

New York State Public Officers Law

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New York State Public Officers Law

Article 1 SHORT TITLE; DEFINITIONS

Section 1. Short title

This chapter shall be known as the "Public Officers Law."

Section 2. Definitions

The term "state officer" includes every officer for whom all the electors of the state are entitled to vote, members of the legislature, justices of the supreme court, regents of the university, and every officer, appointed by one or more state officers, or by the legislature, and authorized to exercise his official functions throughout the entire state, or without limitation to any political subdivision of the state, except United States senators, members of congress, and electors for president and vice-president of the United States. The term "local officer" includes every other officer who is elected by the electors of a portion only of the state, every officer of a political subdivision or municipal corporation of the state, and every officer limited in the execution of his official functions to a portion only of the state. The office of a state officer is a state office. The office of a local officer is a local office.

Article 2 APPOINTMENT AND QUALIFICATION OF PUBLIC OFFICERS

Section 3. Qualifications for holding office

1. No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, have attained the age of eighteen years, except that in the case of youth boards, youth commissions or recreation commissions only, members of such boards or commissions may be under the age of eighteen years, but must have attained the age of sixteen years on or before appointment to such youth board, youth commission or recreation commission, be a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised, or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.
2. Neither the provisions of this section or of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall apply to the appointment of a person as a member of the police force of any political subdivision or municipal corporation of the state if such person resides (a) in the county in which such political subdivision or municipal corporation is located; or (b) in a county within the state contiguous to the county in which such political subdivision or municipal corporation is located; or (c) in a county within the state contiguous to such political subdivision or municipal corporation; or (d) in a county within the state contiguous to a county described in item (c) hereof where the former is less than fifteen miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines; or (e) in a county within the state contiguous to a county described in item (d) hereof where the former is less than thirty miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines.

2-a. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall apply to the appointment of a member of the department of sanitation of any municipality of the state who resides in a county within the state contiguous to such municipality. A member of the department of sanitation of any political subdivision or municipal corporation who has five or more years of service may reside (a) in a county in which such political subdivision or municipal corporation is located; or (b) in a county within the state contiguous to the county in which such political subdivision or municipal corporation is located; or (c) in a county within the state contiguous to such political subdivision or municipal corporation; or (d) in a county within the state which is not more than fifteen miles from such political subdivision or municipal corporation.

* 2-b. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall apply to the appointment of an officer or employee of the parole commission of an municipality of the state if such person resides (a) in a county in which such political subdivision or municipal corporation is located; or (b) in a county within the state contiguous to the county in which such political subdivision or municipal corporation is located; or (c) in a county within the state contiguous to such political subdivision or municipal corporation; or (d) in a county within the state contiguous to a county described in item (c) hereof where the former is less than fifteen miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines.

* NB There are 2 sub 2-b's

* 2-b. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision of the state for which he shall be chosen, shall apply to the appointment of a person, as an emergency special deputy sheriff, by the sheriff of a county who has declared a state of special emergency pursuant to section two hundred nine-f of the general municipal law, if such person is at the time either a regular, part time or special deputy sheriff of another county.

* NB There are 2 sub 2-b's

2-c. Neither the provisions of this section or of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision or municipal corporation of the state within which his or her official functions are required to be exercised, shall apply to a person who is a member of the police department of the city of Yonkers on the effective date of this subdivision. Every such person may reside any place within the counties of Westchester, Dutchess and Orange.

2-d. Neither the provisions of this section nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision or municipal corporation of the state by which he or she is employed, shall apply to a person who is employed as a deputy sheriff by the city of New York and who resides (a) in a county within the state contiguous to such municipality; or (b) in a county within the state contiguous to a county described in paragraph (a) of this subdivision.

3. Nothing herein contained shall operate to prevent a person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the state, from accepting or retaining an appointment as a notary public, as provided in section one

hundred thirty of the executive law, although he resides in or removes to an adjoining state. For the purposes of accepting and retaining an appointment as a notary public such person shall be deemed a resident of the county where he maintains such office for the practice of law.

3-a. Nothing herein contained shall operate to prevent a person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the city of New York, from accepting or retaining an appointment as a commissioner of deeds in and for the city of New York, as provided in section one hundred forty of the executive law, although he resides in or removes to another city in this state or to an adjoining state. For the purposes of accepting and retaining an appointment as a commissioner of deeds in and for the city of New York, such person shall be deemed a resident of the county where he maintains such office.

4. Except as otherwise provided in subdivision nine of this section, persons heretofore or hereafter employed in the paid fire department of a city, town, village or fire district shall not be deemed to be holding a civil office or a local office within the meaning of this section and the provisions of this section shall not apply to such persons. The provisions of any general, special or local law, city or village charter, code or ordinance, or any rule or regulation requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised shall not apply to the appointment or continuance in office of any such person so employed, if such person resides in the county, or one of the counties, in which such political subdivision or municipal corporation is located.

5. Volunteer firemen and volunteer fire officers of a fire department or any company or unit thereof shall not be deemed to be holding a civil office or a local office within the meaning of this section and the provisions of this section shall not apply to such volunteer firemen and volunteer fire officers. This subdivision shall not be deemed to amend, modify or supersede any other general, special or local law, city or village charter, code or ordinance, or any rule or regulation governing any such fire department, which prescribes the qualifications which a person must have to be a volunteer fireman or a volunteer fire officer of a political subdivision or municipal corporation.

6. The provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not apply to the appointment of trustees of a public village library, who reside outside the village in which such library is located.

7. Nothing herein contained shall operate to prevent a person regularly admitted to practice as an attorney and counsellor in the courts of record of this state, whose office for the practice of law is within the state, from accepting or retaining an appointment as a commissioner of deeds in and for the city of New York, as provided in section one hundred forty of the executive law, although he resides in or removes to any other county in the state or an adjoining state. For the purposes of accepting and retaining an appointment as a commissioner of deeds such person shall be deemed a resident of the county where he maintains such office for the practice of law.

8. The provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which his official functions are required to be exercised, shall not apply in the case of any probation officers heretofore or hereafter appointed; nor shall they be applicable in the case of any other persons heretofore or hereafter appointed to non-judicial positions in the courts in this state, except those appointed to positions in courts for towns, villages and cities outside the city of New York. This subdivision shall not be deemed to amend, modify or supersede any other general, special or local law, charter, code or ordinance, or any

rule or regulation which prescribes the qualifications which a person must have to be appointed to a position referred to herein.

9. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall apply to the appointment of a paid member of the uniformed force of a paid fire department, who, for purposes of this section shall include persons employed as fire alarm dispatchers, or to the appointment of any person employed in a department of correction in the correction service classification of the classified civil service, or to the appointment of officers and inspectors who are employees of a department of health of any city of over one million population who resides (a) in the county in which such city is located; or (b) in a county within the state contiguous to the county in which said city is located; or (c) in a county within the state contiguous to such city; or (d) in a county within the state which is not more than fifteen miles from said city.

10. Neither the provisions of this section, nor of any general, special or local law, charter, code or ordinance, resolution, rule or regulation, requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall apply to the appointment of a member of a drug abuse prevention council of any municipality of the state if such person resides in a county in which such political subdivision or municipal corporation is located.

11. In the city of Salamanca the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person regularly admitted to practice as an attorney or counsellor in the courts of record of this state from holding the office of city attorney or city justice of the city of Salamanca, if such person resides in the county in which such city is located.

12. The provisions of this section or of any other provision of law requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not apply to the appointment of public officers in the city of Troy, except the city manager of such city provided that such appointed officers are residents of the county of Rensselaer.

13. In the city of Hudson the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of city court judge of the city of Hudson, provided that such person resides in the county in which such city is located.

14. In the town of Mount Pleasant, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town engineer of the town of Mount Pleasant, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

15. In the town of North Castle, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town engineer or the office of town building inspector of the town of North

Castle, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

16. In the town of New Castle, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town superintendent of highways or town engineer of the town of New Castle, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York or such town provides by resolution that such person need not be a resident of such town, but must be a resident of New York state.

17. In the town of North Salem, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town building inspector or deputy town building inspector of the town of North Salem, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

18. In the town of Mount Pleasant, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of comptroller or building inspector of the town of Mount Pleasant, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

19. Any person who resides in this state and who is currently employed as a member of the police force, a paid member of the uniformed force of a paid fire department or department of corrections in the correctional service classification of the classified civil service, of a city of over one million population, shall be exempt from the provisions of subdivisions one, two and nine of this section upon compliance with the procedure set forth in this subdivision. Any person seeking to benefit from the exemption created by this subdivision shall notify his respective employer in writing of said intention within thirty days from the effective date of this subdivision and shall specify his then current residence address. The exemption created by this subdivision shall be applicable only to said actual designated residence and not to any residence that any subject currently employed member may thereafter establish; provided, however, that any such currently employed member who resides outside this state shall have one year from the effective date of this subdivision within which to establish residence as required pursuant to subdivisions one, two and nine of this section and comply with the notice requirements of this subdivision. Said residence shall constitute a lawful residence for all purposes notwithstanding any provision to the contrary of any general, special or local law, charter, code, ordinance, resolution, rule or regulation.

* 20. In the town of Carmel, Putnam county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town engineer of the town of Carmel or the office of wetlands inspector of the town of Carmel provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 4 sub 20's

* 20. In the town of Bolivar, Allegany county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or

within which his official functions are required to be exercised, shall not prevent a person from holding the office of town superintendent of highways of the town of Bolivar, provided that such person resides in the county in which such town is located.

* NB There are 4 sub 20's

* 20. In the city of Ithaca, Tompkins county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of member of the board of fire commissioners of the city of Ithaca, provided that such person resides in the county in which such city is located and within the town of Ithaca.

* NB There are 4 sub 20's

* 20. In the town of Mamaroneck, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of deputy town clerk of the town of Mamaroneck, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 4 sub 20's

21. In the town of Lewisboro, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town engineer of the town of Lewisboro provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

22. In the town of Lewisboro, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town building inspector or deputy town building inspector of the town of Lewisboro provided that such person resides within the state of New York.

23. In the town of Sweden, Monroe county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Sweden, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* 24. In the town of Greenburgh, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised shall not prevent a person from holding any appointed public office, provided that such person resides in the state of New York.

* NB There are 3 sub 24's

* 24. In the town of Ogden, Monroe county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Ogden, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 3 sub 24's

* 24. In the towns of Aurora, Holland and Marilla, Erie county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of court clerk to the justices of the towns of Aurora, Holland and Marilla provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 3 sub 24's

25. In the town of Patterson, Putnam county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of wetlands inspector provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

26. In the town of Ithaca, Tompkins county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town engineer of the town of Ithaca provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

27. In the town of Bedford, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of court clerk, deputy court clerk or any position within the court clerk's office of the town of Bedford.

28. In respect to public officers employed by Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised shall not prevent a person from holding any appointed public office, provided that such person resides in the state of New York.

29. In the town of Somers, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town engineer of the town of Somers.

31. In the town of Victor, Ontario county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Victor, provided that such person resides in an adjoining town in the county in which such town is located.

* 32. In the village of Penn Yan, Yates county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of justice court clerk of the village of Penn Yan, provided that such person resides in the county in which such village is located or an adjoining county within the state of New York.

* NB There are 2 sub 32's

* 32. In the town of North East, Dutchess county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town engineer of the town of North East, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 2 sub 32's

33. In the Flint Creek Small Watershed Protection district in the counties of Ontario and Yates, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding a district office, provided that such person owns real property within the district boundaries.

* 34. In the town of Hamlin, county of Monroe, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Hamlin, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 3 sub 34's

* 34. In the village of Goshen, Orange county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of treasurer of the village of Goshen, provided that such person resides within the state of New York.

* NB There are 3 sub 34's

* 34. In the town of Grove, Allegany county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of Grove, provided that such person resides in the county in which such town is located. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town unless otherwise provided by an act of the state legislature.

* NB There are 3 sub 34's

* 35. Nothing herein contained shall operate to prevent an otherwise qualified officer or agent of any society for the prevention of cruelty to children in Rockland county from accepting or retaining appointment as a peace officer with such society when such officer or agent satisfies the provisions as to residence set forth in subdivision two of this section.

* NB Repealed August 11, 2014

36. In the village of Arkport, Steuben county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of clerk/treasurer of the village of Arkport, provided that such person resides in the county in which such village is located or an adjoining county within the state of New York.

37. In the town of Independence, Allegany county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of Independence, provided that such person resides in the county in which such town is located. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

38. In the county of Yates, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of assistant district attorney of the county of Yates, other than the first assistant district attorney, provided that such person resides in Yates county or an adjoining county within the state of New York.

38-a. In the county of Yates, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person regularly admitted to practice as an attorney or counselor in the courts of record of this state from holding the office of assistant public defender of the county of Yates, provided that such person resides in the county of Yates or an adjoining county within the state of New York.

39. In the town of Birdsall, Allegany county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of Birdsall, provided that such person resides in the county in which such town is located. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* 40. In the town of West Union, Steuben county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of West Union, provided that such person resides in the county in which such town is located. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* NB There are 4 sub 40's

* 40. In the town of Granger, Allegany county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of Granger, provided that such person resides in the county in which such town is located. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* NB There are 4 sub 40's

* 40. In the town of Somers, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the

office of town building inspector provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 4 sub 40's

* 40. In the town of Pound Ridge, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town superintendent of highways of the town of Pound Ridge provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of town superintendent of highways in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* NB There are 4 sub 40's

* 41. In the county of Putnam, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of deputy sheriff in Putnam county, provided, however, that such person performing the duties and functions of deputy sheriff resides in Putnam county or any adjoining county within New York state unless otherwise provided by an act of the state legislature.

* NB There are 3 sub 41's

* 41. In the town of Somers, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within his official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Somers provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 3 sub 41's

* 41. In the town of Pound Ridge, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of town building inspector of the town of Pound Ridge provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of town building inspector in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* NB There are 3 sub 41's

* 42. In the county of Putnam, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of correction officer in Putnam county, provided, however, that such person performing the duties and functions of correction officer resides in Putnam county or any adjoining county within New York state unless otherwise provided by an act of the state legislature.

* NB There are 2 sub 42's

* 42. In the town of Pound Ridge, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be

chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of deputy building inspector of the town of Pound Ridge provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of deputy building inspector in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* NB There are 2 sub 42's

* 43. In the city of Jamestown, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding such office of director of public works in the city of Jamestown, provided that such person resides in the county in which such city is located.

* NB There are 2 sub 43's

* 43. In the town of Ogden, Monroe county, the provisions of this section requiring a person to be a resident of a political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of building inspection and code enforcement officer of the town of Ogden provided that such person resides in the county in which such town is located. Provided, however, the person performing the functions of building inspection and code enforcement officer in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 2 sub 43's

* 44. In the county of Tioga, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of correction officer in Tioga county, provided, however, that such person performing the duties and functions of correction officer resides in Tioga county or any adjoining county within New York state, unless otherwise provided by an act of the state legislature.

* NB There are 4 sub 44's

* 44. In the town of Hamlin, Monroe county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporations of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town building inspector/code enforcement officer of the town of Hamlin provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of town building inspector/code enforcement officer in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* NB There are 4 sub 44's

* 44. In the town of Clarkson, in the county of Monroe, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of building inspector in the town of Clarkson provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of building inspector in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 4 sub 44's

* 44. In the county of Madison, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of assistant district attorney of the county of Madison, provided that such person resides in Madison county or an adjoining county within the state of New York.

* NB There are 4 sub 44's

* 45. In the town of Hamlin, Monroe county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town fire marshall of the town of Hamlin provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of town fire marshall in any other town shall be a resident of such town, unless otherwise provided by an act of the state legislature.

* NB There are 2 sub 45's

* 45. In the town of Clarkson, in the county of Monroe, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of code enforcement officer in the town of Clarkson provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of code enforcement officer in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 2 sub 45's

* 46. In the town of Andover, in the county of Allegany, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of Andover, provided that such person resides in the county in which such town is located. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 3 sub 46's

* 46. In the town of Somers, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within his official functions are required to be exercised, shall not prevent a person from holding the office of town building inspector provided that such person resides in the county in which such town is located, Dutchess county, or an adjoining county to Westchester county, within the state of New York.

* NB There are 3 sub 46's

* 46. In the city of Mechanicville the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of acting judge of the city court of Mechanicville, provided that such person resides in the county of Saratoga.

* NB There are 3 sub 46's

47. In the town of Somers, Westchester county, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within his official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Somers provided that such person resides in the county in which such town is located, Dutchess county, or an adjoining county to Westchester county, within the state of New York.

* 48. In the town of Colesville, in the county of Broome, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Colesville, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of court clerk in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 3 sub 48's

* 48. In the county of Fulton, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of deputy sheriff in Fulton county, provided, however, that such person performing the duties and functions of deputy sheriff resides in Fulton county or any adjoining county within New York state unless otherwise provided by an act of the state legislature.

* NB There are 3 sub 48's

* 48. In the county of Montgomery, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of deputy sheriff in Montgomery county, provided, however, that such person performing the duties and functions of deputy sheriff resides in Montgomery county or any adjoining county within New York state unless otherwise provided by an act of the state legislature.

* NB There are 3 sub 48's

* 49. In the county of Madison, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of deputy sheriff of the county of Madison, provided that such person resides in Madison county or an adjoining county within New York state, unless otherwise provided by an act of the state legislature.

* NB There are 7 sub 49's

* 49. In the county of Tompkins, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of deputy sheriff in Tompkins county, provided, however, that such person performing the duties and functions of deputy sheriff resides in Tompkins county or any adjoining county within New York state unless otherwise provided by an act of the state legislature.

