotiation or implementation of the matter to an important and material degree, may, with the approval of the legislative ethics committee, receive such compensation and perform such services. <D] **[A>** SHALL WITHIN A PERIOD OF TWO YEARS AFTER THE TERMINATION OF SUCH SERVICE RECEIVE COMPENSATION FOR ANY SERVICES ON BEHALF OF ANY PERSON, FIRM, CORPORATION OR ASSOCIATION TO APPEAR, PRACTICE OR DIRECTLY

COMMUNICATE BEFORE EITHER HOUSE OF THE LEGISLATURE TO PROMOTE OR OPPOSE THE PASSAGE OF BILLS OR RESOLUTIONS BY EITHER HOUSE OF THE LEGISLATURE **<A>** .

[*26] Section 26. Paragraph (a) of subdivision 8 of section 73 of the public officers law is amended by adding a new subparagraph (iv) to read as follows:

[A> (IV) NO PERSON WHO HAS SERVED AS AN OFFICER OR EMPLOYEE IN THE EXECUTIVE CHAMBER OF THE GOVERNOR SHALL WITHIN A PERIOD OF TWO YEARS AFTER TERMINATION OF SUCH SERVICE APPEAR OR PRACTICE BEFORE ANY STATE AGENCY. **<A]**

[*27] Section 27. Subdivision 14 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, is renumbered subdivision 18 and amended and four new subdivisions 14, 15, 16, and 17 are added to read as follows:

[A> 14. (A) NO STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE MAY PARTICIPATE IN ANY DECISION TO HIRE, PROMOTE, DISCIPLINE OR DISCHARGE A RELATIVE FOR ANY COMPENSATED POSITION AT, FOR OR WITHIN ANY STATE AGENCY, PUBLIC AUTHORITY OR THE LEGISLATURE. **<A]**

[A> (B) THIS PARAGRAPH SHALL NOT APPLY TO (I) THE HIRING OF A RELATIVE BY A LEGISLATOR WITH A PHYSICAL IMPAIRMENT, FOR THE SOLE PURPOSE OF ASSISTING WITH THAT IMPAIRMENT, AS NECESSARY AND OTHERWISE PERMITTED BY LAW; (II) THE TEMPORARY HIRING OF LEGISLATIVE PAGES, INTERNS AND MESSENGERS; OR (III) RESPONDING TO INQUIRIES WITH RESPECT TO PROSPECTIVE HIRES RELATED TO AN INDIVIDUAL COVERED BY THIS PARAGRAPH. **<A]**

[A> 15. NO STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE SHALL: **<A]**

[A> (A) PARTICIPATE IN ANY STATE CONTRACTING DECISION INVOLVING THE PAYMENT OF MORE THAN ONE THOUSAND DOLLARS TO THAT INDIVIDUAL, ANY RELATIVE OF THAT INDIVIDUAL, OR ANY ENTITY IN WHICH THAT INDIVIDUAL OR ANY RELATIVE HAS A FINANCIAL INTEREST; OR **<A]**

[A> (B) PARTICIPATE IN ANY DECISION TO INVEST PUBLIC FUNDS IN ANY SECURITY OF ANY ENTITY IN WHICH THAT INDIVIDUAL OR ANY RELATIVE OF THAT INDIVIDUAL HAS A FINANCIAL INTEREST, IS AN UNDERWRITER, OR RECEIVES ANY BROKERAGE, ORIGINATION OR SERVICING FEES. **<A]**

[A> 16. (A) NO STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR EMPLOYEE INVOLVED IN THE AWARDING OF STATE GRANTS OR CONTRACTS MAY ASK A CURRENT OR PROSPECTIVE GRANTEE OR CONTRACTOR, OR ANY OFFICER, DIRECTOR OR EMPLOYEE THEREOF, TO DISCLOSE: (I) THE PARTY AFFILIATION OF SUCH GRANTEE OR CONTRACTOR, OR ANY OFFICER, DIRECTOR OR EMPLOYEE THEREOF; (II) WHETHER SUCH GRANTEE OR CONTRACTOR, OR ANY OFFICER, DIRECTOR OR EMPLOYEE THEREOF, HAS MADE CAMPAIGN CONTRIBUTIONS TO ANY PARTY, ELECTED OFFICIAL, OR CANDIDATE FOR ELECTIVE OFFICE; OR (III) WHETHER SUCH GRANTEE OR CONTRACTOR, OR ANY OFFICER, DIRECTOR OR EMPLOYEE THEREOF, CAST A VOTE FOR OR AGAINST ANY ELECTED OFFICIAL,

CANDIDATE OR POLITICAL PARTY. <A]

[A> (B) NO STATEWIDE ELECTED OFFICIAL OR STATE OFFICER OR EMPLOYEE MAY AWARD OR DECLINE TO AWARD ANY STATE GRANT OR CONTRACT, OR RECOMMEND, PROMISE OR THREATEN TO DO SO, IN WHOLE OR IN PART, BECAUSE OF A CURRENT OR PROSPECTIVE GRANTEE'S OR CONTRACTOR'S REFUSAL TO ANSWER ANY INQUIRY PROHIBITED BY PARAGRAPH (A) OF THIS SUBDIVISION, OR GIVING OR WITHHOLDING OR NEGLECTING TO MAKE ANY CONTRIBUTION OF MONEY OR SERVICE OR ANY OTHER VALUABLE THING FOR ANY POLITICAL PURPOSE. <A]

[A> 17. (A) NO STATEWIDE ELECTED OFFICIAL, OR STATE OFFICER OR EMPLOYEE MAY DURING THE CONSIDERATION OF AN EMPLOYMENT DECISION ASK ANY APPLICANT FOR PUBLIC EMPLOYMENT TO DISCLOSE: (I) THE POLITICAL PARTY AFFILIATION OF THE APPLICANT; (II) WHETHER THE APPLICANT HAS MADE CAMPAIGN CONTRIBUTIONS TO ANY PARTY, ELECTED OFFICIAL, OR CANDIDATE FOR ELECTIVE OFFICE; OR (III) WHETHER THE APPLICANT CAST A VOTE FOR OR AGAINST ANY ELECTED OFFICIAL, CANDIDATE OR POLITICAL PARTY. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY WHERE (1) SUCH INQUIRY IS NECESSARY FOR THE PROPER APPLICATION OF ANY STATE LAW OR REGULATION; OR (2) SUCH INQUIRY IS CONSISTENT WITH PUBLICLY DISCLOSED POLICIES OR PRACTICES OF ANY STATE AGENCY OR PUBLIC AUTHORITY, WHOSE PURPOSE IS TO ENSURE THE REPRESENTATION OF MORE THAN ONE POLITICAL PARTY ON ANY MULTI-MEMBER BODY. <A]