*NB There are 7 sub 49's

* 49. In the village of Trumansburg, in the county of Tompkins, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of village clerk-treasurer and deputy clerk of the village of Trumansburg, provided that such person resides in the county in which such village is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of village clerk-treasurer and deputy clerk in any other village shall be a resident of such village, unless otherwise provided by an act of the state legislature.

* NB There are 7 sub 49's

* 49. In the town of Copake, in the county of Columbia, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required be exercised, shall not prevent a person from holding the office of court clerk or deputy court clerk of the town of Copake, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the persons performing the functions of court clerk and deputy court clerk in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 7 sub 49's

* 49. In the town of Barker, in the county of Broome, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Barker, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of court clerk in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 7 sub 49's

* 49. In the town of Maine, in the county of Broome, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of building inspector/code enforcement of the town of Maine, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York.

* NB There are 7 sub 49's

* 49. In the town of Nanticoke, in the county of Broome, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Nanticoke, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of court clerk in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 7 sub 49's

* 50. In the city of Peekskill, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person regularly

admitted to practice as an attorney or counselor in the courts of record of this state from holding the office of city court judge for the city of Peekskill, if such person resides in Westchester county unless otherwise provided by an act of the state legislature.

* NB There are 5 sub 50's

* 50. In the town of Kirkwood, in the county of Broome, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Kirkwood, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of court clerk in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 5 sub 50's

* 50. In the town of Big Flats, in the county of Chemung, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of assessor, town attorney or director of building inspection/code enforcement office in the town of Big Flats, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, any person performing such functions or holding such offices in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 5 sub 50's

* 50. In the county of Nassau, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of deputy sheriff in the county of Nassau, provided that such person performing the duties and functions of deputy sheriff resides in Nassau county or any adjoining county within New York state, unless otherwise provided by an act of the state legislature.

* NB There are 5 sub 50's

* 50. In the county of Schuyler, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of assistant district attorney of the county of Schuyler, other than the chief assistant district attorney, provided that such person resides in Schuyler county or an adjoining county within the state of New York.

* NB There are 5 sub 50's

* 51. In the village of Honeoye Falls, in the county of Monroe, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of code enforcement officer and building inspector of the village of Honeoye Falls, provided that such person resides in the county in which such village is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of code enforcement officer and building inspector in any other village shall be a resident of such village, unless otherwise provided by an act of the state legislature.

* NB There are 3 sub 51's

* 51. In the town of Maine, in the county of Broome, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the town of Maine, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of court clerk in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 3 sub 51's

* 51. In the village of Deposit, in the counties of Broome and Delaware, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of village clerk-treasurer, deputy clerk-treasurer or court clerk of the village of Deposit, provided that such person resides in the county in which such village is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of village clerk-treasurer, deputy clerk-treasurer or court clerk in any other village shall be a resident of such village, unless otherwise provided by an act of the state legislature.

* NB There are 3 sub 51's

52. In the county of Schuyler, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of deputy sheriff of the county of Schuyler, provided that such person resides in Schuyler county or an adjoining county within the state of New York, unless otherwise provided by law.

* 53. In the town of Wellsville, in the county of Allegany, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of Wellsville, provided that such person resides in a town which adjoins such town and which is in the county of Allegany. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 2 sub 53's

* 53. In the county of Montgomery, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of assistant district attorney of the county of Montgomery, provided that such person resides in Montgomery county or an adjoining county within the state of New York; provided, however that any person performing such functions or holding the office of assistant district attorney in any other county shall be a resident of such county unless otherwise provided by law. The provisions of this subdivision shall not apply to any person holding the office of first assistant district attorney or chief assistant district attorney, the holder of which would assume the duties of the district attorney upon the district attorney's absence from the county or upon the district attorney's inability to perform his or her duties.

* NB There are 2 sub 53's

* 54. In the village of Wellsville, in the county of Allegany, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of village justice of the village of Wellsville, provided that such person resides in the town of Wellsville. Provided, however, the person performing the functions of village justice in any other village shall be a resident of such village unless otherwise provided by law.

* NB There are 2 sub 54's

* 54. In the town of Lewisboro, in the county of Westchester, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town wetlands inspector. Provided, however, the person performing the functions of town wetlands inspector in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 2 sub 54's

* 55. In the county of Putnam, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of assistant district attorney of the county of Putnam, provided that such person resides in Putnam county or an adjoining county within the state of New York; provided, however that any person performing such functions or holding the office of assistant district attorney in any other county shall be a resident of such county unless otherwise provided by law. The provisions of this subdivision shall not apply to any person holding the office of first assistant district attorney or chief assistant district attorney, the holder of which would assume the duties of the district attorney upon the district attorney's absence from the county or upon the district attorney's inability to perform his or her duties.

* NB There are 5 sub 55's

* 55. In the county of Fulton, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of assistant district attorney of the county of Fulton, provided that such person resides in Fulton county or an adjoining county within the state of New York; provided, however, that any person performing such functions or holding the office of assistant district attorney in any other county shall be a resident of such county unless otherwise provided by law. The provisions of this subdivision shall not apply to any person holding the office of first assistant district attorney or chief assistant district attorney, the holder of which would assume the duties of the district attorney upon the district attorney's absence from the county or upon the district attorney's inability to perform his or her duties.

* NB There are 5 sub 55's

* 55. In the county of Putnam, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of the deputy county attorney of the county of Putnam, provided that such person resides in Putnam county or an adjoining county within the state of New York; provided, however that any person performing such functions or holding the office of the deputy county attorney in any other county shall be a resident of such county unless otherwise provided by law.

* NB There are 5 sub 55's

* 55. In the town of Gerry, in the county of Chautauqua, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of court clerk of the justice court of the town of Gerry, provided that such person resides in the county in which such town is located or an adjoining county, within the state of New York. Provided, however, the person performing the functions of court clerk in the justice court in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 5 sub 55's

* 55. In the town of Poughkeepsie, in the county of Dutchess, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen, or with which his or her official function is required to be exercised, shall not prevent a person from holding the office of town comptroller of the town of Poughkeepsie; provided that said person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, that the persons performing such functions in any other town shall be electors of such town unless otherwise provided by law.

* NB There are 5 sub 55's

* 56. In the town of Willing, in the county of Allegany, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of town justice of the town of Willing, provided that such person resides in a town which adjoins such town and which is in the county of Allegany. Provided, however, the person performing the functions of town justice in any other town shall be a resident of such town, unless otherwise provided by law.

* NB There are 2 sub 56's

* 56. In the town of Windsor, in the county of Broome, the provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen or within his or her official functions are required to be exercised, shall not prevent a person from holding the office of town building inspector and code enforcement officer provided that such person resides in the county in which such town is located or an adjoining county within the state of New York. Provided, however, the person performing the functions of town building inspector in any other town shall be an elector of such town, unless otherwise provided by an act of the state legislature.

* NB There are 2 sub 56's

Section 3-A. Restrictions upon holding public office or employment of persons removed from office for certain reasons

Any public officer who, upon being called before a grand jury to testify concerning the conduct of his office or the performance of his official duties, refuses to sign a waiver of immunity against subsequent criminal prosecution, or to answer any relevant question concerning such matters before such grand jury and who, by virtue thereof, has been removed from such public office by the appropriate authority or who has forfeited such office at the suit of the attorney general shall not be capable of holding a civil office or public employment for a period of five years from the date of the removal from or forfeit of such public office.

Section 3-B. Special peace officers to be citizens

No sheriff of a county, mayor of a city, or official, or other persons authorized by law to appoint special deputy sheriffs, special constables, marshals, police officers, or peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, police officer, or peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; provided, however, that when, in the judgment of a sheriff of a county except those counties within the city of New York a situation exists which requires temporary additional assistance, such sheriff may appoint special deputy sheriffs who are non-residents of the county but residents of the state of New York who shall hold office until such time as the appointing sheriff determines that the situation no longer exists; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal, police officer, or peace officer, without having first received his appointment in writing from the authority lawfully appointing him. Nothing herein contained, however, shall apply to the appointment of a non-resident, as an emergency special deputy sheriff, by the sheriff of any county to act when such sheriff has declared a state of special emergency pursuant to the provisions of section two hundred nine-f of the general municipal law. Any person otherwise qualified who resides in either the county of Nassau or the county of Suffolk may at the instance of a society for the prevention of cruelty to animals be appointed as a peace officer by the appropriate appointing official of either of such counties notwithstanding that such appointee does not reside in the same county as the appointing official.

A violation of the provisions of this section is a misdemeanor.

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.
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.

Section 4. Commencement of term of office

1. The term of office of an elective officer, unless elected to fill a vacancy then existing, shall commence on the first day of January next after his election, if the commencement thereof be not otherwise fixed by law.
2. All terms of city officers, including supervisors, elected in any city or part of a city, and of county officers in the city of New York, shall expire at the end of an odd-numbered year. Such officers shall be elected, except to fill a vacancy, at the general election in odd-numbered years. This subdivision shall not apply to any judicial officer.

Section 5. Holding over after expiration of term

Every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the constitution, having duly entered on the duties of his office, shall, unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor. An officer so holding over for one or more entire terms, shall, for the purpose of choosing his successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only.

Section 6. Mode of choosing state officers if not otherwise provided

If the law shall not otherwise provide the mode of choosing a state officer, he shall be appointed by the governor by and with the advice and consent of the senate.

Section 7. Appointment by the governor and senate

An appointment to an office by the governor by and with the advice and consent of the senate, shall be made by communicating to the senate, while in session, a written nomination of a person for the office, designating the residence of the nominee, and if nominated to be an officer of a political subdivision of the state, designating also such subdivision, and if nominating two or more persons to the same office for different terms, designating the term for which each is nominated. If such nomination be of a successor to a predecessor in the same office, it may be made and acted upon by the senate after the expiration of the term or occurrence of a vacancy in the office of such predecessor, or at any time during the legislative session of the calendar year in which the term of office of such predecessor shall expire or in which the office shall become vacant. If the appointment be made before the expiration of the term of such predecessor, the term of office of the appointee shall commence upon the expiration of the term of such predecessor, or if made to fill a vacancy, upon the occurrence of such vacancy, or immediately if a vacancy already exists. If the senate shall reject such nomination, the secretary of the senate shall forthwith communicate, by writing, signed by him and by the president of the senate, to the governor the fact of such rejection. If the senate shall confirm such nomination the appointment shall be deemed complete, and thereupon duplicate certificates of the confirmation shall be made and signed by the president and secretary of the senate, who shall cause one to be delivered to the governor and the other to the secretary of state, who shall record the same in his office in a book kept for that purpose.

Section 8. Commissions of officers

The commission of every officer appointed by the governor, or by the governor by and with the consent of the senate, shall be signed by the governor and attested under the seal of this state, by the secretary of state, who shall make and record in his office a copy of such commission, and deliver the original to the officer appointed, by a messenger, if the governor shall so direct, and otherwise, by mail, or as the secretary of state shall deem proper. Commissions of notaries public shall be signed by the secretary of state, or by a person or persons in the department of state designated by the secretary of state, and shall be sent to the county clerk of the county in which such notaries public respectively reside. Commissions of commissioners of deeds in other states, territories and foreign countries, shall be signed by the secretary of state, or by a person or persons in the department of state designated by secretary of state.

Every other appointment of an officer, made by one or more state officers, shall be in writing, and signed by the officer or officers, or by a majority of the officers, or by the presiding officer of the board or body making the appointment. Every such written appointment shall be deemed the commission of the officer appointed, and if of a state officer, a duplicate or a certified copy thereof shall be recorded in the office of the department of state; if of a local officer it shall be sent to the clerk of the county in which the officer appointed shall then reside, who shall file the same in his office, and notify the officer appointed of his appointment.

Section 9. Deputies, their appointment, number and duties

Every deputy, assistant, or other subordinate officer, whose appointment or election is not otherwise provided for, shall be appointed by his principal officer, board or other body, and the number thereof, if not otherwise prescribed by law, shall be limited in the discretion of the appointing power. If there is but one deputy, he shall, unless otherwise prescribed by law, possess the powers and perform the duties of his principal during the absence or inability to act of his principal, or during a vacancy in his principal's office. If there be two or more deputies of the same officer, such officer may designate, in writing, the order in which the deputies shall act, in case of his absence from the office or his inability to act, or in case of a vacancy in the office, and if he shall fail to make such designation, the deputy longest in office present shall so act. If two or more deputies present shall have held the office for the same period, the senior deputy in age shall so act. Such written designation by a state officer shall be filed in the office of the secretary of state; and by any other officer, in the office of the clerk of the county in which the principal has his office. If a vacancy in a public office shall be caused by the death of the incumbent, the deputies shall, unless otherwise provided by law, continue to hold office until the vacancy shall have been filled in accordance with law.

Section 10. Official oaths

Every officer shall take and file the oath of office required by law, and every judicial officer of the unified court system, in addition, shall file a copy of said oath in the office of court administration, before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by a judge of the court of appeals, the attorney general, or by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed or by his duly designated assistant, or may be administered to any member of a body of officers, by a presiding officer or clerk, thereof, who shall have taken an oath of office. An oath of office may be administered to any state or local officer who is a member of the armed forces of the United States by any commissioned officer, in active service, of the armed forces of the United States. In addition to the requirements of any other law, the certificate of the officer in the armed forces administering the oath of office under this section shall state (a) the rank of the officer administering the oath, and (b) that the person taking the oath was at the time, enlisted, inducted, ordered or commissioned in or serving with, attached to or accompanying the armed forces of the United States. The fact that the officer administering the oath was at the time duly commissioned and in active service with the armed forces, shall be certified by the secretary of the army, secretary of the air force or by the secretary of the navy, as the case may be, of the United States, or by a person designated by him to make such certifications, but the place where such oath was administered need not be disclosed. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, including a school district, with the clerk thereof; and of every other officer, including the trustees and officers of a public

library and the officers of boards of cooperative educational services, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof.

Section 11. Official undertakings

1. Every official undertaking, when required by or in pursuance of law to be hereafter executed or filed by any officer, shall be to the effect that he will faithfully discharge the duties of his office and promptly account for and pay over all moneys or property received by him as such officer, in accordance with law, or in default thereof, that the parties executing such undertaking will pay all damages, costs and expenses resulting from such default, not exceeding a sum, if any, specified in such undertaking. The undertaking of a state officer or clerk or employee shall be approved by the attorney-general as to its form and manner of execution and by the comptroller as to the sufficiency of the sureties and be filed in the comptroller's office. The undertaking of a municipal officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the chief executive officer or by the governing body of the municipality and be filed with the clerk thereof. The approval by such governing body may be a resolution, a certified copy of which shall be attached to the undertaking. The undertaking of such county officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the clerk of the county, and filed in his office. The undertaking of a town officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the clerk of the county and filed in his office. The sum specified in an official undertaking shall be the sum for which such undertaking shall be required by or in pursuance of law is given. If no sum, or a different sum from that required by or in pursuance of law, be specified in the undertaking, it shall be deemed to be an undertaking for the amount so required. If no sum be required by or in pursuance of law to be so specified, the officer or board authorized to approve the undertaking shall fix the sum to be specified therein. Every official undertaking shall be executed and duly acknowledged by at least two sureties, each of whom shall add thereto his affidavit that he is a freeholder or householder within the state, stating his occupation and residence and the street number of his residence and place of business if in a city, and a sum which he is worth over and above his just debts and liabilities and property exempt from execution. The aggregate of the sums so stated in such affidavits must be at least double the amount specified in the undertaking. If the surety on an official undertaking of a state or local officer, clerk or employee of the state or political subdivision thereof or of a municipal corporation be a fidelity or surety corporation, the reasonable expense of procuring such surety, not exceeding one percentum per annum upon the sum for which such undertaking shall be required by or in pursuance of law to be given, shall be a charge against the state or political subdivision or municipal corporation respectively in and for which he is elected or appointed, except that the expense of procuring such surety as aforesaid, on an official undertaking of any officer, clerk or employee in any city department of the city of New York, or of any office, board or body of said city, or of a borough or county within said city, including officers, clerks and employees of every court within said city, shall not be a charge upon said city or upon any of the counties contained within said city, unless the comptroller of the said city, shall first have approved the necessity of requiring such official undertaking to be given, and shall have approved of or fixed the amount of any such official undertaking; but this exception shall not apply to an official undertaking specifically required by statute to be given, and the amount of which is specifically fixed by statute. The failure to execute an official undertaking in the form or by the number of sureties required by or in pursuance of law, or of a surety thereto to make an affidavit required by or in pursuance of law, or in the form so required, or the omission from such an undertaking of the approval required by or in pursuance of law, shall not affect the liability of the sureties therein.

2. Notwithstanding the foregoing provisions of this section or any other law, general, special or local, requiring an official undertaking to be conditioned substantially to the effect that an officer, clerk or

employee will faithfully discharge his duties and promptly account for and pay over all moneys or property received by him in his official capacity, it shall be permissible in lieu thereof, with the consent and approval of the officer or governing body authorized to require the undertaking, for any department or agency of the state or any municipal corporation or district corporation or department or agency thereof to procure a blanket undertaking from any duly authorized corporate surety covering officers, clerks and employees. Any such blanket undertaking entered into on or after January first, nineteen hundred seventy-eight shall indemnify against losses:

(a) through the failure of the officers, clerks and employees covered thereunder faithfully to perform their duties or to account properly for all moneys or property received by virtue of their positions or employment, and

(b) through fraudulent or dishonest acts committed by the officers, clerks and employees covered thereunder.

Notwithstanding any provisions of the civil practice law and rules any such blanket undertaking entered into prior to January first, nineteen hundred eighty-three may contain a provision that no suit, action or proceeding of any kind to recover on account of loss under such blanket undertaking shall be brought after the expiration of three years from the cancellation of such blanket undertaking as an entirety. Any such blanket undertaking shall be approved as to its form, manner of execution and sufficiency of the surety and filed and the expense of procuring such surety paid in the same manner as provided in subdivision one of this section. The failure to execute such blanket undertaking in the form required by law, or the omission of the approval required by law, shall not affect the liability of the surety thereon.