[A> (B) NO STATEWIDE ELECTED OFFICIAL OR STATE OFFICER OR EMPLOYEE MAY DECLINE TO HIRE OR PROMOTE, DISCHARGE, DISCIPLINE, OR IN ANY MANNER CHANGE THE OFFICIAL RANK OR COMPENSATION OF ANY STATE OFFICIAL OR EMPLOYEE, OR APPLICANT FOR EMPLOYMENT, OR PROMISE OR THREATEN TO DO SO, BASED UPON A REFUSAL TO ANSWER ANY INQUIRY PROHIBITED BY PARAGRAPH (A) OF THIS SUBDIVISION, OR FOR GIVING OR WITHHOLDING OR NEGLECTING TO MAKE ANY CONTRIBUTION OF MONEY OR SERVICE OR ANY OTHER VALUABLE THING FOR ANY POLITICAL PURPOSE. <A]

[A> (C) NO STATE OFFICER OR EMPLOYEE SHALL, DIRECTLY OR INDIRECTLY, USE HIS OR HER OFFICIAL AUTHORITY TO COMPEL OR INDUCE ANY OTHER STATE OFFICER OR EMPLOYEE TO MAKE OR PROMISE TO MAKE ANY POLITICAL CONTRIBUTION, WHETHER BY GIFT OF MONEY, SERVICE OR OTHER THING OF VALUE. <A]

18. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates the provisions of subdivisions two through five [D> or subdivision <D] [A> , <A] seven, eight [D> or <D] [A> , <A] twelve [A> OR FOURTEEN THROUGH SEVENTEEN <A] of this section shall be subject to a civil penalty in an amount not to exceed [D> ten <D] [A> FORTY <A] thousand dollars [A> AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED IN CONNECTION WITH SUCH VIOLATION <A] . Assessment of a civil penalty hereunder shall be made by the state [D> ethics commission or the legislative ethics committee, as the case may be, with respect to persons subject to their respective jurisdictions. The state ethics commission acting pursuant to subdivision thirteen of section ninety-four of the executive law, or the legislative ethics committee acting pursuant to subdivision twelve of section eighty of the legislative law, as the case may be <D] [A> OVERSIGHT BODY WITH JURISDICTION OVER SUCH PERSON. A

STATE OVERSIGHT BODY ACTING PURSUANT TO ITS JURISDICTION **<A]** , may, in lieu of a civil penalty, with respect to a violation of subdivisions two through five **[D>** or subdivision **<D]** , seven or eight of this section, refer a violation of any such subdivision to the appropriate prosecutor and upon such conviction **[D>** , but only after such referral, **<D]** such violation shall be punishable as a class A misdemeanor.

[*28] Section 28. The opening paragraph of subdivision 1 of section 74 of the public officers law, as amended by chapter 764 of the laws of 1983, is amended to read as follows:

As used in this section: The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department or any public benefit corporation or public authority at least one of whose members is appointed by the governor **[A>** OR CORPORATIONS CLOSELY AFFILIATED WITH SPECIFIC STATE AGENCIES AS DEFINED BY PARAGRAPH (D) OF SUBDIVISION FIVE OF SECTION FIFTY-THREE-A OF THE STATE FINANCE LAW OR THEIR SUCCESSORS **<A]** .

[*29] Section 29. Subdivision 4 of section 74 of the public officers law, as added by chapter 1012 of the laws of 1965, is amended to read as follows:

4. Violations. In addition to any penalty contained in any other provision of law any such officer, member or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law. **[A>** ANY SUCH INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH B, C, D OR I OF SUBDIVISION THREE OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. ANY SUCH INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH A, E OR G OF SUBDIVISION THREE OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. **<A]**

[*30] Section 30. Paragraph j of subdivision 3 of section 74 of the public officers law is REPEALED.

[*31] Section 31. The public officers law is amended by adding a new section 3-c to read as follows:

[A> SECTION 3-C. RESTRICTIONS UPON NOMINATION OR ELECTION TO COMPENSATED FEDERAL, STATE OR LOCAL OFFICE. 1. FOR PURPOSES OF THIS SECTION, "CANDIDATE" HAS THE MEANING SET FORTH IN SECTION 14-100 OF THE ELECTION LAW. **<A]**

[A> 2. NO COMMISSIONER, EXECUTIVE DIRECTOR OR OTHER HEAD OF ANY STATE AGENCY, AS THAT TERM IS DEFINED IN PARAGRAPH (G) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THIS CHAPTER, SHALL SEEK NOMINATION OR ELECTION TO ANY COMPENSATED FEDERAL, STATE OR LOCAL PUBLIC OFFICE, OR SHALL BECOME A CANDIDATE FOR SUCH OFFICE, UNLESS SUCH INDIVIDUAL FIRST RESIGNS FROM HIS OR HER PUBLIC EMPLOYMENT, OR REQUESTS AND IS GRANTED BY THEIR APPOINTING AUTHORITY A LEAVE OF ABSENCE WITHOUT PAY. SUCH RESIGNATION OR LEAVE MUST COMMENCE BEFORE SUCH INDIVIDUAL ENGAGES IN

ANY CAMPAIGN ACTIVITIES, INCLUDING BUT NOT LIMITED TO, ANNOUNCING A CANDIDACY, CIRCULATING PETITIONS, SOLICITING CONTRIBUTIONS, DISTRIBUTING LITERATURE, OR TAKING ANY OTHER ACTION TO ACTIVELY PROMOTE ONESELF AS A CANDIDATE FOR ELECTIVE OFFICE. **<A>**

[*32] Section 32. Section 107 of the civil service law is amended by adding a new subdivision 5 to read as follows:

[A> 5. VIOLATION OF THIS SECTION. COMPLAINTS ALLEGING A VIOLATION OF THIS SECTION BY A STATEWIDE ELECTED OFFICIAL OR A STATE OFFICER OR EMPLOYEE, AS DEFINED IN SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, MAY BE DIRECTED TO THE STATE ETHICS COMMISSION. **<A]**

[*33] Section 33. Section 80 of the legislative law, as added by chapter 813 of the laws of 1987, subdivisions 1 and 10 as amended and paragraph c of subdivision 11 as added by chapter 165 of the laws of 2005 and subdivision 12 as amended by chapter 242 of the laws of 1989, is amended to read as follows:

Section 80. Legislative ethics **[D>** committee **<D]** **[A>** COMMISSION **<A]** ; functions, powers and duties; review of financial disclosure statements; advisory opinions; investigation and enforcement.

1. There is established a legislative ethics **[D>** committee **<D]** **[A>** COMMISSION **<A]** which shall consist of **[D>** eight members of the legislature and shall have and exercise the powers and duties set forth in this section only with respect to members of the legislature, legislative employees as defined in section seventy-three of the public officers law, candidates for member of the legislature and individuals who have formerly held such positions or who have formerly been such candidates. **<D]** **[A>** NINE MEMBERS. FOUR MEMBERS SHALL BE MEMBERS OF THE LEGISLATURE AND SHALL BE APPOINTED AS FOLLOWS: ONE BY THE TEMPORARY PRESIDENT OF THE SENATE, ONE BY THE SPEAKER OF THE ASSEMBLY, ONE BY THE MINORITY LEADER OF THE SENATE AND ONE BY THE MINORITY LEADER OF THE ASSEMBLY. THE REMAINING FIVE MEMBERS SHALL NOT BE PRESENT OR FORMER MEMBERS OF THE LEGISLATURE, CANDIDATES FOR MEMBER OF THE LEGISLATURE, EMPLOYEES OF THE LEGISLATURE, POLITICAL PARTY CHAIRMEN AS DEFINED IN PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, OR LOBBYISTS, AS DEFINED IN SECTION ONE-C OF THIS CHAPTER, OR PERSONS WHO HAVE BEEN EMPLOYEES OF THE LEGISLATURE, POLITICAL PARTY CHAIRMEN AS DEFINED IN PARAGRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, OR LOBBYISTS, AS DEFINED IN SECTION ONE-C OF THIS CHAPTER IN THE PREVIOUS FIVE YEARS, AND SHALL BE APPOINTED AS FOLLOWS: ONE BY THE TEMPORARY PRESIDENT OF THE SENATE, ONE BY THE SPEAKER OF THE ASSEMBLY, ONE BY THE MINORITY LEADER OF THE SENATE, ONE BY THE MINORITY LEADER OF THE ASSEMBLY, AND ONE JOINTLY BY THE SPEAKER OF THE ASSEMBLY AND MAJORITY LEADER OF THE SENATE. THE COMMISSION SHALL SERVE AS DESCRIBED IN THIS SECTION AND HAVE AND EXERCISE THE POWERS AND DUTIES SET FORTH IN THIS SECTION ONLY WITH RESPECT TO MEMBERS OF THE LEGISLATURE, LEGISLATIVE EMPLOYEES AS DEFINED IN SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, CANDIDATES FOR MEMBER OF THE LEGISLATURE AND INDIVIDUALS WHO HAVE FORMERLY HELD SUCH POSITIONS OR WHO HAVE FORMERLY BEEN SUCH CANDIDATES. **<A]**

2. **[D>** Two members of the committee shall be appointed by the temporary

president of the senate, two by the speaker of the assembly, two by the minority leader of the senate, and two by the minority leader of the assembly. <D>

[D> 3. Members of the committee shall serve for terms of two years concurrent with their legislative terms of office. <D> [A> MEMBERS OF THE LEGISLATURE WHO SERVE ON THE COMMISSION SHALL EACH HAVE A TWO YEAR TERM CONCURRENT WITH THEIR LEGISLATIVE TERMS OF OFFICE. THE MEMBERS OF THE COMMISSION WHO ARE NOT MEMBERS OF THE LEGISLATURE AND WHO ARE FIRST APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADER OF THE SENATE, AND MINORITY LEADER OF THE ASSEMBLY SHALL SERVE ONE, TWO, THREE AND FOUR YEAR TERMS, RESPECTIVELY. THE MEMBER OF THE COMMISSION FIRST APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY SHALL SERVE A FOUR YEAR TERM. EACH MEMBER OF THE COMMISSION WHO IS NOT A MEMBER OF THE LEGISLATURE SHALL BE APPOINTED THEREAFTER FOR A TERM OF FOUR YEARS. <A>

[D> 4. <D> [A> 3. <A> The temporary president of the senate and the speaker of the assembly shall each designate one member of the [D> committee from his respective house <D> [A> COMMISSION <A> as a co-chairperson thereof. The [A> COMMISSION SHALL MEET AT LEAST BI-MONTHLY AND AT SUCH ADDITIONAL TIMES AS MAY BE CALLED FOR BY THE <A> co-chairpersons jointly or any [D> three <D> FIVE members of the [D> committee may call a meeting <D> [A> COMMISSION <A> .

[D> 5. <D> [A> 4. <A> Any vacancy occurring on the [D> committee <D> [A> COMMISSION <A> shall be filled within [D> sixty <D> [A> THIRTY <A> days by the appointing authority.

[D> 6. <D> [A> 5. <A> Five members of the [D> committee <D> [A> COMMISSION <A> shall constitute a quorum, and the [D> committee <D> [A> COMMISSION <A> shall have power to act by majority vote of the total number of members of the [D> committee <D> [A> COMMISSION <A> without vacancy.