3. Nothing herein contained shall be construed to prevent the procuring of a blanket undertaking to cover the liability of employees handling funds collected pursuant to the provisions of section fifty of the vehicle and traffic law.

4. Notwithstanding the provisions of this section or any other law, general or special, requiring an official undertaking or bond to be conditioned substantially to the effect that a state officer, clerk or employee will faithfully discharge his duties and promptly account for and pay over all moneys or property received by him in his official capacity, the comptroller may, in his discretion, waive the requirement of procuring such official undertaking or bond, and the expense of procuring an official undertaking or bond shall not be a charge upon the state unless the comptroller shall first have approved the necessity of requiring such official undertaking or bond.

Section 12. Force and effect of official undertaking

An officer of whom an official undertaking is required, shall not receive any money or property as such officer, or do any act affecting the disposition of any money or property which such officer is entitled to receive or have the custody of, before he shall have filed such undertaking; and any person having the custody or control of any such money or property shall not deliver the same to any officer of whom an undertaking is required until such undertaking shall have been given. If a public officer required to give an official undertaking, enters upon the discharge of any of his official duties before giving such undertaking, the sureties upon his undertaking subsequently given for or during his official term shall be liable for all his acts and defaults done or suffered and for all moneys and property received during such term prior to the execution of such undertaking, or if a new undertaking is given, from the time notice to give such new undertaking is served upon him. Every official undertaking shall be obligatory and in force so long as the officer shall continue to act as such and until his successor shall be appointed and duly qualified, and until the conditions of the undertaking shall have been fully performed. When an official undertaking is renewed pursuant to law the sureties upon the former undertaking shall not be liable for

any official act done or moneys received after the due execution, approval and filing of the new undertaking.

Section 13. Notice of neglect to file oath or undertaking

The officer or body making the appointment or certificate of election of a public officer shall, if the officer be required to give an official undertaking to be filed in an office other than that in which the written appointment or certificate of election is to be filed, forthwith give written notice of such appointment or election to the officer in whose office the undertaking is to be filed. If any officer shall neglect, within the time required by law, to take and file an official oath, or execute and file an official undertaking, the officer, with whom or in whose office such oath or undertaking is required to be filed, shall forthwith give notice of such neglect, if of an appointive officer, to the authority appointing such officer; if of an elective officer, to the officer, board or body authorized to fill a vacancy in such office, if any, or if none and a vacancy in the office may be filled by a special election, to the officer, board or body authorized to call or give notice of a special election to fill such vacancy; except that the notice of failure of a justice of the peace to file his official oath, shall be given to the town clerk of the town for which the justice was elected.

Section 14. Effect of consolidation on terms of office

If an office be continued by the consolidated laws constituting the consolidation of which this chapter is a part, the person lawfully holding such office at the time of the taking effect of such consolidated laws shall, subject to the provisions of such consolidated laws, continue therein for the term for which he was chosen, or if holding over after the expiration of his term, until his successor shall be chosen and shall have qualified.

Section 15. Validation of official acts performed before filing official oath or undertaking

If a public officer, duly chosen, has heretofore entered, or shall hereafter enter on the performance of the duties of his or her office, without taking or filing an official oath, or executing or filing an official undertaking, as required by the constitution, section ten of this article, section twenty-five of the town law or section one hundred four of the uniform justice court act, or by any general or special law, his or her acts as such officer, so performed, shall be as valid and of as full force and effect as if such oath had been duly taken and filed, and as if such undertaking had been duly executed and filed, notwithstanding the provisions of any general or special law declaring any such office vacant, or authorizing it to be declared vacant, or to be filled as in case of vacancy, or imposing any other forfeiture or penalty for omission to take or file any such oath, or to execute or file any such undertaking; but this section shall not otherwise affect any provision of any general or special law, declaring any such office vacant, or authorizing it to be declared vacant, or to be filled as in case of vacancy, or imposing any other forfeiture or penalty, by reason of the failure to take or file any such oath or to execute or file any such undertaking; and this section shall not relieve any such officer from criminal liability for entering on the discharge of his or her official duties without taking or filing such oath or executing or filing such undertaking in accordance with such provisions.

Section 16. Qualifications of certain judicial officers in cities of the first class

A person shall be eligible for appointment to the office of magistrate, judge or justice of an inferior court of criminal jurisdiction in a city of the first class, who shall at the time of such appointment be of full age, a citizen of the United States, a resident of the city, an attorney and counselor-at-law admitted to practice for the period prescribed by special law, or in lieu thereof shall have been a member of the

legislature of the state for at least twelve consecutive years, notwithstanding the provisions of any general or special law inconsistent herewith.

Section 17. Defense and indemnification of state officers and employees

1. (a) As used in this section, unless the context otherwise requires the term "employee" shall mean any person holding a position by election, appointment or employment in the service of the state, including clinical practice pursuant to subdivision fourteen of section two hundred six of the public health law, whether or not compensated, or a volunteer expressly authorized to participate in a state-sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative and persons who assist the education department or the department of health as consultants or expert witnesses in the investigation or prosecution of alleged professional misconduct, licensure matters, restoration proceedings, or criminal prosecutions for unauthorized practice pursuant to title eight of the education law or title II-A of the public health law.

(b) For the purposes of this section, the term "employee" shall include members, officers and other persons in the employment of the New York state energy research and development authority, members of the board of directors, officers and other persons in the employment of the New York state science and technology foundation, and members of the board of directors, officers and other persons in the employment of the New York state olympic accommodations control corporation or serving on its board of directors on or before June thirtieth, nineteen hundred eighty.

(c) For the purposes of this section, the term "employee" shall include members of the state patient qualification review board appointed by the commissioner of health pursuant to article thirty-three-A of the public health law.

(d) For the purposes of this section, the term "employee" shall include directors, officers and employees of the facilities development corporation.

(e) For the purposes of this section, the term "employee" shall include directors, officers and employees of the environmental facilities corporation.

(f) For the purposes of this section, the term "employee" shall include ombudsmen designated under section five hundred forty-four and section five hundred forty-five of the executive law, and shall include such ombudsmen without regard to whether they are volunteers or paid staff of the office for the aging or of designated substate ombudsman programs under the direction of the office.

(g) For the purposes of this section, the term "employee" shall include the members of the board, officers and employees of the greenway heritage conservancy for the Hudson River valley or the greenway council.

(h) For the purposes of this section, the term "employee" shall include members of the board, officers and employees of the New York local government assistance corporation.

(i) For purposes of this section, the term "employee" shall include the officers and employees of the Central Pine Barrens joint planning and policy commission.

(j) For purposes of this section, the term "employee" shall include directors, officers and employees of the dormitory authority.

(k) For the purposes of this section only, the term "employee" shall include any member, director, officer or employee of a soil and water conservation district created pursuant to section five of the

soil and water conservation districts law who is working on a project which receives funding from the state and has received approval by the state soil and water conservation committee or who is carrying out the powers and duties pursuant to article two of the soil and water conservation districts law by working with any agency of the state as defined by subdivision five of section three of the soil and water conservation districts law.

(l) For the purposes of this section and consistent with the provisions of section 13 of a chapter of the laws of 1997, amending the public authorities law, the public health law, the public officers law, chapter 41 of the laws of 1997 relating to providing a retirement incentive for certain public employees, and the civil service law, relating to the creation of the Roswell Park Cancer Institute corporation and providing for the rights, powers, duties and jurisdiction of such corporation the term "employee" shall include directors, officers and employees of the Roswell Park Cancer Institute corporation.

(m) For the purposes of this section, the term "employee" shall include the members of the spinal cord injury research board within the department of health.

(n) For the purposes of this section, the term "employee" shall include directors, officers, and employees of the Governor Nelson A. Rockefeller empire state plaza performing arts center corporation.

(o) For the purposes of this section, the term "employee" shall include the directors, officers and employees of the state of New York mortgage agency.

(p) For the purposes of this section, the term "employee" shall include the members, officers and employees of the upstate New York tourism council and members of the downstate New York tourism council.

(q) For the purposes of this section, the term "employee" shall include the members, officers and employees of the tobacco settlement financing corporation.

(r) For the purposes of this section, the term "employee" shall include the directors, officers, and employees of the state of New York municipal bond bank agency and the directors, officers, employees, trustees and other managers (however denominated), of any tax lien entity (as defined in subdivision sixteen of section twenty-four hundred thirty-two of the public authorities law) of the state of New York municipal bond bank agency.

(s) For the purposes of this section, the term "employee" shall include the members of the board, officers and employees of the Niagara River greenway commission.

(t) For the purposes of this section, the term "employee" shall include the members of the board, officers and employees of the dormitory authority for purposes of section sixteen hundred eighty-l of the public authorities law.

(u) For the purposes of this section, the term "employee" shall include the members of the empire state stem cell board within the department of health.

(v) For the purposes of this section, the term "employee" shall include the members of the board, and officers and employees of the New York City off-track betting corporation.

2. (a) Upon compliance by the employee with the provisions of subdivision four of this section, the state shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or

duties; or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code and the act or omission underlying the action occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the state.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by the attorney general, provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the attorney general determines based upon his investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The attorney general shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the head of the department, commission, division, office or agency in which such employee is employed and upon the audit and warrant of the comptroller. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(c) Where the employee delivers process and a request for a defense to the attorney general as required by subdivision four of this section, the attorney general shall take the necessary steps including the retention of private counsel under the terms and conditions provided in paragraph (b) of subdivision two of this section on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

3. (a) The state shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, or shall pay such judgment or settlement; provided, that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless or pay prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing on the part of the employee.

(b) An employee represented by the attorney general or by private counsel pursuant to this section shall cause to be submitted to the head of the department, commission, division, office or agency in which he is employed any proposed settlement which may be subject to indemnification or payment by the state and if not inconsistent with the provisions of this section such head of the department, commission, division, office or agency in which he is employed shall certify such settlement and submit such settlement and certification to the attorney general. The attorney general shall review such proposed settlement as to form and amount, and shall give his approval if in his judgment the settlement is in the best interest of the state. Nothing in this subdivision shall be construed to

authorize the state to indemnify and save harmless or pay an employee with respect to a settlement not so reviewed and approved by the attorney general.

(c) Nothing in this subdivision shall authorize the state to indemnify or save harmless an employee with respect to fines or penalties, or money recovered from an employee pursuant to article seven-a of the state finance law; provided, however, that the state shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States. The attorney general shall promulgate such rules and regulations as are necessary to effectuate the purposes of this subdivision.

(d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the head of the department, commission, division, office or agency in which he is employed; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such head of the department, commission, division, office or agency. If the attorney general concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the comptroller. On or before January fifteenth the comptroller, in consultation with the department of law and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of judgments, settlements, fees, and litigation expenses paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year.

4. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon (i) delivery to the attorney general or an assistant attorney general at an office of the department of law in the state by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the state based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the state provide for his defense pursuant to this section.

5. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.

6. This section shall not in any way affect the obligation of any claimant to give notice to the state under section ten of the court of claims act or any other provision of law.

7. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

8. The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

9. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the state or any other level of government, or

any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

10. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.

11. The provisions of this section shall not apply to physicians who are subject to the provisions of the plan for the management of clinical practice income as set forth in the policies of the board of trustees, title 8, New York codes rules and regulations, regarding any civil action or proceeding alleging some professional malpractice in any state or federal court arising out of the physician's involvement in clinical practice as defined in that plan.

Section 18. Defense and indemnification of officers and employees of public entities

1. As used in this section, unless the context otherwise requires:

(a) The term "public entity" shall mean (i) a county, city, town, village or any other political subdivision or civil division of the state, (ii) a school district, board of cooperative educational services, or any other governmental entity or combination or association of governmental entities operating a public school, college, community college or university, (iii) a public improvement or special district, (iv) a public authority, commission, agency or public benefit corporation, or (v) any other separate corporate instrumentality or unit of government; but shall not include the state of New York or any other public entity the officers and employees of which are covered by section seventeen of this chapter or by defense and indemnification provisions of any other state statute taking effect after January first, nineteen hundred seventy-nine.

(b) The term "employee" shall mean any commissioner, member of a public board or commission, trustee, director, officer, employee, volunteer expressly authorized to participate in a publicly sponsored volunteer program, or any other person holding a position by election, appointment or employment in the service of a public entity, whether or not compensated, but shall not include the sheriff of any county or an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

(c) The term "governing body" shall mean the board or body in which the general legislative, governmental or public powers of the public entity are vested and by authority of which the business of the public entity is conducted.

2. The provisions of this section shall apply to any public entity:

(a) whose governing body has agreed by the adoption of local law, by-law, resolution, rule or regulation (i) to confer the benefits of this section upon its employees, and (ii) to be held liable for the costs incurred under these provisions; or

(b) where the governing body of a municipality, for whose benefit the public entity has been established, has agreed by the adoption of local law or resolution (i) to confer the benefits of this section upon the employees of such public entity, and (ii) to be held liable for the costs incurred under these provisions.

3. (a) Upon compliance by the employee with the provisions of subdivision five of this section, the public entity shall provide for the defense of the employee in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the

employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the public entity employing such employee.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by private counsel of his choice in any civil action or proceeding whenever the chief legal officer of the public entity or other counsel designated by the public entity determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his choice, provided, however, that the chief legal officer or other counsel designated by the public entity may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the public entity to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of the governing body of the public entity.

(c) Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the employee delivers process and a written request for a defense to the public entity under subdivision five of this section, the public entity shall take the necessary steps on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

4. (a) The public entity shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the employee was acting within the scope of his public employment or duties; provided further that in the case of a settlement the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the governing body of the public entity.

(b) Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(c) Nothing in this subdivision shall authorize a public entity to indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to section fifty-one of the general municipal law; provided, however, that the public entity shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.

(d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the chief administrative officer of the public entity; and if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the public entity.

5. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon: (i) delivery by the employee to the chief legal officer of the public entity or to its chief administrative officer of a written request to provide for his defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the public entity based upon the same act or omission, and in the prosecution of any appeal.
6. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.
7. This section shall not in any way affect the obligation of any claimant to give notice to the public entity under section ten of the court of claims act, section fifty-e of the general municipal law, or any other provision of law.
8. Any public entity is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of this state, or authorized by law to transact business in this state, against any liability imposed by the provisions of this section, or to act as a self-insurer with respect thereto.
9. All payments made under the terms of this section, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.
10. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.
11. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any unit, entity, officer or employee of any public entity by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.
12. Except as otherwise provided in this section, benefits accorded to employees under this section shall be in lieu of and take the place of defense or indemnification protections accorded the same employees by another enactment; unless the governing body of the public entity shall have provided that these benefits shall supplement, and be available in addition to, defense or indemnification protection conferred by another enactment.
13. The provisions of this section shall also be applicable to any public library supported in whole or in part by a public entity whose governing body has determined by adoption of a local law, ordinance, by-law, resolution, rule or regulation to confer the benefits of this section upon the employees of such public library and to be held liable for the costs incurred under these provisions.
14. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.

Section 19. Reimbursement of defense costs incurred by or on behalf of state employees

1. (a) As used in this section, unless the context otherwise requires, the term "employee" shall mean any person holding a position by election, appointment or employment in the service of the state,

whether or not compensated, or a volunteer expressly authorized to participate in a state-sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative and persons who assist the education department or the department of health as consultants or expert witnesses in the investigation or prosecution of alleged professional misconduct, licensure matters, restoration proceedings or criminal prosecutions for unauthorized practice pursuant to title eight of the education law or title II-A of article two of the public health law.

(b) For the purposes of this section, the term "employee" shall include members, officers and other persons in the employment of the New York state energy research and development authority.

(c) For the purposes of this section, the term "employee" shall include members of the state patient qualification review board appointed by the commissioner of health pursuant to article thirty-three-A of the public health law.

(d) For the purposes of this section, the term "employee" shall include directors, officers and employees of the facilities development corporation.

(e) For the purposes of this section, the term "employee" shall include directors, officers and employees of the environmental facilities corporation.

(f) For purposes of this section, the term "employee" shall include directors, officers and employees of the dormitory authority;

(g) For the purposes of this section only, the term "employee" shall include any member, director, officer or employee of a soil and water conservation district created pursuant to section five of the soil and water conservation districts law who is working on a project which receives funding from the state and has received approval by the state soil and water conservation committee.

(h) For the purposes of this section and consistent with the provisions of section 13 of a chapter of the laws of 1997, amending the public authorities law, the public health law, the public officers law, chapter 41 of the laws of 1997 relating to providing a retirement incentive for certain public employees, and the civil service law, relating to the creation of the Roswell Park Cancer Institute corporation and providing for the rights, powers, duties and jurisdiction of such corporation, the term "employee" shall include directors, officers and employees of the Roswell Park Cancer Institute corporation.

* (i) For purposes of this section, the term "employee" shall include directors, officers and employees of the thruway authority and its subsidiary, the canal corporation. In those cases where the definition of the term "employee" provided in this paragraph is applicable, the term "state", as utilized in subdivisions two, three, and four of this section, shall mean the thruway authority when the employee is a director, officer, or employee of the thruway authority, or its subsidiary, the canal corporation, when the employee is a director, officer, or employee of the canal corporation.

* NB There are 2 par (i)'s

* (i) For the purposes of this section, the term "employee" shall include directors, officers, and employees of the Governor Nelson A. Rockefeller empire state plaza performing arts center corporation.