[D> 7. <D> [A> 6. <A> The members of the [D> committee <D> [A> COMMISSION <A> shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

[D> 8. <D> [A> 7. <A> The [D> committee <D> [A> COMMISSION <A> shall:

a. Appoint an executive director who shall act in accordance with the policies of the [D> committee <D> [A> COMMISSION <A> ;

b. Appoint such other staff as are necessary to [A> ASSIST IT TO <A> carry out its duties under this section;

c. Adopt, amend, and rescind [A> POLICIES <A> , rules and regulations [A> CONSISTENT WITH THIS SECTION <A> to govern procedures of the [D> committee <D> [A> COMMISSION <A> which shall not be subject to the promulgation and hearing requirements of the state administrative procedure act [D> , which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with the committee may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which in

all cases of justifiable cause or undue hardship no further extension of time will be granted **<D>** ;

d. **[A>** ADMINISTER THE PROVISIONS OF THIS SECTION; **<A]**

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

[A> F. **<A]** Promulgate guidelines to assist appointing authorities in determining which persons hold policy-making positions for purposes of section seventy-three-a of the public officers law and may promulgate guidelines to assist firms, associations and corporations in separating affected persons from net revenues for purposes of subdivision ten of section seventy-three of the public officers law, and promulgate guidelines to assist any firm, association or corporation in which any present or former statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman is a member, associate, retired member, of counsel or shareholder, in complying with the provisions of subdivision ten of section seventy-three of the public officers law with respect to the separation of such present or former statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman from the net revenues of the firm, association or corporation. Such firm, association or corporation shall not be required to adopt the procedures contained in the guidelines to establish compliance with subdivision ten of section seventy-three of the public officers law, but if such firm, association or corporation does adopt such procedures, it shall be deemed to be in compliance with such subdivision ten;

[D> e. **<D]** **[A>** G. **<A]** Make available forms for financial disclosure statements required to be filed pursuant to subdivision six of section seventy-three and section seventy-three-a of the public officers law;

[D> f. **<D]** **[A>** H. **<A]** Review financial disclosure statements in accordance with the provisions of this section, provided however, that the **[D>** committee **<D]** **[A>** COMMISSION **<A]** may delegate all or part of the review function relating to financial disclosure statements filed by legislative employees pursuant to sections seventy-three and seventy-three-a of the public officers law to the executive director who shall be responsible for completing staff review of such statements in a manner consistent with the terms of the **[D>** committee's **<D]** **[A>** COMMISSION'S **<A]** delegation;

[D> g. Receive complaints alleging a violation of section seventy-three, seventy-three-a or seventy-four of the public officers law; **<D]**

[D> h. **<D]** **[A>** I. **<A]** Permit any person required to file a financial disclosure statement to request the **[D>** committee **<D]** **[A>** COMMISSION **<A]** to delete from the copy thereof made available for public inspection **[A>** AND COPYING **<A]** one or more items of information, which may be deleted by the **[D>** committee, after denial of a request for deletion made to the legislative advisory council as provided in subdivision seventeen of this section, **<D]** **[A>** COMMISSION **<A]** upon

a finding **[D]** by a majority of the total number of members of the committee without vacancy **<D]** that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting person's official duties **[D]** . In the event that four members of the committee find in favor of the request and four members find against the request, a deciding vote shall be cast by an advisory member to the committee who shall be a person, other than a member of the legislature, legislative employee, person employed as a lobbyist, officer in a political party or member of the legislative advisory council, designated by joint nomination of the temporary president of the senate and the speaker of the assembly. If such request for deletion is denied, the committee, in its notification of denial, shall inform the person of his or her right to appeal the committee's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section. The committee shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council **<D]** ;

[D] i. **<D]** **[A]** J. **<A]** Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted by the **[D]** committee, after denial of a request for exemption made to the legislative advisory council as provided in subdivision seventeen of this section, **<D]** **[A]** COMMISSION **<A]** upon a finding **[D]** by a majority of the total number of members of the committee without vacancy **<D]** that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties **[D]** . In the event that four members of the committee find in favor of the request and four members find against the request, a deciding vote shall be cast by an advisory member to the committee who shall be a person, other than a member of the legislature, legislative employee, person employed as a lobbyist, officer in a political party or member of the legislative advisory council, designated by joint nomination of the temporary president of the senate and the speaker of the assembly. If such request for exemption is denied, the committee, in its notification of denial, shall inform the person of his or her right to appeal the committee's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section. The committee shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council **<D]** ;

[D] j. **<D]** **[A]** K. **<A]** Advise and assist the legislature in establishing rules and regulations relating to possible conflicts between private interests and official duties of present members of the legislature and legislative employees;

[D] k. Prepare an annual report to the legislature summarizing the activities of the committee and recommending changes in the laws governing the conduct of members of the legislature and legislative employees. **<D]**

l. **[D]** Upon certification of a question by the public advisory council to the committee, as provided in paragraph h of subdivision eighteen of this section, the committee may determine a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition of requests for exemption or deletion or

prevent undue complication in complying with the requirements of such section. **<D]**
[A> RECEIVE AND ACT ON COMPLAINTS REGARDING PERSONS SUBJECT TO ITS JURISDICTION ALLEGING A POSSIBLE VIOLATION OF SECTION SEVENTY-THREE, SEVENTY-THREE-A OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, AND CONDUCT SUCH INVESTIGATIONS AND PROCEEDINGS AS ARE AUTHORIZED AND NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION. IN CONNECTION WITH SUCH INVESTIGATIONS, THE COMMISSION MAY ADMINISTER OATHS OR AFFIRMATIONS, SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE AND REQUIRE THE PRODUCTION OF ANY BOOKS OR RECORDS WHICH IT MAY DEEM RELEVANT OR MATERIAL; **<A]**

[A> M. ACCEPT AND ACT UPON, AS IF IT WERE A SWORN COMPLAINT, ANY REFERRAL FROM ANOTHER STATE OVERSIGHT BODY INDICATING THAT A VIOLATION OF SECTION SEVENTY-THREE OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW MAY HAVE OCCURRED INVOLVING PERSONS SUBJECT TO THE JURISDICTION OF THE COMMISSION; **<A]**