* NB There are 2 par (i)'s

2. (a) Upon compliance by the employee with the provisions of subdivision three of this section, and subject to the conditions set forth in paragraph (b) of this subdivision, it shall be the duty of the

state to pay reasonable attorneys' fees and litigation expenses incurred by or on behalf of an employee in his or her defense of a criminal proceeding in a state or federal court arising out of any act which occurred while such employee was acting within the scope of his public employment or duties upon his acquittal or upon the dismissal of the criminal charges against him or reasonable attorneys' fees incurred in connection with an appearance before a grand jury which returns no true bill against the employee where such appearance was required as a result of any act which occurred while such employee was acting within the scope of his public employment or duties unless such appearance occurs in the normal course of the public employment or duties of such employee.

(b) Upon the application for reimbursement for reasonable attorneys' fees or litigation expenses or both made by or on behalf of an employee as provided in subdivision three of this section, the attorney general shall determine, based upon his investigation and his review of the facts and circumstances, whether such reimbursement shall be paid. The attorney general shall notify the employee in writing of such determination. Upon determining that such reimbursement should be provided, the attorney general shall so certify to the comptroller. Upon such certification, reimbursement shall be made for such fees or expenses or both upon the audit and warrant of the comptroller. On or before January fifteenth the comptroller, in consultation with the department of law and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of judgments, settlements, fees, and litigation expenses paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year. Any dispute with regard to entitlement to reimbursement or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by a court of competent jurisdiction upon appropriate motion or by way of a special proceeding.

3. Reimbursement of reasonable attorneys' fees or litigation expenses or both by the state as prescribed by this section shall be conditioned upon (a) delivery to the attorney general or an assistant attorney general at an office of the department of law in the state by the employee of a written request for reimbursement of expenses together with, in the case of a criminal proceeding, the original or a copy of an accusatory instrument within ten days after he is arraigned upon such instrument or, in the case of a grand jury appearance, written documentation of evidence of such appearance and (b) the full cooperation of the employee in defense of any action or proceeding against the state based upon the same act, and in the prosecution of any appeal.

4. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the state or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provisions of state or federal statutory or common law.

5. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstances.

Article 2-A ACTIONS ON OFFICIAL BONDS OR UNDERTAKINGS

Section 20. Action upon official bond or undertaking

Where a public officer is required to give an official bond or undertaking, and special provision is not made by law for the prosecution of the bond or undertaking, by or for the benefit of a person who has sustained by his default, delinquency or misconduct, an injury, for which the sureties upon the bond or undertaking are liable, such a person may apply for leave to prosecute such official bond or undertaking. Such application shall be made to the supreme court except as otherwise provided in this article.

Section 21. Application may be made ex parte

Such application may be made without notice; but in that case the officer, or either of his sureties, may apply upon notice, to vacate an order permitting the applicant to maintain an action, upon any ground showing that it ought not to have been granted.

Section 22. Proof to accompany application

The application must be accompanied with

1. A certified copy of the official bond or undertaking;
2. Proof by affidavit of the default or misconduct complained of, and that satisfaction of the same has not been received.
3. If the default consists of the non-payment of money, and the applicant has not recovered judgment against the officer, or special provision is not otherwise made by law, proof of a demand for the money from the officer, or that a demand cannot be made with due diligence.

Section 23. Order granting leave; action thereupon

Upon such an application, the court must grant an order, permitting the applicant to maintain an action upon the bond or undertaking. The action must be brought, in the court which granted the order, by the applicant as plaintiff; and it may be maintained, as if the applicant was the obligee named in the bond or undertaking, except as otherwise expressly prescribed in this article.

Section 24. Successive actions

The same, or any other applicant, may, in like manner, either before or after judgment in the first action, obtain an order, permitting him to maintain another action, in the same court, upon the same bond or undertaking, for another default or misconduct. Any number of such orders may be successively made; and neither of the actions authorized thereby is affected by the pendency of, or the recovery of judgment in, any other, except as otherwise expressly prescribed in this article.

Section 25. Indorsement upon execution

Where an execution is issued upon a judgment, recovered against the public officer and any of his sureties, in an action, brought pursuant to this article, the plaintiff's attorney must indorse thereon a direction to collect the same, in the first place out of the property of the public officer, and, if sufficient property cannot be found, then to collect the deficiency out of the property of the surety or sureties.

Section 26. Collection of execution; when a defence to subsequent action

It is a defence by a surety, against whom an action is brought upon an official bond or undertaking, that he, or any other surety or sureties, have been or will be compelled, for want of sufficient property of the public officer to pay, upon one or more judgments recovered against him or them, upon the same bond or undertaking, an aggregate amount, exclusive of costs, officers' fees, and expenses, equal to the sum for which the defendant is liable, by reason of the bond or undertaking. It is a partial defence, that the difference between the aggregate amount, so paid, or to be paid, and the sum for which the defendant is thus liable, is less than the amount of the plaintiff's demand.

Section 27. When claimants entitled to ratable distribution

If the aggregate amount of the liabilities, which might be recovered by actions upon an official bond or undertaking, as prescribed in this article, exceeds the sum for which the sureties are liable, the court must, upon the application of a person who has obtained leave to prosecute the bond or undertaking, made upon notice to the plaintiff's attorney, in each action then pending upon such bond or undertaking, and in each uncollected judgment recovered thereupon, direct and provide for the distribution of the money, collected out of the property of the sureties, among the persons in favor of whom the liabilities have accrued, in proportion to the amount which each one is entitled to recover; to be ascertained by a reference, or in such other manner as the court directs. For the purposes of the motion an order may be made by a judge, forbidding the payment to the plaintiff in any action, of the sum collected or to be collected by virtue of a judgment therein. But this section does not authorize the court to compel a plaintiff to refund any money, collected and received by him, in good faith, before service of notice of such an order.

Section 28. Receivers, assignees and trustees deemed public officers

A receiver, an assignee of an insolvent debtor, or a trustee or other officer, appointed by a court or a judge, is a public officer, within the meaning of this article; but where he was appointed by or pursuant to the order of a court, or in proceedings supplementary to execution against property, the application for leave to prosecute his official bond or undertaking must be made to the court by which, or pursuant to whose order, he was appointed, or in which the judgment was rendered, as the case may be.

Article 3 CREATION AND FILLING OF VACANCIES

Section 30. Creation of vacancies

1. Every office shall be vacant upon the happening of one of the following events before the expiration of the term thereof:
 - a. The death of the incumbent;
 - b. His resignation;
 - c. His removal from office;
 - d. His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision, or municipal corporation of which he is required to be a resident when chosen;
 - e. His conviction of a felony, or a crime involving a violation of his oath of office, provided, however, that a non-elected official may apply for reinstatement to the appointing authority upon reversal or the vacating of such conviction where the conviction is the sole basis for the vacancy. After receipt of such application, the appointing authority shall afford such applicant a hearing to determine

whether reinstatement is warranted. The record of the hearing shall include the final judgment of the court which reversed or vacated such conviction and may also include the entire employment history of the applicant and any other submissions which may form the basis of the grant or denial of reinstatement notwithstanding the reversal or vacating of such conviction. Notwithstanding any law to the contrary, after review of such record, the appointing authority may, in its discretion, reappoint such non-elected official to his former office, or a similar office if his former office is no longer available. In the event of such reinstatement, the appointing authority may, in its discretion, award salary or compensation in full or in part for the period from the date such office became vacant to the date of reinstatement or any part thereof;

f. The entry of a judgment or order of a court of competent jurisdiction declaring him to be incompetent;

g. The judgment of a court, declaring void his election or appointment, or that his office is forfeited or vacant;

h. His refusal or neglect to file his official oath or undertaking, if one is required, before or within thirty days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within thirty days after notice of his appointment, or within thirty days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within thirty days after notice to him in pursuance of law, that such renewal undertaking is required. The neglect or failure of any state or local officer to execute and file his oath of office and official undertaking within the time limited therefor by law, shall not create a vacancy in the office if such officer was on active duty in the armed forces of the United States and absent from the county of his residence at the time of his election or appointment, and shall take his oath of office and execute his official undertaking within thirty days after receipt of notice of his election or appointment, and provided such oath of office and official undertaking be filed within ninety days following the date it has been taken and subscribed, any inconsistent provision of law, general, special, or local to the contrary, notwithstanding.

2. When a new or an additional office shall be created, such office shall for the purposes of an appointment or election, be vacant from the date of its creation, until it shall be filled by election or appointment.

3. When any member of a board, commission, committee or authority, holding office by appointment of the governor, fails to attend three consecutive regular meetings of such board, commission, committee or authority, unless such absence is for good cause and is excused by the chairman or other presiding officer thereof, or, in the case of such chairman or other presiding officer, by the governor, the office may be deemed vacant for purposes of the nomination and appointment of a successor.

4. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a person who is a member of the police force of any political subdivision or municipal corporation of the state and who while a member of such force resides (a) in the county in which such political subdivision or municipal corporation is located; or (b) in a county within the state contiguous to the county in which such political subdivision or municipal corporation is located; or (c) in a county within the state contiguous to such political subdivision or municipal corporation; or (d) in a county within the state contiguous to a county described in item (c) hereof where the former is less than fifteen miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines; or (e) in a county within the state contiguous to

a county described in item (d) hereof where the former is less than thirty miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines:

(1) If such person was appointed as a member of such police force prior to July first, nineteen hundred sixty-one, shall reside in any such county on such date and shall continue to reside in any such county after such date, or

(2) If the police force of which he is a member consists of two hundred or more full-time members or shall have consisted of two hundred or more full-time members when, as a member of such police force, he shall have resided in such county and shall continue to reside in any such county thereafter, or

(3) If the police force of which he is a member consists of less than two hundred full-time members; provided, however, that the local legislative body of such political subdivision or municipal corporation having such police force shall have power to adopt and amend local laws, ordinances or resolutions of general application requiring members of such police force, other than those members covered by paragraph one or paragraph two of this subdivision, to reside in such political subdivision or municipal corporation, or permitting them to reside in specified areas of such counties or within specified distances from the political subdivision or municipal corporation provided such local legislative body shall determine that a policeman may respond therefrom promptly and be available to render active service in such political subdivision or municipal corporation.

4-a. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a member of the department of sanitation of any municipality who resides in a county within the state contiguous to such municipality.

4-b. Except as otherwise provided in subdivision five of this section, neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation of the state if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation shall apply to the appointment or continuance in office or position of an officer or member of a paid fire department in any political subdivision or municipal corporation of the state, if such person resides in the county, or one of the counties, in which such political subdivision or municipal corporation is located.

5. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a paid member of the uniformed force of a paid fire department, who, for purposes of this section shall include persons employed as fire alarm dispatchers, or in the case of a person employed in a department of correction in the correction service of the classified civil service, or in the case of a member of the department of sanitation of any political subdivision or municipal corporation who has five or more years of service, or in the case of officers and inspectors employed in a department of health of a city of over one million population who resides (a) in the county in which said city is located; or (b) in a county within the state contiguous to the county in which said city is located; or (c) in a county within the state contiguous to such city; or (d) in a county within the state which is not more than fifteen miles from said city; or (e) in a county within the state

contiguous to a county described in item (d) hereof where the former is less than thirty miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines.

5-a. Any person who resides in this state and who is currently employed as a member of the police force, a paid member of the uniformed force of a paid fire department, or department of corrections in the correctional service classification of the classified civil service, of a city of over one million population, shall be exempt from the provisions of paragraph (d) of subdivision one and subdivisions four and five of this section upon compliance with the procedure set forth in this subdivision. Any person seeking to benefit from the exemption created by this subdivision shall notify his respective employer in writing of said intention within thirty days from the effective date of this subdivision and shall specify his then current residence address. The exemption created by this subdivision shall be applicable only to said actual designated residence and not to any residence that any subject currently employed member may thereafter establish; provided, however, that any such currently employed member who resides outside this state shall have one year from the effective date of this subdivision within which to establish residence as required pursuant to paragraph (d) of subdivision one, and subdivisions four and five of this section and comply with the notice requirements of this subdivision. Said residence shall constitute a lawful residence for all purposes notwithstanding any provision to the contrary of any general, special or local law, charter, code, ordinance, resolution, rule or regulation.

6. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of appointed public officers in the city of Troy, except the city manager of such city, who reside in the county of Rensselaer.

7. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation of the state if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of the city court judge in the city of Hudson, provided that such person resides in the county in which such city is located.

8. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation of the state if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a person holding the office of deputy sheriff in the county of Nassau, provided that such person resides in Nassau county or any adjoining county within New York state.

Section 31. Resignations

1. Public officers may resign their offices as follows:

- a. The governor, lieutenant-governor, comptroller and attorney-general, to the legislature;
- b. All officers appointed by the governor alone, or by him with the consent of the senate, to the governor;
- c. Senators and members of assembly, to the presiding officers of their respective houses;
- d. Judges and justices of the unified court system, to the chief administrator of the courts;
- e. Sheriffs, county clerks, district attorneys and registers of counties, to the governor;
- f. Every other county officer, to the county clerk;

- g. Every town officer, to the town clerk;
- h. The officer of any other municipal corporation, to the clerk of the corporation;
- i. United States senators, to the secretary of state.
- j. Representatives in the House of Representatives of the Congress of the United States, to the secretary of state.
- k. Every other appointive officer, where not otherwise provided by law, to the body, board or officer that appointed him, and every other elective officer, where not otherwise provided by law, to the secretary of state.

2. Every resignation shall be in writing addressed to the officer or body to whom it is made. If no effective date is specified in such resignation, it shall take effect upon delivery to or filing with the proper officer or body. If an effective date is specified in such resignation, it shall take effect upon the date specified, provided however, that in no event shall the effective date of such resignation be more than thirty days subsequent to the date of its delivery or filing; except that the effective date of the resignation of a judge or justice of the unified court system may be up to ninety days subsequent to the date on which such resignation is delivered or filed. If a resignation specifies an effective date that is more than thirty days subsequent to the date of its delivery or filing, or more than ninety days subsequent thereto where such resignation is that of a judge or justice, such resignation shall take effect upon the expiration of thirty days from the date of its delivery or filing, or upon the expiration of ninety days therefrom, as appropriate.

3. A resignation addressed to an officer shall be delivered to him at his place of business or filed in his office. A resignation addressed to the legislature or to the presiding officer of either house thereof, shall be delivered to and filed with the secretary of state, and he shall forthwith communicate the fact of such resignation to the legislature or to such house, if in session, or if not, at its first meeting thereafter. A resignation addressed to any other body shall be delivered to the presiding officer or clerk of such body, if there be one, and if not, to any member thereof, and shall be filed with the clerk, or if there be no clerk, with the other records of such body. A delivery at the office or place of residence or business of the person to whom any such resignation may be delivered shall be a sufficient delivery thereof.

4. A resignation delivered or filed pursuant to this section, whether effective immediately or at a specified future date, may not be withdrawn, cancelled, or amended except by consent of the officer to whom it is delivered or body with which it is filed.

5. If a resignation from an elective office is received pursuant to the provisions of this section, the official who receives such resignation shall immediately notify the state board of elections of the fact of such resignation and the effective date, if any, set forth in such resignation.

Section 32. Removals by senate

The governor before making a recommendation to the senate for the removal of any officer may in his discretion take proofs, for the purpose of determining whether such recommendation shall be made. The comptroller or attorney-general may be removed by the senate, on the recommendation of the governor, for misconduct or malversation in office, if two-thirds of all the members elected to the senate shall concur therein. No such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him and have an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal. The governor may convene the senate in extra session for the investigation of such charges. The senate shall have power to make such rules as it may see fit for the practice before it. At the time appointed for the

investigation, the senate shall proceed to hear and try the charges against such officer, and may take proofs in relation thereto. The governor may appoint any suitable person to conduct the trial of such charges before the senate. An officer appointed by the governor by and with the advice and consent of the senate, except an officer who is or any or either of the officers who are the head of a department, and except as otherwise provided by special provision of law may be removed by the senate upon the recommendation of the governor. If the senate shall reject a recommendation of removal the secretary of the senate shall, by a writing signed by him and by the president of the senate, communicate the fact of such rejection to the governor. If the senate shall concur in such a recommendation the removal shall take effect upon the passage of the resolution of concurrence, and duplicate copies of such resolution, certified by the secretary and president of the senate, shall be executed and delivered by such secretary to the secretary of state.

Section 33. Removals by governor

1. An officer appointed by the governor for a full term or to fill a vacancy, whose appointment is not required by law to be made by and with the advice and consent of the senate, any county treasurer, any county superintendent of the poor, any register of a county or any coroner, except as otherwise provided by special provisions of law, may be removed by the governor within the term for which such officer shall have been chosen, after giving to such officer a copy of the charges against him and an opportunity to be heard in his defense.
2. The chief executive officer of every city and the chief or commissioner of police, commissioner or director of public safety or other chief executive officer of the police force by whatever title he may be designated, of every city may be removed by the governor after giving to such officer a copy of the charges against him and an opportunity to be heard in his defense. The power of removal provided for in this subdivision shall be deemed to be in addition to the power of removal provided for in any other law. The provisions of this subdivision shall apply notwithstanding any inconsistent provisions of any general, special or local law, ordinance or city charter.

Section 33-A. Removal of heads of departments

Any officer who is, or any or either of the officers who are, the head of a department, if appointed by the governor by and with the advice and consent of the senate, may be removed from office by the governor whenever in his judgment the public interest shall so require. In case of such a removal the governor shall file with the department of state a statement of the cause of such removal and shall report such removal and the cause thereof to the legislature at its next session.