[A> N. UPON WRITTEN REQUEST FROM ANY PERSON WHO IS SUBJECT TO THE JURISDICTION OF THE COMMISSION AND THE REQUIREMENTS OF SECTIONS SEVENTY-THREE, SEVENTY-THREE-A AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, RENDER FORMAL ADVISORY OPINIONS ON THE REQUIREMENTS OF SAID PROVISIONS. A FORMAL OPINION RENDERED BY THE COMMISSION, UNTIL AND UNLESS AMENDED OR REVOKED, SHALL BE BINDING ON THE COMMISSION IN ANY SUBSEQUENT PROCEEDING CONCERNING THE PERSON WHO REQUESTED THE OPINION AND WHO ACTED IN GOOD FAITH, UNLESS MATERIAL FACTS WERE OMITTED OR MISSTATED BY THE PERSON IN THE REQUEST FOR AN OPINION. SUCH OPINION MAY ALSO BE RELIED UPON BY SUCH PERSON, AND MAY BE INTRODUCED AND SHALL BE A DEFENSE IN ANY CRIMINAL OR CIVIL ACTION; **<A]**

[A> O. ISSUE AND PUBLISH GENERIC ADVISORY OPINIONS COVERING QUESTIONS FREQUENTLY POSED TO THE COMMISSION, OR QUESTIONS COMMON TO A CLASS OR DEFINED CATEGORY OF PERSONS, OR THAT WILL TEND TO PREVENT UNDUE REPETITION OF REQUESTS OR UNDUE COMPLICATION, AND WHICH ARE INTENDED TO PROVIDE GENERAL GUIDANCE AND INFORMATION TO PERSONS SUBJECT TO THE COMMISSION'S JURISDICTION; **<A]**

[A> P. DEVELOP EDUCATIONAL MATERIALS AND TRAINING WITH REGARD TO LEGISLATIVE ETHICS FOR MEMBERS OF THE LEGISLATURE AND LEGISLATIVE EMPLOYEES; AND **<A]**

[A> Q. PREPARE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE SUMMARIZING THE ACTIVITIES OF THE COMMISSION DURING THE PREVIOUS YEAR AND RECOMMENDING ANY CHANGES IN THE LAWS GOVERNING THE CONDUCT OF PERSONS SUBJECT TO THE JURISDICTION OF THE COMMISSION, OR THE RULES, REGULATIONS AND PROCEDURES GOVERNING THE COMMISSION'S CONDUCT. SUCH REPORT SHALL INCLUDE: (I) A LISTING BY ASSIGNED NUMBER OF EACH COMPLAINT AND REFERRAL RECEIVED WHICH ALLEGED A POSSIBLE VIOLATION WITHIN ITS JURISDICTION, INCLUDING THE CURRENT STATUS OF EACH COMPLAINT, AND (II) WHERE A MATTER HAS BEEN RESOLVED, THE DATE AND NATURE OF THE DISPOSITION AND ANY SANCTION IMPOSED, SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF THIS SECTION. SUCH ANNUAL REPORT SHALL NOT CONTAIN ANY INFORMATION FOR WHICH DISCLOSURE IS NOT PERMITTED PURSUANT TO SUBDIVISION FOURTEEN OF THIS SECTION. **<A]**

[D] 9. **<D>** **[A]** 8. **<A>** The **[D]** committee **<D>** **[A]** COMMISSION **<A>** , or the executive director and staff of the **[D]** committee **<D>** **[A]** COMMISSION **<A>** if responsibility regarding such financial disclosure statements filed by legislative employees has been delegated, shall inspect all financial disclosure statements filed with the **[D]** committee **<D>** **[A]** COMMISSION **<A>** to ascertain whether any person subject to the reporting requirements of subdivision six of section seventy-three or section seventy-three-a of the public officers law has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law.

[D] 10. **<D>** **[A]** 9. **<A>** If a person required to file a financial disclosure statement with the **[D]** committee **<D>** **[A]** COMMISSION **<A>** has failed to file a financial disclosure statement or has filed a deficient statement, the **[D]** committee **<D>** **[A]** COMMISSION **<A>** shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the **[D]** committee **<D>** **[A]** COMMISSION **<A>** shall send a notice of delinquency: (a) to the reporting person; (b) in the case of a senator, to the temporary president of the senate, and if a member of assembly, to the speaker of the assembly; and (c) in the case of a legislative employee, to the appointing authority for such person and to the temporary president of the senate and/or the speaker of the assembly, as the case may be, who has jurisdiction over such appointing authority. Such notice of delinquency may be sent at any time during the reporting person's service as a member of the legislature or legislative employee or while a candidate for member of the legislature, or within one year after separation from such service or the termination of such candidacy. The jurisdiction of the **[D]** committee **<D>** **[A]** COMMISSION **<A>** , when acting pursuant to subdivision **[D]** twelve **<D>** **[A]** ELEVEN **<A>** of this section with respect to financial disclosure, shall continue notwithstanding that the reporting person separates from state service or terminates his or her candidacy, provided the **[D]** committee **<D>** **[A]** COMMISSION **<A>** notifies such person of the alleged failure to file or deficient filing pursuant to this subdivision.

[D] 11. **<D>** **[A]** 10. **<A>** a. If a reporting person has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law, **[A]** OR THE COMMISSION RECEIVES A REFERRAL FROM ANOTHER STATE OVERSIGHT BODY, **<A>** or the **[D]** committee **<D>** **[A]** COMMISSION **<A>** receives a sworn complaint alleging such a violation by a reporting person or a legislative employee subject to the provisions of **[D]** section seventy-three of the public officers law **<D>** **[A]** SUCH LAWS **<A>** , or if the **[D]** committee **<D>** **[A]** COMMISSION **<A>** determines on its own initiative to investigate a possible violation by a reporting person or a legislative employee subject to the provisions of **[D]** section seventy-three of the public officers law **<D>** **[A]** SUCH LAWS **<A>** , the **[D]** committee **<D>** **[A]** COMMISSION **<A>** shall notify the reporting person in writing, describe the possible or alleged violation **[D]** of such section seventy-three, seventy-three-a or seventy-four **<D>** **[A]** THEREOF **<A>** and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the **[D]** committee **<D>** **[A]** COMMISSION **<A>** thereafter

makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. The **[D]** committee **<D>** **[A]** COMMISSION **<A>** shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the **[D]** committee **<D>** **[A]** COMMISSION **<A>** determines at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any. All of the foregoing proceedings shall be confidential.