Section 34. Proceedings for removal by governor

1. In any proceeding for the removal by the governor of a public officer, he may conduct an investigation into the charges, and may take the evidence as to the truth of the charges at a hearing for such purpose, or he may direct that such investigation or hearing, or both, shall be conducted by a justice of the supreme court of the judicial district, or the county judge of the county, in which the officer proceeded against shall reside, or by a commissioner appointed by the governor, by an appointment, in writing, filed in the office of the secretary of state.
2. The governor may direct the attorney-general or the district attorney of the county in which the officer proceeded against resides, to assist the governor, or the person designated by the governor under the first subdivision of this section, in the conduct of the investigation into the charges, and of the hearing into the truth of the charges. If the hearing provided for in this section shall be conducted by a justice, judge or commissioner, it shall be held at such place in the county in which the officer proceeded

against shall reside as the justice, judge or commissioner shall appoint, and at least eight days after written notice of the time and place of such hearing shall have been given to the officer proceeded against.

3. The governor may direct the justice, judge or commissioner to report to him the evidence taken at such hearing, or the evidence and the findings of the material facts deemed by such justice, judge or commissioner to be established. Both in the investigation of the charges and at the hearing into the truth of the charges, the governor or the person designated by him under the first subdivision of this section may require witnesses to attend before him, and may also require the production of any books, papers, or other documents, deemed by him to be material, and shall issue subpoenas for such witnesses for appearance at the hearing as may be requested by the officer proceeded against.

4. At the hearing provided for in this section, the officer proceeded against and his counsel shall be permitted to attend, but such officer or his counsel shall have no right to be present at the investigation provided for unless the governor or the person designated by him to conduct such investigation so directs. No evidence taken in such investigation shall form the basis of any report to the governor by the person designated by him under subdivision one of this section, or the basis of any determination by the governor, unless such evidence is presented at the hearing provided for in this section.

5. The person designated under subdivision one of this section, or the governor, where no person is so designated, is authorized to employ counsel in any case where the attorney-general or district attorney has not been directed to assist the governor or his designee, as provided in subdivision two of this section, and to employ such personnel as may be necessary to assist him in the performance of his duties under this section.

6. If the proceeding be for removal of a state officer, the reasonable expenses incurred in the conduct thereof, including the compensation of authorized counsel and of necessary assistants, in the taking and printing of the testimony, shall be paid by the state, on the certificate of the governor, out of moneys appropriated or available therefor.

7. If the proceeding be for the removal of a county or city officer, the reasonable expenses incurred in the conduct thereof shall be a county or city charge, as the case may be. The board of supervisors of the county, or the board of estimate and apportionment or other board or body of the city vested with the power to make appropriations, on the requisition of the governor, from time to time, shall forthwith appropriate such sum as shall be needed to pay such expenses; and after such appropriation shall have been duly made, the fiscal officer of the county or city, as the case may be, shall pay such expenses, upon vouchers approved by the governor, after audit, in the same manner and by the same authority as other county or city charges are audited and paid.

8. A person designated by the governor to conduct an investigation or hearing, or both, under this section, who is not regularly employed by the state or by a county or city, shall be paid a reasonable compensation for his services, to be fixed by the governor, and paid in the same manner as other expenses for the removal of a state officer, or a county or city officer, as the case may be, as provided in this section.

9. All sheriffs, coroners, constables and marshals to whom process shall be directed and delivered under this section shall execute the same without unnecessary delay.

Section 35. Removals from office

Every removal of an officer by one or more state officers, shall be in written duplicate orders, signed by the officer, or by all or a majority of the officers, making the removal, or if made by a body or board of

state officers may be evidenced by duplicate certified copies of the resolution or order of removal, signed either by all or by a majority of the officers making the removal, or by the president and clerk of such body or board. Both such duplicate orders or certified copies shall be delivered to the secretary of state, who shall record in his office one of such duplicates, and shall, if the officer removed is a state officer, deliver the other to such officer by messenger, if required by the governor, and otherwise by mail or as the secretary of state shall deem advisable, and shall, if directed by the governor, cause a copy thereof to be published in the state paper. If the officer removed be a local officer, he shall send the other of such duplicates to the county clerk of the county in which the officer removed shall have resided at the time he was chosen to the office, and such clerk shall file the same in his office, and forthwith notify the officer removed of his removal.

Section 35-A. Removal for treasonable or seditious acts or utterances

A person holding any public office shall be removable therefrom, in the manner provided by law, for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts during his term.

Section 36. Removal of town, village, improvement district or fire district officer by court

Any town, village, improvement district or fire district officer, except a justice of the peace, may be removed from office by the supreme court for any misconduct, maladministration, malfeasance or malversation in office. An application for such removal may be made by any citizen resident of such town, village, improvement district or fire district or by the district attorney of the county in which such town, village or district is located, and shall be made to the appellate division of the supreme court held within the judicial department embracing such town, village, improvement district or fire district. Such application shall be made upon notice to such officer of not less than eight days, and a copy of the charges upon which the application will be made must be served with such notice.

Section 37. Notice of existence of vacancy

When a judgment shall be rendered by any court convicting an officer of a felony, or of a crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment. Whenever a public officer shall die before the expiration of his term of office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election.

Section 38. Terms of officers chosen to fill vacancies

If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to make appointment to the office for the full term, the person so appointed to such vacancy shall hold office for the balance of the unexpired term. The term of office of an officer appointed to fill a vacancy in an elective office, shall be until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, if the

office be made elective by the constitution, or at which the vacancy can be filled by election, if the office be otherwise made elective.

Section 39. Filling vacancies in office of officer appointed by governor and senate

A vacancy which shall occur during the session of the senate, in the office of an officer appointed by the governor by and with the advice and consent of the senate, shall be filled in the same manner as an original appointment. Such a vacancy occurring or existing while the senate is not in session, including offices in which officers are holding over pursuant to the provisions of section five of this chapter or any other law, and offices vacant during the session of the senate, shall be filled by the governor for a term which shall expire upon the appointment and qualification of a successor but in any event such term shall expire at the end of twenty days from the commencement of the next meeting of the senate.

Section 40. Vacancy occurring in office of legislative appointee, during legislative recess

When a vacancy shall occur or exist, otherwise than by expiration of term, during the recess of the legislature, in the office of any officer appointed by the legislature, the governor shall appoint a person to fill the vacancy for a term which shall expire at the end of twenty days from the commencement of the next meeting of the legislature.

Section 41. Vacancies filled by legislature

When a vacancy occurs or exists, other than by removal, in the office of comptroller or attorney-general, or a resignation of either such officer to take effect at any future day shall have been made while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy.

Section 42. Filling vacancies in elective offices

1. A vacancy occurring before September twentieth of any year in any office authorized to be filled at a general election, except in the offices of governor or lieutenant-governor, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.
2. A vacancy occurring by the expiration of term at the end of an even numbered year in an office which may not under the provisions of the constitution be filled for a full term at the general election held prior to the expiration of such term, shall be filled at said general election for a term ending with the commencement of the political year next succeeding the first general election at which said office can be filled by election for a full term.
3. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term, or upon the occurrence of a vacancy in any elective office which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor may in his discretion make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than thirty nor more than forty days from the date of the proclamation.
4. A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or

be called after September nineteenth of such year; nor to fill a vacancy in the office of state senator or in the office of member of assembly, unless the vacancy occurs before the first day of April of the last year of the term of office, or unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after September nineteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

4-a. If a vacancy occurs in the office of United States senator from this state in any even numbered calendar year on or after the fifty-ninth day prior to the annual primary election, or thereafter during said even numbered year, the governor shall make a temporary appointment to fill such vacancy until the third day of January in the year following the next even numbered calendar year. If such vacancy occurs in any even numbered calendar year on or before the sixtieth day prior to an annual primary election, the governor shall make a temporary appointment to fill such vacancy until the third day of January in the next calendar year. If a vacancy occurs in the office of United States senator from this state in any odd numbered calendar year, the governor shall make a temporary appointment to fill such vacancy until the third day of January in the next odd numbered calendar year. Such an appointment shall be evidenced by a certificate of the governor which shall be filed in the office of the state board of elections. At the time for filing such certificate, the governor shall issue and file in the office of the state board of elections a writ of election directing the election of a United States senator to fill such vacancy for the unexpired term at the general election next preceding the expiration for the term of such appointment.

5. Whenever the authority to fill any vacancy is vested in a board and such board is unable to fill such vacancy in an elective office by reason of a tie vote, or such board neglects to fill such vacancy for any other reason, the governor may, in his discretion, make proclamation of a special election to fill the vacancy.

Section 43. Filling other vacancies

If a vacancy shall occur, otherwise than by expiration of term, with no provision of law for filling the same, if the office be elective, the governor shall appoint a person to execute the duties thereof until the vacancy shall be filled by an election. But if the term of such officer shall expire with the calendar year in which the appointment shall be made, or if the office be appointive, the appointee shall hold for the residue of the term.

Article 4 POWERS AND DUTIES OF PUBLIC OFFICERS

Section 60. Official seals of court of appeals, governor and state departments, divisions and bureaus

1. Each of the civil departments in the state government shall have an official seal. In addition to the divisions or bureaus required by law to have an official seal, any division or bureau of any department shall have such a seal, if so required by rules of the department. The official seal shall be used in the cases prescribed by law. Such rules also may prescribe other cases in which it shall or may be used. For the purposes of any provisions of the law requiring the use of the official seal of the officer or body who or which is the head of a department, division or bureau, the seal of such department, division or bureau shall be deemed the official seal of such officer or body.

2. The seal of the court of appeals, the privy seal of the governor and the official seal of each civil department of the state government shall be of metal with the device of the arms of the state

surrounded with the inscription, State of New York, and the official designation of the court, official or department. Each civil department of the state government may affix a facsimile seal, engraved or printed or reproduced in any manner from such metal seal, to any instrument or writing to be sealed by such civil department. The official seal, if any, of a division or bureau of a department shall have thereon the matter required for the official seal of the department and in addition thereto words or initials, or both, describing the division or bureau. The seal of such court, the privy seal of the governor, and the official seal of such a department shall be two and one-quarter inches in diameter. The official seal, if any, of such a division or bureau shall be one and three-quarters inches in diameter. Each metal seal provided for herein shall be provided by the department of state. The seal of the court of appeals and privy seal of the governor heretofore provided by the secretary of state shall continue to be used by such court and officer until defective from wear or otherwise. Whenever any seal provided for in this section becomes defective from wear or otherwise, it shall be delivered to the department of state which shall cause it to be repaired and returned, or to be defaced with a suitable mark, or deposited with the ancient seals in the state library, and new seals, in the form prescribed by this section, to be provided for use instead.

Section 61. Investigations by state officers

Every state officer, in any proceeding held before him, or in any investigation held by him for the purpose of making inquiry as to the official conduct of any subordinate officer or employee, shall have the power to issue subpoenas for and require the attendance of witnesses and the production of all books and papers relating to any matter under inquiry. All such subpoenas shall be issued under the hand and seal of the state officer holding such proceeding. A subpoena issued under this section shall be regulated by the civil practice law and rules. The testimony of witnesses in any such proceeding shall be under oath and the state officer instituting the proceeding shall have power to administer oaths. In case of state boards or commissions, any member of the same, or, when duly authorized by resolution, the secretary of such board or commission, shall have power to issue subpoenas and administer oaths for the purposes of this section.

Section 62. Business in public offices on public holidays

1. Holidays and half holidays shall be considered as Sunday for all purposes relating to the transaction of business in the public offices of each county. On all other days and half days, excepting Sundays, such offices shall be kept open for the transaction of business. This subdivision is subject to the provisions of section two hundred six-a of the county law and sections 1032-14.0 and 1052-22.0 of the administrative code of the city of New York.
2. Holidays and Saturdays shall be considered as Sunday for all purposes relating to the transaction of business in the public offices of the state. On all other days, excepting Sundays, such offices shall be kept open for the transaction of business. Whenever the last day on which any paper shall be filed or act done or performed in any such office expires on a Saturday, the time therefor is hereby extended to and including the next business day.

Section 62-A. Leave of absence for certain appointive state officers; temporary vacancy

A person holding a state office by appointment of the governor, or of the governor by and with the consent of the senate, may be granted by the governor, on the application of such person, a leave of absence from such office, without pay, for a stated period less than the remainder of the unexpired term. The office shall be deemed vacant for the purpose only of filling it, in the manner provided by law, for a term expiring at the end of such period. At or after the end of such period, the person who is

granted such leave of absence, if not then disqualified, may resume such office, its title, duties and salary for the unexpired regular term, without reappointment, and the interim incumbent, if any, shall cease to hold it. On or after the beginning of such period, such person, if otherwise eligible, may be appointed to and hold any other appointive office in the state service; but he shall resign therefrom before resuming such former office under the foregoing provisions. A person resuming such office shall file in the office of the department of state his statement in writing that he elects to and does resume it pursuant to this section.

Section 63. Leave of absence for veterans on Memorial day and Veterans' day

It shall be the duty of the head of every public department and of every court of the state of New York, of every superintendent or foreman on the public works of said state, of the county officers of the several counties of said state, of the town officers of the various towns in this state, of the fire district officers of the various fire districts in this state, and of the head of every department, bureau and office in the government of the various cities and villages in this state, and the officers of any public benefit corporation or any public authority of this state, or of any public benefit corporation or public authority of any county or subdivision of this state, to give leave of absence with pay for twenty-four hours on the day prescribed by law as a public holiday for the observance of Memorial day and on the eleventh day of November, known as Veterans' day, to every person in the service of the state, the county, the town, the fire district, the city or village, the public benefit corporation or public authority of this state, or any public benefit corporation or public authority of any county or subdivision of this state, as the case may be, (i) who served on active duty in the armed forces of the United States during world war I or world war II, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301&10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or during the period of the Korean conflict at any time between the dates of June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the twenty-eighth day of February, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five, or (ii) who served on active duty in the armed forces of the United States and who was a recipient of the armed forces expeditionary medal, navy expeditionary medal or marine corps expeditionary medal for participation in operations in

Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or (iii) who served in the armed forces of a foreign country allied with the United States during world war I or world war II, or during the period of the Korean conflict at any time between June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the twenty-eighth day of February, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five, or during the period of the Persian Gulf conflict from the second day of August, nineteen hundred ninety to the end of such conflict, or who served on active duty in the army or navy or marine corps or air force or coast guard of the United States, and who was honorably discharged or separated from such service under honorable conditions, except where such action would endanger the public safety or the safety or health of persons cared for by the state, in which event such persons shall be entitled to leave of absence with pay on another day in lieu thereof. All such persons who are compensated on a per diem, hourly, semi-monthly or monthly basis, with or without maintenance, shall also be entitled to leave of absence with pay under the provisions of this section and no deduction in vacation allowance or budgetary allowable number of working days shall be made in lieu thereof. A refusal to give such leave of absence to one entitled thereto shall be neglect of duty.

Section 64. Payment of expenses of public officers

Every public officer who is not allowed any compensation for his services shall be paid his actual expenses necessarily incurred in the discharge of his official duties.

Section 64-A. Patent policy

1. Notwithstanding the provisions of section one hundred thirty-five of the civil service law, the participation in royalty or other arrangements may be extended or the payment of additional compensation may be made to an employee of a state department or of an agency, in addition to such employee's definite salary or compensation, provided such participation or additional compensation is pursuant to a patent policy approved for such department or agency by the director of the budget and the state comptroller. Such participation or additional compensation shall not affect the entitlement of the employee to any regular pay, annuity or award to which he or she is otherwise entitled or for which he or she is otherwise eligible under the civil service law or any other applicable statute shall not be included as compensation for the purposes of computing overtime pay or for retirement purposes.
2. The department and agency patent policies in effect on the effective date of this section shall be continued. Such existing policies, unless promulgated pursuant to article eight of the education law, shall be subject to the approval of the director of the budget and the state comptroller.
3. A state department or agency may, after the effective date of this section, adopt a patent policy, or amend a patent policy previously approved by the director of the budget for such agency, subject to the approval of the director of the budget, the state comptroller and the director of the office of employee relations. Where such policy or amendment affects a term or condition of employment, such policy or amendment shall be adopted in accordance with the provisions of article fourteen of the civil service law.
4. Any such patent policy shall contain an express provision requiring the comptroller's approval of any transfer of patents or other technologies by, or for the benefit of, the state.

Section 66. Interchangeable use of gender neutral and gender specific titles of public offices

Notwithstanding any other provision of law, local law, charter, code or ordinance, a public officer may, in official documents or otherwise, refer to the name of her or his public office:

- (a) by its official title as specified in the statute, local law, charter, code or ordinance creating such public office, or,
- (b) by any other gender neutral or gender indicative suffixes, prefixes or words which reconstruct the official name or title of such public office, provided that the form of reconstruction readily permits the unmistakable identification of the particular public office held by such public officer.

Section 66-A. Accident reports kept by police authorities to be open to the inspection of persons interested

1. Notwithstanding any inconsistent provisions of law, general, special or local, or any limitation contained in the provision of any city charter, all reports and records of any accident, kept or maintained by the state police or by the police department or force of any county, city, town, village or other district of the state, shall be open to the inspection of any person having an interest therein, or of such person's attorney or agent, even though the state or a municipal corporation or other subdivision thereof may have been involved in the accident; except that the authorities having custody of such reports or records may prescribe reasonable rules and regulations in regard to the time and manner of such inspection, and may withhold from inspection any reports or records the disclosure of which would interfere with the investigation or prosecution by such authorities of a crime involved in or connected with the accident.

2. Notwithstanding the provisions of section twenty-three hundred seven of the civil practice law and rules, the public officers law, or any other law to the contrary, the division of state police shall charge fees for the search and copy of accident reports and photographs. A search fee of fifteen dollars per accident report shall be charged, with no additional fee for a photocopy. An additional fee of fifteen dollars shall be charged for a certified copy of any accident report. A fee of twenty-five dollars per photograph or contact sheet shall be charged. The fees for investigative reports shall be the same as those for accident reports.