b. If the **[D]** committee **<D>** **[A]** COMMISSION **<A>** determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause: (i) to the reporting person; (ii) to the complainant if any; (iii) in the case of a senator, to the temporary president of the senate, and if a member of the assembly, to the speaker of the assembly; and (iv) in the case of a legislative employee, to the appointing authority for such person and to the temporary president of the senate and/or the speaker of the assembly, as the case may be, who has jurisdiction over such appointing authority.

c. The jurisdiction of the **[D]** committee **<D>** **[A]** COMMISSION **<A>** when acting pursuant to this section shall continue notwithstanding that a member of the legislature or a legislative employee separates from state service, or a candidate for member of the legislature ceases to be a candidate, provided that the **[D]** committee **<D>** **[A]** COMMISSION **<A>** notifies such individual of the alleged violation of law pursuant to paragraph a of this subdivision within one year from his or her separation from state service or the termination of his or her candidacy. Nothing in this section shall serve to limit the jurisdiction of the **[D]** committee **<D>** **[A]** COMMISSION **<A>** in enforcement of subdivision eight of section seventy-three of the public officers law.

[D] 12. **<D>** **[A]** 11. **<A>** An individual **[A]** SUBJECT TO THE JURISDICTION OF THE COMMISSION **<A>** who knowingly and intentionally violates the provisions of subdivisions two through five **[D]** or subdivision **<D>** **[A]** , **<A>** seven, eight **[D]** or **<D>** **[A]** , **<A>** twelve, **[A]** FOURTEEN OR FIFTEEN **<A>** of section seventy-three of the public officers law or a reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law shall be subject to a civil penalty in an amount not to exceed **[D]** ten **<D>** **[A]** FORTY **<A>** thousand dollars **[A]** AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. ANY SUCH INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH B, C, D, OR I OF SUBDIVISION THREE OF SECTION SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS AND THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION. ANY SUCH INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY VIOLATES THE PROVISIONS OF PARAGRAPH A, E OR G OF SUBDIVISION THREE OF SECTION SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT EQUAL TO THE VALUE OF ANY GIFT, COMPENSATION OR BENEFIT RECEIVED AS A RESULT OF SUCH VIOLATION **<A>** . Assessment of a civil penalty hereunder shall be made by the **[D]** committee **<D>** **[A]** COMMISSION **<A>** with respect to persons subject to

its jurisdiction. **[A]** IN ASSESSING THE AMOUNT OF THE CIVIL PENALTIES TO BE IMPOSED, THE COMMISSION SHALL CONSIDER THE SERIOUSNESS OF THE VIOLATION, THE AMOUNT OF GAIN TO THE INDIVIDUAL AND WHETHER THE INDIVIDUAL PREVIOUSLY HAD ANY CIVIL OR CRIMINAL PENALTIES IMPOSED PURSUANT TO THIS SECTION, AND ANY OTHER FACTORS THE COMMISSION DEEMS APPROPRIATE. **<A]** For a violation of this section, other than for conduct which constitutes a violation of subdivision twelve, **[A]** FOURTEEN OR FIFTEEN **<A]** of section seventy-three **[A]** OR SECTION SEVENTY-FOUR **<A]** of the public officers law, the legislative ethics **[D]** committee **<D]** **[A]** COMMISSION **<A]** may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of section seventy-three of the public officers law, except that the appointing authority may impose disciplinary action as otherwise provided by law. The legislative ethics **[D]** committee **<D]** **[A]** COMMISSION **<A]** 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 and **[D]** committee **<D]** **[A]** COMMISSION **<A]** denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in paragraph **[D]** h **<D]** **[A]** I **<A]** or paragraph **[D]** i **<D]** **[A]** J **<A]** of subdivision **[D]** eight **<D]** **[A]** SEVEN **<A]** of this section. Such rules, which shall not be subject to the promulgation and hearing requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or **[D]** committee **<D]** **[A]** COMMISSION **<A]** denial of such a **[A]** DELETION OR EXEMPTION **<A]** request shall be final unless modified, suspended or vacated within thirty days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the legislative ethics **[D]** committee **<D]** **[A]** COMMISSION **<A]** , pursuant to article seventy-eight of the civil practice law and rules.

[A] 12. IF THE COMMISSION HAS A REASONABLE BASIS TO BELIEVE THAT ANY PERSON SUBJECT TO THE JURISDICTION OF ANOTHER STATE OVERSIGHT BODY MAY HAVE VIOLATED SECTION SEVENTY-THREE OR SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, SECTION ONE HUNDRED SEVEN OF THE CIVIL SERVICE LAW, OR ARTICLE ONE-A OF THIS CHAPTER, IT SHALL REFER SUCH VIOLATION TO SUCH OVERSIGHT BODY UNLESS THE COMMISSION DETERMINES THAT SUCH A REFERRAL WOULD COMPROMISE THE PROSECUTION OR CONFIDENTIALITY OF ITS INVESTIGATIONS AND, IF SO, SHALL MAKE SUCH A REFERRAL AS SOON AS PRACTICABLE. THE REFERRAL BY THE COMMISSION SHALL INCLUDE ANY INFORMATION RELATING THERETO COMING INTO THE CUSTODY OR UNDER THE CONTROL OF THE COMMISSION AT ANY TIME PRIOR OR SUBSEQUENT TO THE TIME OF THE REFERRAL. **<A]**

[A] 13. **<A]** A copy of any notice of delinquency or notice of reasonable cause sent

pursuant to subdivisions **[D]** ten **<D]** **[A]** NINE **<A]** and **[D]** eleven **<D]** **[A]** TEN **<A]** of this section shall be included in the reporting person's file and be available for public inspection **[A]** AND COPYING **<A]** .