* 3. Notwithstanding the provisions of section twenty-three hundred seven of the civil practice law and rules, this chapter, or any other law to the contrary, the county of Nassau, upon adoption of a local law, is hereby authorized to require the police department of the county of Nassau to charge fees for the search and copy of accident reports and photographs. A search fee of ten dollars per accident report shall be charged, with no additional fee for a photocopy. An additional fee of ten dollars shall be charged for a certified copy of any accident report. A fee of fifteen dollars per photograph or contact sheet shall be charged. The fees for investigative reports shall be the same as those for accident reports.

* NB Repealed December 31, 2011

Section 67. Fees of public officers

1. Each public officer upon whom a duty is expressly imposed by law, must execute the same without fee or reward, except where a fee or other compensation therefor is expressly allowed by law.
2. An officer or other person, to whom a fee or other compensation is allowed by law, for any service, shall not charge or receive a greater fee or reward, for that service, than is so allowed.

3. An officer, or other person, shall not demand or receive any fee or compensation, allowed to him by law for any service, unless the service was actually rendered by him; except that an officer may demand in advance his fee, where he is, by law, expressly directed or permitted to require payment thereof, before rendering the service.

4. Money received by a public officer, or which shall come into his possession or custody, in the performance of his official duties or in connection therewith or incidental thereto, shall be held by him in trust for the person or persons entitled thereto or for the purposes provided by law and all interest or increments which shall accrue or attach to such money while in his possession or custody shall be added to, and become a part of, the money so held and no part of such interest or increments shall be retained by such officer to his personal use or benefit, except legal fees allowed by law for receiving and disbursing the same, notwithstanding the provisions of any general or special law. An officer or other person, who violates either of the provisions contained in this section, is liable, in addition to the punishment prescribed by law for the criminal offense, to an action in behalf of the person aggrieved, in which the plaintiff is entitled to treble damages.

Section 67-A. Fees for certification or exemplification

Whenever there shall be presented to any public officer for certification or exemplification, a previously prepared legibly typewritten or printed copy of any document, paper, book or record in such officer's custody, the fees in such case, for certification or exemplification, shall be at the rate of three cents for each folio; but the minimum total charge for certification or exemplification in all cases shall be twenty-five cents.

Section 68. Allowance of additional fees and expenses

Where an officer or other person is required, in the course of a duty imposed upon him by law, to take an oath, to acknowledge an instrument, to cause an instrument to be filed or recorded, or to transmit a paper to another officer, he is entitled, in addition to the fees, or other compensation for the service, prescribed by law, to the fees necessarily paid by him, to the officer who administered the oath, or took the acknowledgment, or filed or recorded the instrument; and to the expense of transmitting the paper, including postage, where the transmission is lawfully made through the post-office.

Section 68-A. Fees for oath or acknowledgment

Any officer, authorized to perform the services specified in this section, and to receive fees therefor, is entitled to the following fees:

1. For administering an oath or affirmation, and certifying the same when required, except where another fee is specially prescribed by statute, two dollars.
2. For taking and certifying the acknowledgment or proof of the execution of a written instrument; by one person, two dollars; and by each additional person, two dollars; for swearing each witness thereto, two dollars.

Section 69. Fee for administering certain official oaths prohibited

An officer is not entitled to a fee, for administering the oath of office to a member of the legislature, to any military officer, to an inspector of election, clerk of the poll, or to any other public officer or public employee.

Section 69-A. Interest to be paid and collected on all deposits of public moneys amounting to one thousand dollars or more

Within twenty days of the taking effect of this section, interest shall be required to be paid, if not already so provided by law, on all deposits of public moneys amounting to one thousand dollars or more made by a state, local or other public officer or employee for or on behalf of the state or the county, city, town, village, school district or other public instrumentality or for or on behalf of any pension system or fund maintained by law for any of the employees of the state, county, city, town, village, school district or other public instrumentality, as the case may be, to which such moneys belong. Within twenty days after this section takes effect and, in the case of public officers or employees hereafter elected or appointed within twenty days after entering upon the duties of his office or employment, every public officer or employee charged with the care and custody of public moneys and/or of moneys entrusted to his care and custody by virtue of his office or employment shall agree with the depository thereof upon the rate of interest to be paid thereon and such rate of interest shall thereupon and thereafter be paid by said depository at such time or times as shall be agreed upon. All interest on such deposits shall be accounted for by the depositing officer or employee in the same manner as other moneys received by such officer or employee by virtue of his office or employment. Nothing contained in this section or in any other general or special law shall authorize, enable or require any state, local or other public officer or employee, to demand or require of any banking corporation or private banker, any agreement to pay, or payment of, interest upon any deposit of public moneys or any deposit made for or on behalf of the state or the county, city, town, village, school district or other public instrumentality, board, agency or authority, or for or on behalf of any pension system or fund maintained by law for any of the employees of the state, county, city, town, village, school district or other public board, agency, instrumentality or authority, as the case may be, if payment of interest upon any such deposit is at the time prohibited by state or federal law or by any regulation of either the banking board of this state, or of the board of governors of the federal reserve system, or of the board of directors of the Federal Deposit Insurance Corporation.

Section 70. Accounting for fees

Where a public officer is required, by law, to keep an account of, or to pay over, the fees or other moneys, received by him for official services, he must include therein all sums, received by him, to which he was entitled, by reason of any act, performed by him in his official capacity; whether the act did or did not pertain to his office, or to the business thereof.

Section 70-A. Fees to be paid by public officers for public advertisements

The charge for the publication of concurrent resolutions, proposed constitutional amendments, propositions or questions to be submitted to the voters of the state, tax sales and official notices required to be published by state boards, commissions or officers in newspapers of the state, shall be paid from the treasury on the audit and warrant of the comptroller, after certification by the proper officer that such a publication has been regularly made as prescribed by law. The charge for the publication, if authorized by law, of digests of laws of a local nature in the newspaper designated to publish such digests shall be paid by the several counties of the state in which such laws may be published, upon like certification. The charge for the publication of concurrent resolutions, proposed constitutional amendments, propositions or questions to be submitted to the voters of the state or of any political subdivision thereof or therein, tax sales by the state or any county or municipality therein, and of all official notices and advertisements authorized or required by law to be published at the expense of the state or of a county, city, town, village, public authority, public benefit corporation or

other political or civil subdivision of the state, shall be at the rate of twenty-nine cents per line of a column width not less than ten pica ems, provided that in computing such charge per line the line shall average at least five words for each insertion in newspapers having less than two thousand five hundred circulation; twenty-nine and one-half cents per line for newspapers having two thousand five hundred or more circulation and less than five thousand; thirty and one-half cents per line for newspapers having five thousand or more circulation and less than seven thousand and five hundred; thirty-one and one-half cents per line for newspapers having seven thousand five hundred or more circulation and less than ten thousand; thirty-two and one-half cents per line for newspapers having ten thousand or more circulation and less than fifteen thousand; and three and one-half cents per line in addition to the thirty-two and one-half cents for the initial fifteen thousand circulation, for each additional five thousand circulation up to thirty-five thousand circulation and one and one-half cents per line for each additional five thousand possessed by such newspapers. To all of the above rates nine cents per line shall be added to the initial insertion charge of each separate advertisement. To all of the above rates for the initial insertion eight cents per line shall also be added for tabular matter or intricate composition. Display advertising shall be charged agate measurement, fourteen lines to each inch, ten to thirteen pica ems wide, depending on the makeup of the newspaper publishing such copy. Every newspaper printed, published or having its principal office outside of a city having a population of over three hundred fifty thousand inhabitants, as a condition precedent to designation as the official newspaper of any county, city, town, village or other political or civil subdivision of the state or for the making of claim for compensation under the foregoing provisions of this section, must be established at least one year and entered in the post office as second class matter. This rate shall not apply to any newspaper printed, principally circulated or having its principal office in the counties of New York or Bronx within the first judicial district or in the county of Kings within the second judicial district or in the county of Nassau within the tenth judicial district or in the county of Queens within the eleventh judicial district or in the county of Westchester within the ninth judicial district or in any city having a population of over one hundred seventy-five thousand inhabitants within the seventh and eighth judicial districts, where the rate for such publication may be equal to, but shall not exceed, the regularly established classified advertising rate of such newspapers. In reckoning line charges allowance shall be made for date lines, paragraph endings, titles, signatures, and similar short lines as full lines where the same are set to conform to the usual rules of composition. Every newspaper printed, published or having its principal office outside of a city having a population of over three hundred fifty thousand inhabitants designated for the publication of concurrent resolutions, proposed constitutional amendments, propositions or questions to be submitted to the voters of the state and making claim for compensation must be established at least one year, entered in the post office as second class matter and be printed and published in the town, village or city or its post office address and except newspapers designated, printed, published and having their principal offices in a city having a population of more than three hundred fifty thousand inhabitants, shall attach to such claim an affidavit of the circulation of such newspaper for the six months period ending March thirty-first or September thirtieth immediately preceding, which shall be used as the basis of circulation rating. Papers printed, published and having their principal offices outside a city having a population of more than three hundred fifty thousand inhabitants shall accept the minimum rate per line until such time as they establish to the satisfaction of the state comptroller sufficient circulation to entitle them to a higher rate. It shall be the duty of each board of supervisors in the several counties of the state, in making out the assessment rolls, to assess and levy on the taxable property of the county whose representatives they are, such sums as shall be sufficient to defray the expense of publishing the digest of laws of a local nature, if such publication be authorized, applicable only to the county affected, in the newspaper designated. Notwithstanding any provision of this section to the contrary, any publication which was designated and publishing notice as an official newspaper prior to the year nineteen hundred forty and continued to be so designated and

publishing for at least thirty years after such year, which has been designated for the publication of concurrent resolutions, proposed constitutional amendments, propositions or questions to be submitted to the voters of the state, may make claim for compensation pursuant to the provisions of this section.

Section 70-B. Certificate on printed copies of laws

1. A published or printed copy of a law shall be entitled to be read into evidence if it is:
 - (a) Contained in a book or pamphlet published under the direction of the temporary president of the senate and speaker of the assembly pursuant to the provisions of section forty-four of the legislative law; or
 - (b) Certified to be a slip copy of a session law printed under the direction of the temporary president of the senate and speaker of the assembly; or
 - (c) Contained in a book or pamphlet, or supplement thereto, and certified by the temporary president of the senate and speaker of the assembly to be a correct transcript of the text of such law as last amended; or
 - (d) Certified as a correct transcript of the text of such law by the secretary of state.
2. A published or printed copy of the administrative code of the city of New York shall be entitled to be read into evidence if it is contained in a book or pamphlet, or supplement thereto and certified by the temporary president of the senate and the speaker of the assembly to be a correct transcript of the text of such code as last amended; provided, however, that whenever the provisions of such code contain amendments, additions or repeals effected by passage of local laws by the city council of the city of New York, certification by the temporary president of the senate and the speaker of the assembly shall not be made unless prior thereto certified or official copies of such local laws have been transmitted by the city clerk of the city of New York to the New York state legislative bill drafting commission at its office in Albany.

Section 71. Vacations for employees of the state

The executive officers of every public department, bureau, commission, or board of the state are authorized and empowered to grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed. The provisions of this section shall not apply to any employee who is subject to the rules governing sick leave, vacation and other time allowances adopted by the state civil service commission pursuant to law.

Section 72. Notices and reports of claims, suits or causes of action to be given to the attorney-general

1. Every officer, clerk, agent or employee of any department of the state government, who shall have knowledge of any accident or injury to the person or property of any person or corporation, on account of which there arises or may arise a claim, suit or cause of action against the state, or of any accident or injury to property owned by the state, on account of which there arises or may arise a claim, suit or cause of action in favor of the state, shall immediately give notice thereof to the officer or employee in charge of his bureau or department.

2. Every department, commission, board or officer, or the person in charge thereof, who has knowledge that a claim has accrued or may have accrued or made either against, or in favor of, the state, or of any accident or injury to the person or property of any person or corporation, or of the state on account of which there arises or may arise a claim, suit or cause of action against, or in favor of, the state, or an officer thereof, shall immediately give notice to the attorney-general, stating the time when, and the place where, such claim, suit or cause of action may have arisen, and the nature of the same, and such other information and evidence as the attorney-general may direct or deem necessary. The attorney-general shall make such investigation of the facts, relating to any matter so reported, as he may deem necessary.

Section 72-A. Penalty of officer for failure to execute mandate and make return

An officer who fails to execute a mandate according to its command and make a return thereon of his proceedings is liable to the party aggrieved for the damages sustained by him, in addition to any other punishment or proceeding authorized by law.

Section 73. Business or professional activities by state officers and employees and party officers

1. As used in this section:

(a) The term "compensation" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles as defined by the state ethics commission or legislative ethics committee in relation to persons subject to their respective jurisdictions.

(b) The term "licensing" shall mean any state agency activity, other than before the division of corporations and state records in the department of state, respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency as defined herein, which in the absence of such license, permit or other form of permission would be prohibited.

(c) The term "legislative employee" shall mean any officer or employee of the legislature but it shall not include members of the legislature.

(d) The term "ministerial matter" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

(e) The term "regulatory agency" shall mean the banking department, insurance department, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of the executive law.

(f) The term "representative capacity" shall mean the presentation of the interests of a client or other person pursuant to an agreement, express or implied, for compensation for services.

(g) The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at

least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges of the state university of New York and the independent institutions operating statutory or contract colleges on behalf of the state.

(h) The term "statewide elected official" shall mean the governor, lieutenant governor, comptroller or attorney general.

(i) The term "state officer or employee" shall mean:

(i) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;

(ii) officers and employees of statewide elected officials;

(iii) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and

(iv) 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, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.

(j) The term "city agency" shall mean a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include the board of education, the board of higher education, school boards, city and community colleges, community boards, the New York city transit authority, the New York city housing authority and the Triborough bridge and tunnel authority, but shall not include any court or corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

(k) The term "political party chairman" shall mean:

(i) the chairman of the state committee of a party elected as provided in section 2-112 of the election law and his or her successor in office;

(ii) the chairman of a county committee elected as provided in section 2-112 of the election law and his or her successor in office from a county having a population of three hundred thousand or more or who receives compensation or expenses, or both, during the calendar year aggregating thirty thousand dollars or more; and

(iii) that person (usually designated by the rules of a county committee as the "county leader" or "chairman of the executive committee") by whatever title designated, who pursuant to the rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person was elected from a county having a population of three hundred thousand or more or was a person who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:

(A) the principal political, executive and administrative officer of the county committee;

(B) the power of general management over the affairs of the county committee;

(C) the power to exercise the powers of the chairman of the county committee as provided for in the rules of the county committee;

(D) the power to preside at all meetings of the county executive committee, if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de facto the power of general management over the affairs of the county committee at times when the county committee is not in actual session;

(E) the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee pursuant to the rules of the county committee, for the purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law; or

(F) the power to direct the treasurer of the party to expend funds of the county committee.

The terms "constituted committee" and "political committee", as used in this paragraph (k), shall have the same meanings as those contained in section 14-100 of the election law.

(l) A person has a "financial interest" in any entity if that person:

(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

(ii) serves as an officer, director or partner of that entity.

(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.

2. In addition to the prohibitions contained in subdivision seven hereof, no statewide elected official, state officer or employee, member of the legislature or legislative employee shall receive, or enter into any agreement express or implied for, compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit; provided, however, that nothing in this subdivision shall be deemed to prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

3. (a) No statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another against the interest of the state in relation to any case, proceeding, application or other matter before, or the transaction of business by himself or another with, the court of claims.

(b) No state officer or employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this article, and is not otherwise subject to the provisions of this section, shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the appearance or rendition of services by himself or another against the interest of the state agency by which he is employed or affiliated in relation to any case, proceeding, application or other matter before, or the transaction of business by himself or another with, the court of claims.

4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(b) No political party chairman of a county wholly included in a city with a population of more than one million, or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any city agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised directly or indirectly, by a city agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(c) For purposes of this subdivision, the term "services" shall not include employment as an employee.

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:

(a) solicit, accept or receive any gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance 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.

(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

(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.

- 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.
- (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.
- (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.
6. (a) Every legislative employee not subject to the provisions of section seventy-three-a of this chapter shall, on and after December fifteenth and before the following January fifteenth, in each year, file with the legislative ethics committee established by section eighty of the legislative law a financial disclosure statement of
- (1) each financial interest, direct or indirect of himself, his spouse and his unemancipated children under the age of eighteen years in any activity which is subject to the jurisdiction of a regulatory agency or name of the entity in which the interest is had and whether such interest is over or under five thousand dollars in value.
- (2) every office and directorship held by him in any corporation, firm or enterprise which is subject to the jurisdiction of a regulatory agency, including the name of such corporation, firm or enterprise.
- (3) any other interest or relationship which he determines in his discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed.
- (b) Copies of such statements shall be open for public inspection and copying.
- (c) Any such legislative employee who knowingly and wilfully with intent to deceive makes a false statement or gives information which he knows to be false in any written statement required to be filed pursuant to this subdivision, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty shall be made by the legislative ethics committee in accordance with the provisions of subdivision twelve of section eighty of the legislative law. For a violation of this subdivision, the committee may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.
7. (a) No statewide elected official, or state officer or employee, other than in the proper discharge of official state or local governmental duties, or member of the legislature or legislative employee, or political party chairman shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another in relation to any case, proceeding, application or other matter before a state agency where such appearance or rendition of services is in connection with:
- (i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;
- (ii) any proceeding relating to rate making;

- (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
- (iv) the obtaining of grants of money or loans;
- (v) licensing; or
- (vi) any proceeding relating to a franchise provided for in the public service law.