14. **[D]** Upon written request from any person who is subject to the requirements of sections seventy-three, seventy-three-a and seventy-four of the public officers law, the committee shall render advisory opinions on the requirements of said provisions. An opinion rendered by the committee, until and unless amended or revoked, shall be binding on the committee in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense in any criminal or civil action. Such requests shall be confidential, but the committee may publish such opinions provided that the name of the requesting person and other identifying details shall not be included in the publication. **<D]**

[D] 15. In addition to any other powers and duties specified by law, the committee shall have the power and duty to: **<D]**

[D] a. Administer and enforce all the provisions of this section; **<D]**

[D] b. Conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the committee may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material. **<D]**

[D] 16. **<D]** a. Notwithstanding the provisions of article six of the public officers law, the only records of the **[D]** committee **<D]** **[A]** COMMISSION **<A]** which shall be available for public inspection **[A]** AND COPYING **<A]** are:

(1) the information set forth in an annual statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law except the categories of value or amount which shall be confidential, and any other item of information deleted pursuant to paragraph **[D]** h **<D]** **[A]** I **<A]** of subdivision **[D]** eight **<D]** **[A]** SEVEN **<A]** of this section;

(2) financial disclosure statements filed pursuant to subdivision six of section seventy-three of the public officers law;

(3) notices of delinquency sent under subdivision **[D]** ten **<D]** **[A]** NINE **<A]** of this section;

(4) notices of reasonable cause sent under paragraph b of subdivision **[D]** eleven **<D]** **[A]** TEN **<A]** of this section; **[D]** and **<D]**

(5) notices of civil assessment imposed under this section **[D]** . **<D]** **[A]** WHICH SHALL INCLUDE A DESCRIPTION OF THE NATURE OF THE ALLEGED WRONGDOING, THE PROCEDURAL HISTORY OF THE COMPLAINT, THE FINDINGS AND DETERMINATIONS MADE BY THE COMMISSION, AND ANY SANCTION IMPOSED; **<A]**

[A] (6) THE TERMS OF ANY SETTLEMENT OR COMPROMISE OF A COMPLAINT OR REFERRAL WHICH INCLUDES A FINE, PENALTY OR OTHER REMEDY; **<A]**

[A> (7) GENERIC ADVISORY OPINIONS; AND <A]

[A> (8) ALL REPORTS REQUIRED BY THIS SECTION. <A]

b. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the **[D> committee <D] [A> COMMISSION <A]** shall be open to the public, except if expressly provided otherwise by **[A> THIS SECTION OR <A]** the **[D> committee <D] [A> COMMISSION <A]** .

[D> c. Pending any application for deletion or exemption either to the legislative advisory council or to the committee upon appeal of an adverse determination by the legislative advisory council, all information which is the subject or a part of the application shall remain confidential. Upon an adverse determination by the committee, the reporting individual may request, and upon such request the committee shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns his office and holds no other office subject to the jurisdiction of the committee, the information shall not be made public and shall be expunged in its entirety. **<D]**

[D> 17. a. There is established within the legislative ethics committee a legislative advisory council which shall consist of five members and shall have and exercise the powers and duties set forth in this subdivision. **<D]**

[D> b. Three members of the legislative advisory council shall be persons, other than members of the legislature or legislative employees or persons employed as lobbyists or officers in any political party, no more than two of whom shall belong to the same political party, who shall be appointed upon the joint nomination of the temporary president of the senate and the speaker of the assembly. The chairman of the senate judiciary committee and the chairman of the assembly judiciary committee shall also serve as members of the legislative advisory council. **<D]**

[D> c. Members of the legislative advisory council shall serve for terms of two years or, in the case of members of the legislature, during their term in office as chairmen of their respective judiciary committees. **<D]**

[D> d. One member of the legislative advisory council, other than a member who is also a member of the legislature shall be designated chairman of the legislative advisory council. The chairman or any three members of the committee may call a meeting. **<D]**

[D> e. Any vacancy occurring on the legislative advisory council shall be filled within sixty days of its occurrence in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he succeeds. **<D]**

[D> f. Three members of the legislative advisory council shall constitute a quorum, and the legislative advisory council shall have power to act by majority vote of the total number of members of the legislative advisory council without vacancy. **<D]**

[D> g. The legislative advisory council shall: **<D]**

[D> (1) Permit any person required to file a financial disclosure statement to request the legislative advisory council to delete from the copy thereof made available for public inspection one or more items of information which may be deleted by such council upon a finding by a majority of the total number of members of such council without vacancy that the information which would otherwise be available for public inspection will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, such council, in its notification of denial, shall inform the person of his or her right to appeal the council's determination to the committee pursuant to the committee's rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section; and **<D]**

[D> (2) Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted upon a finding by a majority of the total number of members of the legislative advisory council without vacancy that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the council in its notification of denial, shall inform the person of his or her right to appeal the council's determination to the committee pursuant to the committee's rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section. **<D]**

[D> h. Where the council is of the opinion that a determination of a question common to a class or defined category of persons or items of information with respect to requests for deletion or exemption will prevent undue repetition of such requests or undue complication, the council may certify the question to the committee for resolution and disposition in accordance with paragraph l of subdivision eight of this section. **<D]**

[A> 15. WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE COMMISSION SHALL CREATE AND THEREAFTER MAINTAIN A PUBLICLY ACCESSIBLE WEBSITE WHICH SHALL SET FORTH THE PROCEDURE FOR FILING A COMPLAINT WITH THE COMMISSION, AND WHICH SHALL CONTAIN THE DOCUMENTS IDENTIFIED IN SUBDIVISION FOURTEEN OF THIS SECTION, OTHER THAN FINANCIAL DISCLOSURE STATEMENTS, AND ANY OTHER RECORDS OR INFORMATION WHICH THE COMMISSION DETERMINES TO BE APPROPRIATE. **<A]**