(b) No political party chairman in a county wholly included in a city having a population of one million or more shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another in relation to any case, proceeding, application or other matter before any city agency where such appearance or rendition of services is in connection with:

- (i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;
- (ii) any proceeding relating to ratemaking;
- (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
- (iv) the obtaining of grants of money or loans;
- (v) licensing. For purposes of this paragraph, the term "licensing" shall mean any city agency activity respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency of a city agency which in the absence of such license, permit or other form of permission would be prohibited; and
- (vi) any proceeding relating to a franchise.

(c) Nothing contained in this subdivision shall prohibit a statewide elected official, or a state officer or employee, unless otherwise prohibited, or a member of the legislature or legislative employee, or political party chairman, from appearing before a state agency in a representative capacity if such appearance in a representative capacity is in connection with a ministerial matter.

(d) Nothing contained in this subdivision shall prohibit a member of the legislature, or a legislative employee on behalf of such member, from participating in or advocating any position in any matter in an official or legislative capacity, including, but not limited to, acting as a public advocate whether or not on behalf of a constituent. Nothing in this paragraph shall be construed to limit the application of the provisions of section seventy-seven of this chapter.

(e) Nothing contained in this subdivision shall prohibit a state officer or employee from appearing before a state agency in a representative capacity on behalf of an employee organization in any matter where such appearance is duly authorized by an employee organization.

(f) Nothing contained in this subdivision shall prohibit a political party chairman from participating in or advocating any matter in an official capacity.

(g) Nothing contained in this subdivision shall prohibit internal research or discussion of a matter, provided, however, that the time is not charged to the client and the person does not share in the net revenues generated or produced by the matter.

(h) Nothing contained in this subdivision shall prohibit a state officer or employee, unless otherwise prohibited, from appearing or rendering services in relation to a case, proceeding, application or transaction before a state agency, other than the agency in which the officer or employee is

employed, when such appearance or rendition of services is made while carrying out official duties as an elected or appointed official, or employee of a local government or one of its agencies.

8. (a) (i) No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.
- (ii) No person who has served as a state officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any state agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration.
- (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 shall within a period of two year 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.
- (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.
- (b) (i) The provisions of subparagraph (i) of paragraph (a) of this subdivision shall not apply to any state officer or employee whose employment was terminated on or after January first, nineteen hundred ninety-five and before April first, nineteen hundred ninety-nine or on or after January first, two thousand nine and before April first, two thousand eleven because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force. On or before the date of such termination of employment, the state agency shall provide to the terminated employee a written certification that the employee has been terminated because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force, and that such employee is covered by the provisions of this paragraph. The written certification shall also contain a notice describing the rights and responsibilities of the employee pursuant to the provisions of this section. The certification and notice shall contain the information and shall be in the form set forth below:

CERTIFICATION AND NOTICE

TO: Employee's Name: _____
State agency: _____
Date of Termination: _____

I, (name and title) of (state agency), hereby certify that your termination from State service is because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the State

work force. Therefore, you are covered by the provisions of paragraph (b) of subdivision eight of section seventy-three of the Public Officers Law.

You were designated as a policy maker: YES ____ NO ____

(TITLE)

TO THE EMPLOYEE:

This certification affects your right to engage in certain activities after you leave state service. Ordinarily, employees who leave State service may not, for two years, appear or practice before their former agency or receive compensation for rendering services on a matter before their former agency. However, because of this certification, you may be exempt from this restriction.

If you were not designated as a Policymaker by your agency, you are automatically exempt. You may, upon leaving State service, immediately appear, practice or receive compensation for services rendered before your former agency.

If you were designated as a Policymaker by your agency, you are eligible to apply for an exemption to the Commission on Public Integrity at 540 Broadway, Albany, New York 12207.

Even if you are or become exempt from the two year bar, the lifetime bar of the revolving door statute will continue to apply to you. You may not appear, practice, communicate or otherwise render services before any State agency in relation to any case, proceeding, application or transaction with respect to which you were directly concerned and in which you personally participated during your States service, or which was under your active consideration.

If you have any questions about the application of the post-employment restrictions to your circumstances, you may contact the Commission on Public Integrity at (518) 408-3976 or 1-800-87ETHIC (1-800-873-8442).

(ii) The provisions of subparagraph (i) of this paragraph shall not apply to any such officer or employee who at the time of or prior to such termination had served in a policymaking position as determined by the appointing authority, which determination had been filed with the state ethics commission or the commission on public integrity, provided that such officer or employee may so appear or practice or receive such compensation with the prior approval of the state ethics commission or the commission on public integrity. In determining whether to grant such approval the state ethics commission or the commission on public integrity shall consider:

- A. whether the employee's prior job duties involved substantial decision-making authority over policies, rule or contracts;
- B. the nature of the duties to be performed by the employee for the prospective employer;
- C. whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee;

- D. whether the prospective employment may be beneficial to the state or the public; and
- E. the extent of economic hardship to the employee if the application is denied.

(c) The provisions of paragraph (b) of this subdivision shall not apply to employees whose employment has been discontinued as a result of retirement or to employees who, prior to termination, have declined to exercise a right to another position with a state agency unless such position would require the employee to travel more than thirty-five miles in each direction to the new position or accept a reduction in base salary of more than ten per centum.

(d) Nothing contained in this subdivision shall prohibit any state agency from adopting rules concerning practice before it by former officers or employees more restrictive than the requirements of this subdivision.

(e) This subdivision shall not apply to any appearance, practice, communication or rendition of services before any state agency, or either house of the legislature, or to the receipt of compensation for any such services, rendered by a former state officer or employee or former member of the legislature or legislative employee, which is made while carrying out official duties as an elected official or employee of a federal, state or local government or one of its agencies.

(f) Nothing in this subdivision shall be deemed to prevent a former state officer or employee who was employed on a temporary basis to perform routine clerical services, mail services, data entry services or other similar ministerial tasks, from subsequently being employed by a person, firm, corporation or association under contract to a state agency to perform such routine clerical services, mail services, data entry services or other similar ministerial tasks; provided however, this paragraph shall in no event apply to any such state officer or employee who was required to file an annual statement of financial disclosure pursuant to section seventy-three-a of this article.

(g) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the state ethics commission that the services of such former officer or employee are required in connection with the agency's efforts to address the state's year 2000 compliance problem.

(h) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the state ethics commission that the services of such former officer or employee are required in connection with the agency's response to a disaster emergency declared by the governor pursuant to section twenty-eight of the executive law.

8-a. The provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section shall not apply to any such former state officer or employee engaged in any of the specific permitted activities defined in this subdivision that are related to any civil action or proceeding in any state or federal court, provided that the attorney general has certified in writing to the state ethics commission, with a copy to such former state officer or employee, that the services are rendered on behalf of the state, a state agency, state officer or employee, or other person or entity represented by the attorney general, and that such former state officer or employee has expertise, knowledge or experience which is unique or outstanding in a field or in a particular matter or which would otherwise be generally unavailable at a comparable cost to the state, a state agency, state officer or employee, or other person or entity represented by the attorney general in such civil action or

proceeding. In those instances where a state agency is not represented by the attorney general in a civil action or proceeding in state or federal court, a former state officer or employee may engage in permitted activities provided that the general counsel of the state agency, after consultation with the state ethics commission, provides to the state ethics commission a written certification which meets the requirements of this subdivision. For purposes of this subdivision the term "permitted activities" shall mean generally any activity performed at the request of the attorney general or the attorney general's designee, or in cases where the state agency is not represented by the attorney general, the general counsel of such state agency, including without limitation:

- (a) preparing or giving testimony or executing one or more affidavits;
- (b) gathering, reviewing or analyzing information, including documentary or oral information concerning facts or opinions, attending depositions or participating in document review or discovery;
- (c) performing investigations, examinations, inspections or tests of persons, documents or things;
- (d) performing audits, appraisals, compilations or computations, or reporting about them;
- (e) identifying information to be sought concerning facts or opinions; or
- (f) otherwise assisting in the preparation for, or conduct of, such litigation.

Nothing in this subdivision shall apply to the provision of legal representation by any former state officer or employee.

* 8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency if, prior to engaging in such service, the agency head certifies in writing to the state ethics commission that such former officer or employee has expertise, knowledge or experience with respect to a particular matter which meets the needs of the agency and is otherwise unavailable at a comparable cost. Where approval of the contract is required under section one hundred twelve of the state finance law, the comptroller shall review and consider the reasons for such certification. The state ethics commission must review and approve all certifications made pursuant to this subdivision.

* NB There are 2 sub 8-b's

* 8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee who, prior to his or her separation from state service, was employed as a health care professional and, in conjunction with his or her state duties, provided treatment and/or medical services to individuals residing in or served by a state-operated facility is not barred from rendering services to such individuals in their care prior to leaving state service, at the state-operated facility which employed the former state officer or employee.

* NB There are 2 sub 8-b's

9. No party officer while serving as such shall be eligible to serve as a judge of any court of record, attorney-general or deputy or assistant attorney-general or solicitor general, district attorney or assistant district attorney. As used in this subdivision, the term "party officer" shall mean a member of a national committee, an officer or member of a state committee or a county chairman of any political party.

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chairman, member of the legislature or legislative employee is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a state agency, or a city agency with respect to a political party chairman in a county wholly included in a city with a population of more than one million, otherwise proscribed by this section, the judiciary law, the education law or any other law or disciplinary rule with respect to such official, member of the legislature or officer or employee, or political party chairman, where such statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the state ethics commission or by the legislative ethics committee in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined; nor shall anything contained in this section, the judiciary law, the education law or any other law or disciplinary rule be construed to prohibit any firm, association or corporation in which any present or former statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, the court of claims, where such statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the state ethics commission or by the legislative ethics committee in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined.

11. Notwithstanding any provision of the judiciary law, the education law or any other law or disciplinary rule to the contrary:

(a) Conduct authorized pursuant to subdivision eight of this section by a person who has served as a member of the legislature or as a legislative employee shall not constitute professional misconduct or grounds for disciplinary action of any kind;

(b) No member of the legislature or former member of the legislature shall be prohibited from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, any state agency solely by reason of any vote or other action by such member or former member in respect to the confirmation or election of any member, commissioner, director or other person affiliated with such state agency, but nothing in this paragraph shall limit the prohibition contained in subdivision eight of this section;

(c) The appearance, practice, communication or rendition of services in relation to any matter before, or transaction of business with a state agency, or with the court of claims, or the promotion or opposition to the passage of bills or resolutions by either house of the legislature, by a member, associate, retired member, of counsel or shareholder of a firm, association or corporation, in accordance with subdivision ten of this section, is hereby authorized and shall not constitute professional misconduct or grounds for disciplinary action of any kind solely by reason of the professional relationship between the statewide elected official, state officer or employee, political party chairman, member of the legislature, or legislative employee and any firm, association,

corporation or any member, associate, retired member, of counsel, or shareholder thereof, or by reason of the appearance created by any such professional relationship.

12. A statewide elected official, state officer or employee, or a member of the legislature or legislative employee, or political party chairman, who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation which is appearing or rendering services in connection with any case, proceeding, application or other matter listed in paragraph (a) or (b) of subdivision seven of this section shall not orally communicate, with or without compensation, as to the merits of such cause with an officer or an employee of the agency concerned with the matter.

13. For the purposes of this section, a statewide elected official or state officer or employee or member of the legislature or legislative employee or political party chairman who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation shall not be deemed to have made an appearance under the provisions of this section solely by the submission to a state agency or city agency of any printed material or document bearing his or her name, but unsigned by him or her, such as by limited illustrations the name of the firm, association or corporation or the letterhead of any stationery, which pro forma serves only as an indication that he or she is such a member, associate, retired member, of counsel to, or shareholder.

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.

(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.

15. No statewide elected official, state officer or employee, member of the legislature or legislative employee shall:

(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

(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.

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.

(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.

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.

(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.

(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.

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, seven, eight, twelve or fourteen through seventeen of this section shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received in connection with such violation. Assessment of a civil penalty hereunder shall be made by the state oversight body with jurisdiction over such person. A state oversight body acting pursuant to its jurisdiction, may, in lieu of a civil penalty, with respect to a violation of subdivisions two through five, seven or eight of this section, refer a violation of any such subdivision to the appropriate prosecutor and upon such conviction such violation shall be punishable as a class A misdemeanor.

Section 73-A. Financial disclosure

1. As used in this section:

(a) The term "statewide elected official" shall mean the governor, lieutenant governor, comptroller, or attorney general.

(b) The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges of the state university of New York and the independent institutions operating statutory or contract colleges on behalf of the state.

(c) The term "state officer or employee" shall mean:

(i) heads of state departments and their deputies and assistants;

(ii) officers and employees of statewide elected officials, officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies, who receive annual compensation in excess of the filing rate established by paragraph (l) of this subdivision or who hold policy-making positions, as annually determined by the appointing

authority and set forth in a written instrument which shall be filed with the state ethics commission established by section ninety-four of the executive law during the month of February, provided, however, that the appointing authority shall amend such written instrument after such date within thirty days after the undertaking of policy-making responsibilities by a new employee or any other employee whose name did not appear on the most recent written instrument; and

(iii) 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, and employees of such authorities, corporations and commissions who receive annual compensation in excess of the filing rate established by paragraph (l) of this subdivision or who hold policy-making positions, as determined annually by the appointing authority and set forth in a written instrument which shall be filed with the state ethics commission established by section ninety-four of the executive law during the month of February, provided, however, that the appointing authority shall amend such written instrument after such date within thirty days after the undertaking of policy-making responsibilities by a new employee or any other employee whose name did not appear on the most recent written instrument.

(d) The term "legislative employee" shall mean any officer or employee of the legislature who receives annual compensation in excess of the filing rate established by paragraph (l) below or who is determined to hold a policy-making position by the appointing authority as set forth in a written instrument which shall be filed with the legislative ethics committee established by section eighty of the legislative law.

(e) The term "spouse" shall mean the husband or wife of the reporting individual unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (i) a judicial order, decree or judgment, or (ii) a legally binding separation agreement.

(f) The term "relative" shall mean such individual's spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.

(g) The term "unemancipated child" shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the reporting individual.

(h) The term "political party chairman" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this chapter.

(i) The term "local agency" shall mean:

(i) any county, city, town, village, school district or district corporation, or any agency, department, division, board, commission or bureau thereof; and

(ii) any public benefit corporation or public authority not included in the definition of a state agency.

(j) The term "regulatory agency" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this chapter.

(k) The term "ministerial matter" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this chapter.

(l) The term "filing rate" shall mean the job rate of SG-24 as set forth in paragraph a of subdivision one of section one hundred thirty of the civil service law as of April first of the year in which an annual financial disclosure statement shall be filed.

2. (a) Every statewide elected official, state officer or employee, member of the legislature, legislative employee and political party chairman and every candidate for statewide elected office or for member of the legislature shall file an annual statement of financial disclosure containing the information and in the form set forth in subdivision three hereof. Such statement shall be filed on or before the fifteenth day of May with respect to the preceding calendar year, except that:
 - (i) a person who is subject to the reporting requirements of this subdivision and who timely filed with the internal revenue service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to file such financial disclosure statement on or before May fifteenth but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplementary statement of financial disclosure, which shall be filed on or before the seventh day after the expiration of the period of such automatic extension of time within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this section respecting annual statements of financial disclosure as if such supplementary statement were an annual statement;
 - (ii) a person who is required to file an annual financial disclosure statement with the state ethics commission or with the legislative ethics committee, and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship, in accordance with required rules and regulations on the subject adopted pursuant to paragraph c of subdivision nine of section ninety-four of the executive law or pursuant to paragraph c of subdivision eight of section eighty of the legislative law, shall file such statement within the additional period of time granted;
 - (iii) candidates for statewide office who receive a party designation for nomination by a state committee pursuant to section 6-104 of the election law shall file such statement within seven days after the date of the meeting at which they are so designated;
 - (iv) candidates for statewide office who receive twenty-five percent or more of the vote cast at the meeting of the state committee held pursuant to section 6-104 of the election law and who demand to have their names placed on the primary ballot and who do not withdraw within fourteen days after such meeting shall file such statement within seven days after the last day to withdraw their names in accordance with the provisions of such section of the election law;
 - (v) candidates for statewide office and candidates for member of the legislature who file party designating petitions for nomination at a primary election shall file such statement within seven days after the last day allowed by law for the filing of party designating petitions naming them as candidates for the next succeeding primary election;
 - (vi) candidates for independent nomination who have not been designated by a party to receive a nomination shall file such statement within seven days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates in the next succeeding general or special election;

(vii) candidates who receive the nomination of a party for a special election shall file such statement within seven days after the date of the meeting of the party committee at which they are nominated; and

(viii) a candidate substituted for another candidate, who fills a vacancy in a party designation or in an independent nomination, caused by declination, shall file such statement within seven days after the last day allowed by law to file a certificate to fill a vacancy in such party designation or independent nomination.

(b) As used in this subdivision, the terms "party", "committee" (when used in conjunction with the term "party"), "designation", "primary", "primary election", "nomination", "independent nomination" and "ballot" shall have the same meanings as those contained in section 1-104 of the election law.

(c) If the reporting individual is a senator or member of assembly, candidate for the senate or member of assembly or a legislative employee, such statement shall be filed with the legislative ethics committee established by section eighty of the legislative law. If the reporting individual is a statewide elected official, candidate for statewide elected office, a state officer or employee or a political party chairman, such statement shall be filed with the state ethics commission established by section ninety-four of the executive law.

(d) The legislative ethics committee and the state ethics commission shall obtain from the state board of elections a list of all candidates for statewide office and for member of the legislature, and from such list, shall determine and publish a list of those candidates who have not, within ten days after the required date for filing such statement, filed the statement required by this subdivision.

(e) Any person required to file such statement who commences employment after May fifteenth of any year and political party chairman shall file such statement within thirty days after commencing employment or of taking the position of political party chairman, as the case may be.