[A> 16. THIS SECTION SHALL NOT REVOKE OR RESCIND ANY POLICIES, RULES, REGULATIONS OR ADVISORY OPINIONS ISSUED BY THE LEGISLATIVE ETHICS COMMITTEE IN EFFECT UPON THE EFFECTIVE DATE OF THIS SUBDIVISION, TO THE EXTENT THAT SUCH REGULATIONS OR OPINIONS ARE NOT INCONSISTENT WITH ANY LAWS OF THE STATE OF NEW YORK. THE LEGISLATIVE ETHICS COMMISSION SHALL UNDERTAKE A COMPREHENSIVE REVIEW OF ALL SUCH POLICIES, RULES, REGULATIONS OR ADVISORY OPINIONS WHICH WILL ADDRESS THE CONSISTENCY OF SUCH POLICIES, RULES, REGULATIONS OR ADVISORY OPINIONS WITH THE LAWS OF THE STATE OF NEW YORK. THE LEGISLATIVE ETHICS COMMISSION SHALL, BEFORE APRIL FIRST, TWO THOUSAND EIGHT, REPORT TO THE GOVERNOR AND LEGISLATURE REGARDING SUCH REVIEW AND SHALL PROPOSE ANY REGULATORY CHANGES AND ISSUE ANY ADVISORY OPINIONS NECESSITATED BY

SUCH REVIEW. <A]

[A> 17. SEPARABILITY CLAUSE. IF ANY PART OR PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON IS ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR OTHERWISE INVALID, SUCH JUDGMENT SHALL NOT AFFECT OR IMPAIR ANY OTHER PART OR PROVISION OR THE APPLICATION THEREOF TO ANY OTHER PERSON, BUT SHALL BE CONFINED TO SUCH PART OR PROVISION. <A]

[*34] Section 34. Paragraph (b) of subdivision 6 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, is amended to read as follows:

(b) Copies of such statements shall be open [D> to <D] [A> FOR <A] public inspection [A> AND COPYING <A] .

[*35] Section 35. Section 8 of chapter 2 of the laws of 1999, amending the legislative law relating to enacting the lobbying act, as amended by chapter 19 of the laws of 2002, is amended to read as follows:

Section 8. This act shall take effect January 1, 2000, provided that paragraph (ii) of subdivision (c) of section 1-c of the legislative law, as added by section two of this act shall take effect April 1, 2002 except that prior to January 1, 2000 the New York temporary state commission on lobbying, created pursuant to section 1 of chapter 1040 of the laws of 1981, shall prepare for the orderly transition of duties between it and the New York temporary state commission on lobbying created pursuant to section 1-d of the legislative law, as added by section two of this act, and the implementation of the provisions of chapter 1040 of the laws of 1981 and of this act; and provided further that the authority of the New York temporary state commission on lobbying pursuant to paragraph 2-a of subdivision (c) of section 1-d of the legislative law, as added by section two of this act, shall apply to reports or registration statements filed or required to be filed after January 1, 2000; [D> and provided further that this act shall remain in effect until December 31, 2007 at which time the provisions of this act shall be repealed; however, the existence of the New York temporary state commission on lobbying shall continue until March 31, 2008 for the purpose of receiving and processing registrations and reports required to be filed pursuant to sections 1-e, 1-h, 1-i and 1-j of the legislative law as added by section two of this act; <D] provided, further, that the provisions of sections three and four of this act shall be repealed January 1, 2003.

[*36] Section 36. All powers, duties and functions conferred upon the temporary state commission on lobbying, the state ethics commission, their commissioners and executive directors, shall be transferred to and assumed by the commission on public integrity and the commissioners and executive directors to be appointed thereof.

[*37] Section 37. Transfer of employees. Upon the transfer of the functions, as provided for in this act any affected employees shall be transferred to the commission on public integrity in accordance with section 70 of the civil service law.

[*38] Section 38. Transfer of records. The temporary state commission on lobbying and the state ethics commission, shall deliver to the commission on public integrity all books, papers, records, and property as requested by the commission on public integrity pursuant to this act.

[*39] Section 39. Continuity of authority. For the purpose of succession to all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by it pursuant to this act, the commission on public integrity shall be deemed and held to constitute the continuation of the temporary state commission on lobbying and the state ethics commission pertaining to the powers and functions herein transferred.

[*40] Section 40. Completion of unfinished business. Any business or other matter undertaken or commenced by the temporary state commission on lobbying and the state ethics commission pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the commission on public integrity, and pending on the effective date of this act may be conducted and completed by the commission on public integrity in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the former temporary state commission on lobbying and the state ethics commission.

[*41] Section 41. Terms occurring in laws, contracts and other documents. Whenever the temporary state commission on lobbying and the state ethics commission are referred to or designated in any law, contract or documents pertaining to the functions, powers, obligations and duties hereby transferred and assigned to the commission on public integrity, such reference or designation shall be deemed to refer to the commission on public integrity as created by this act.

[*42] Section 42. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by reason of this act.

[*43] Section 43. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the temporary state commission on lobbying or the state ethics commission relating to the function, power or duty transferred to or devolved upon the commission on public integrity shall be affected by this act, but the same may be prosecuted or defended in the name of the commission on public integrity and upon application to the court, the commission on public integrity shall be substituted as a party.

[*44] Section 44. Notwithstanding any contrary provision of the state finance law, transfer of appropriations heretofore made to the temporary state commission on lobbying and the state ethics commission, all appropriations or reappropriations for the functions herein transferred heretofore made to the temporary state commission on lobbying and the state ethics commission or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, are hereby transferred to the commission on public integrity to the extent necessary to carry out the commission on public integrity's functions, powers and duties subject to the approval of the director of the budget for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commission on public integrity on audit and warrant of the comptroller.

[*45] Section 45. Separability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or

part thereof directly involved in the controversy in which such judgment shall have been rendered.

[*46] Section 46. This act shall take effect on the thirtieth day after it shall have become a law provided, however:

1. sections two, three through eight, eleven, thirty-six and thirty-eight through forty-four of this act shall take effect on the one hundred eightieth day after it shall have become a law;
2. section twelve of this act shall take effect April 1, 2007;
3. section ten of this act shall take effect December 31, 2007;
4. section eighteen of this act shall take effect on January 1, 2008;
5. section twenty-five of this act shall take effect December 31, 2008 and shall be applicable only to those individuals who serve as legislative employees on or after such date; and
6. section twenty-six of this act shall take effect immediately and shall be applicable only to those individuals who serve as officers or employees in the executive chamber of the governor on or after such date.

HISTORY:

Enacted March 26, 2007