(f) A person who may otherwise be required to file more than one annual financial disclosure statement with both the state ethics commission and the legislative ethics committee in any one calendar year may satisfy such requirement by filing one such statement with either body and by notifying the other body of such compliance.

(g) A person who is employed in more than one employment capacity for one or more employers certain of whose officers and employees are subject to filing a financial disclosure statement with the same ethics commission or ethics committee, as the case may be, and who receives distinctly separate payments of compensation for such employment shall be subject to the filing requirements of this section if the aggregate annual compensation for all such employment capacities is in excess of the filing rate notwithstanding that such person would not otherwise be required to file with respect to any one particular employment capacity. A person not otherwise required to file a financial disclosure statement hereunder who is employed by an employer certain of whose officers or employees are subject to filing a financial disclosure statement with the state ethics commission and who is also employed by an employer certain of whose officers or employees are subject to filing a financial disclosure statement with the legislative ethics committee shall not be subject to filing such statement with either such commission or such committee on the basis that his aggregate annual compensation from all such employers is in excess of the filing rate.

(h) A statewide elected official or member of the legislature, who is simultaneously a candidate for statewide elected office or member of the legislature, shall satisfy the filing deadline requirements

of this subdivision by complying only with the deadline applicable to one who holds a statewide elected office or who holds the office of member of the legislature.

(i) A candidate whose name will appear on both a party designating petition and on an independent nominating petition for the same office or who will be listed on the election ballot for the same office more than once shall satisfy the filing deadline requirements of this subdivision by complying with the earliest applicable deadline only.

(j) A member of the legislature who is elected to such office at a special election prior to May fifteenth in any year shall satisfy the filing requirements of this subdivision in such year by complying with the earliest applicable deadline only.

3. The annual statement of financial disclosure shall contain the information and shall be in the form set forth herein below:

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

1. Name _____

2. (a) Title of Position _____

(b) Department, Agency or other Governmental Entity _____

(c) Address of Present Office _____

(d) Office Telephone Number _____

3. (a) Marital Status _____. If married, please give spouse's full name including maiden name where applicable.

_____.

(b) List the names of all unemancipated children.

Answer each of the following questions completely, with respect to calendar year _____, unless another period or date is otherwise specified. If additional space is needed, attach additional pages.

Whenever a "value" or "amount" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories: Category A - under \$5,000; Category B - \$5,000 to under \$20,000; Category C - \$20,000 to under \$60,000; Category D - \$60,000 to under \$100,000; Category E - \$100,000 to under \$250,000; and Category F - \$250,000 or over. A reporting individual shall indicate the Category by letter only.

Whenever "income" is required to be reported herein, the term "income" shall mean the aggregate net income before taxes from the source identified.

The term "calendar year" shall mean the year ending the December 31st preceding the date of filing of the annual statement.

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

Position	Organization	State or Local Agency
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Position	Organization	State or Local Agency
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Position	Name & Address of Organization	Description	State or Local Agency

(b) If the spouse or unemancipated child of the reporting individual was engaged in any occupation, employment, trade, business or profession which activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name, address and description of such occupation, employment, trade, business or profession and the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency

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

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

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

8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, give a general description of the principal subject areas of matters undertaken by such individual. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of principal subject areas of matters undertaken by such firm or corporation. Do not list the name of the individual clients, customers or patients.

(b) List the name, principal address and general description or the nature of the business activity of any entity in which the reporting individual or such individual's spouse had an investment in excess of \$1,000 excluding investments in securities and interests in real property.

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

Self, Spouse or Child	Name of Donor	Address	Category of Nature of Gift	Value of Gift

10. Identify and briefly describe the source of any reimbursements for expenditures, EXCLUDING campaign expenditures and expenditures in connection with official duties reimbursed by the state, in EXCESS of \$1,000 from each such source. For purposes of this item, the term "reimbursements" shall mean any travel-related expenses provided by nongovernmental sources and for activities related to the reporting individual's official duties such as, speaking engagements, conferences, or factfinding events. The term "reimbursements" does NOT include gifts reported under item 9.

Source	Description

11. List the identity and value, if reasonably ascertainable, of each interest in a trust, estate or other beneficial interest, including retirement plans other than retirement plans of the state of New York or the city of New York, and deferred compensation plans (e.g., 401, 403(b), 457, etc.) established in accordance with the internal revenue code, in which the REPORTING INDIVIDUAL held a beneficial interest in EXCESS of \$1,000 at any time during the preceding year. Do NOT report interests in a trust, estate or other beneficial interest established by or for, or the estate of, a relative.

Identity	Category of Value*

* The value of such interest shall be reported only if reasonably ascertainable.

12. (a) Describe the terms of, and the parties to, any contract, promise, or other agreement between the reporting individual and any person, firm, or corporation with respect to the employment of such individual after leaving office or position (other than a leave of absence).

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

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

Self/ Spouse	Source	Nature	Category of Amount
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

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

Source	Category of Amount

15. List each assignment of income in EXCESS of \$1,000, and each transfer other than to a relative during the reporting period for which this statement is filed for less than fair consideration of an interest in a trust, estate or other beneficial interest, securities or real property, by the reporting individual, in excess of \$1,000, which would otherwise be required to be reported herein and is not or has not been so reported.

Item Assigned or Transferred	Assigned or Transferred to	Category of Value

16. List below the type and market value of securities held by the reporting individual or such individual's spouse from each issuing entity in EXCESS of \$1,000 at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed ONLY IF the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to the reporting individual. Securities of which the reporting individual or the reporting individual's spouse is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership ONLY if the reporting person or the reporting person's spouse holds more than five percent (5%) of the stock of a corporation in which the stock is publicly traded or more than ten percent (10%) of the stock of a corporation in which the stock is NOT publicly traded. Also list securities owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse. For the purpose of this item the term "securities" shall mean mutual funds, bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits (CDs) and such other evidences of indebtedness and certificates of interest as are usually referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed in item 8 (a) or if the security is corporate stock, NOT publicly traded, in a trade or business of a reporting individual or a reporting individual's spouse.

Self/ Spouse	Issuing Entity	Type of Security	Percentage of corporate stock owned or controlled (if more than 5% of pub- licly traded stock, or more than 10% if stock not publicly traded, is held)	Category of Market Value as of the close of the taxable year last occurring prior to the filing of this statement

17. List below the location, size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in EXCESS of \$1,000 is held by the reporting individual or the reporting individual's spouse. Also list real property owned for investment purposes by a corporation more than fifty percent 50% of the stock of which is owned or controlled by the reporting individual or such individual's spouse. Do NOT list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse, except where there is a co-owner who is other than a relative.

Self/ Spouse/ Corporation	Location	Size	General Nature	Acquisition Date	Percentage of Ownership	Category of Market Value

18. List below all notes and accounts receivable, other than from goods or services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in EXCESS of \$1,000, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported in item 16 hereinabove. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported.

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

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

(Signature of Reporting Individual)

Date (month/day/year)

4. 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 this section shall be subject to a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the state ethics commission or by 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, 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, except that the appointing authority may impose disciplinary action as otherwise provided by law. The state ethics commission and the legislative ethics committee shall each 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 relating to the assessment of the civil penalties herein authorized. 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 such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the state ethics commission or legislative ethics committee, pursuant to article seventy-eight of the civil practice law and rules.

5. Nothing contained in this section shall be construed as precluding any public authority or public benefit corporation from exercising any authority or power now or hereafter existing to require any of its members, directors, officers or employees to file financial disclosure statements with such public authority or public benefit corporation that are the same as, different from or supplemental to any of the requirements contained herein and to provide only for internal employment discipline for any violation arising out of such internal filing.

Section 73-B. Advertisements by elected government officials and candidates made with public funds; prohibited

1. As used in this section:

- (a) "Political subdivision" shall mean a county, city, town, village or district within the state.
- (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.
- (c) "Appear" or "appears" shall mean to appear by likeness, picture or voice.
- (d) "Candidate" shall have the meaning set forth in section 14-100 of the election law.

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.
- (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.

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.

Section 74. Code of ethics

1. Definition. 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 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. The term "legislative employee" shall mean any officer or employee of the legislature but it shall not include members of the legislature.

Section 74-A. Duty of public officers regarding the physically handicapped

It shall be the duty of each public officer responsible for the scheduling or siting of any public hearing to make reasonable efforts to ensure that such hearings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.

Section 75. Bribery of members of the legislature

A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or to a person who has been elected a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence such a member or person to give or withhold his vote, or to absent himself from the house of which he is, or is to become, a member, or from any committee thereof, is punishable by imprisonment for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

Section 75-A. Appearance by a person convicted of a crime of corruption

Upon conviction for any of the following crimes: bribery in the first degree, bribery in the second degree, bribery in the third degree, rewarding official misconduct in the first degree, rewarding official misconduct in the second degree, giving unlawful gratuities, and when any such crime is committed for the purpose of corrupting a public office, agency or public official of the state, or any political subdivision, public authority, or public benefit corporation of the state, in the performance of public duty, such public office, agency or public official of the state, or any political subdivision or public authority may bar that person or entity convicted of such enumerated crimes from appearing before the affected public office, agency or public official of the state, or any such political subdivision or public authority in any professional or representative capacity. Such bar shall be for a period of five years from the date of judgment for such conviction.

Section 76. Receiving bribes by members of legislature

A member of either of the houses composing the legislature of this state, or a person elected to become a member thereof, who asks, receives, or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular

manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, shall be guilty of a class D felony.

Section 77. Unlawful fees and payments

A member of the legislature or any officer or employee of the legislature who asks or receives or consents or agrees to receive any emolument, gratuity or reward or any promise of emolument, gratuity or reward or any money, property or thing of value or of personal advantage, except such as may be authorized by law, for doing or omitting to do any official act, or for performing or omitting to perform any act whatsoever directly or indirectly related to any matter in respect to which any duty or discretion is by or in pursuance of law imposed upon or vested in him, or may be exercised by him by virtue of his office, or appointment or employment or his actual relation to the matter including, without limiting the generality of the foregoing, approving or promoting the passage of legislation or resolutions or the confirmation of appointees, or the conduct of investigations, and a person who shall directly or indirectly offer or make such a transfer to any member of the legislature or any officer or employee of the legislature shall be guilty of a felony punishable by imprisonment for not more than ten years or by a fine of not more than five thousand dollars, or both.

Section 77-A. Members of the legislature liable to forfeiture of office

The conviction of a member of the legislature or any officer or employee of the legislature of any of the crimes defined in sections seventy-five, seventy-six or seventy-seven of this chapter, shall involve as a consequence in addition to the punishment provided in any such section a forfeiture of his office; and shall disqualify him from ever afterwards holding any office under this state.

Section 78. Certification of members, officers and employees

On or before the tenth day after any member, officer or employee commences the performance of his duties as such, he shall file, with the secretary of the senate, if a member, officer or employee of that house, or with the clerk of the assembly, if a member, officer or employee of that house, or with the secretary of state if an officer or employee of a state agency, a certificate acknowledging receipt of a copy of sections seventy-three, seventy-three-a, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight of this chapter together with such other material as the secretary of the senate, the clerk of the assembly or the secretary of state may prepare related thereto, that he has read the same and undertakes to conform to the provisions, purposes and intent thereof and to the norms of conduct for members, officers and employees of the legislature and state agencies.

Section 79. Fine in certain cases

Where an officer or a member of a board or other body has without just cause refused or neglected to perform a public duty enjoined upon him by a special provision of law, a court may impose a fine, not exceeding two hundred fifty dollars, upon the officer or member who has so refused or neglected, to be paid into the treasury of the state.

Article 5 DELIVERY OF PUBLIC BOOKS

Section 80. Delivery of books and papers, money and property

A public officer shall demand from his predecessor in office or any person in whose possession they may be, a delivery to such officer of all books and papers, money and property belonging or appertaining to

such office. If such demand is refused, such officer may make complaint thereof to any justice of the supreme court of the district, or to the county judge of the county in which the person refusing resides. If such justice or judge be satisfied that such books or papers, money and property are withheld, he shall grant an order directing the person refusing to show cause before him at a time specified therein, why he should not deliver the same. At such time, or at any time to which the matter may be adjourned, on proof of the due service of the order, such justice or judge shall proceed to inquire into the circumstances. If the person charged with withholding such books or papers, money and property makes affidavit before such justice or judge that he has delivered to the officer all books and papers, money and property in his custody which, within his knowledge, or to his belief belong or appertain thereto, such proceedings before such justice or judge shall cease, and such person be discharged. If the person complained against shall not make such oath, and it appears that any such books or papers, money and property are withheld by him, such justice or judge shall commit him to the county jail until he delivers such books and papers, money and property, or is otherwise discharged according to law. On such commitment, such justice or judge, if required by the complainant, shall also issue his warrant directed to any sheriff or constable, commanding him to search, in the daytime, the places designated therein, for such books and papers, money and property, and to bring them before such justice or judge. If any such books and papers, money and property, are brought before him by virtue of such warrant, he shall determine whether they appertain to such office, and if so shall cause them to be delivered to the complainant.

Article 6 FREEDOM OF INFORMATION LAW

Section 84. Legislative declaration

The legislature hereby finds that a free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. The more open a government is with its citizenry, the greater the understanding and participation of the public in government. As state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve, and with the resultant increase in revenues and expenditures, it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible. The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality. The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.

Section 85. Short title

This article shall be known and may be cited as the "Freedom of Information Law."

Section 86. Definitions

As used in this article, unless the context requires otherwise:

1. "Judiciary" means the courts of the state, including any municipal or district court, whether or not of record.
2. "State legislature" means the legislature of the state of New York, including any committee, subcommittee, joint committee, select committee, or commission thereof.

3. "Agency" means any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, except the judiciary or the state legislature.

4. "Record" means any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

5. "Critical infrastructure" means systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy.

Section 87. Access to agency records

1. (a) Within sixty days after the effective date of this article, the governing body of each public corporation shall promulgate uniform rules and regulations for all agencies in such public corporation pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the administration of this article.

(b) Each agency shall promulgate rules and regulations, in conformity with this article and applicable rules and regulations promulgated pursuant to the provisions of paragraph (a) of this subdivision, and pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the availability of records and procedures to be followed, including, but not limited to:

- i. the times and places such records are available;
- ii. the persons from whom such records may be obtained, and
- iii. the fees for copies of records which shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record in accordance with the provisions of paragraph (c) of this subdivision, except when a different fee is otherwise prescribed by statute.

(c) In determining the actual cost of reproducing a record, an agency may include only:

- i. an amount equal to the hourly salary attributed to the lowest paid agency employee who has the necessary skill required to prepare a copy of the requested record;
- ii. the actual cost of the storage devices or media provided to the person making the request in complying with such request;
- iii. the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy; and
- iv. preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of agency employee time is needed to prepare a copy of the record requested. A person requesting a record shall be informed of the estimated cost of

preparing a copy of the record if more than two hours of an agency employee's time is needed, or if an outside professional service would be retained to prepare a copy of the record.

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

- (a) are specifically exempted from disclosure by state or federal statute;
- (b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;
- (c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- (d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;
- (e) are compiled for law enforcement purposes and which, if disclosed, would:
 - i. interfere with law enforcement investigations or judicial proceedings;
 - ii. deprive a person of a right to a fair trial or impartial adjudication;
 - iii. identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - iv. reveal criminal investigative techniques or procedures, except routine techniques and procedures;
- (f) if disclosed could endanger the life or safety of any person;
- (g) are inter-agency or intra-agency materials which are not:
 - i. statistical or factual tabulations or data;
 - ii. instructions to staff that affect the public;
 - iii. final agency policy or determinations;
 - iv. external audits, including but not limited to audits performed by the comptroller and the federal government; or
- (h) are examination questions or answers which are requested prior to the final administration of such questions.
- (i) if disclosed, would jeopardize an agency's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or
- * (j) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.
 - * NB Repealed December 1, 2014
- * (k) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-b of the vehicle and traffic law.
 - * NB Repealed December 1, 2014

3. Each agency shall maintain:
 - (a) a record of the final vote of each member in every agency proceeding in which the member votes;
 - (b) a record setting forth the name, public office address, title and salary of every officer or employee of the agency; and
 - (c) a reasonably detailed current list by subject matter of all records in the possession of the agency, whether or not available under this article. Each agency shall update its subject matter list annually, and the date of the most recent update shall be conspicuously indicated on the list. Each state agency as defined in subdivision four of this section that maintains a website shall post its current list on its website and such posting shall be linked to the website of the committee on open government. Any such agency that does not maintain a website shall arrange to have its list posted on the website of the committee on open government.
4. (a) Each state agency which maintains records containing trade secrets, to which access may be denied pursuant to paragraph (d) of subdivision two of this section, shall promulgate regulations in conformity with the provisions of subdivision five of section eighty-nine of this article pertaining to such records, including, but not limited to the following:
 - (1) the manner of identifying the records or parts;
 - (2) the manner of identifying persons within the agency to whose custody the records or parts will be charged and for whose inspection and study the records will be made available;
 - (3) the manner of safeguarding against any unauthorized access to the records.
- (b) As used in this subdivision the term "agency" or "state agency" means only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor.
- (c) Each state agency that maintains a website shall post information related to this article and article six-A of this chapter on its website. Such information shall include, at a minimum, contact information for the persons from whom records of the agency may be obtained, the times and places such records are available for inspection and copying, and information on how to request records in person, by mail, and, if the agency accepts requests for records electronically, by e-mail. This posting shall be linked to the website of the committee on open government.
5. (a) An agency shall provide records on the medium requested by a person, if the agency can reasonably make such copy or have such copy made by engaging an outside professional service. Records provided in a computer format shall not be encrypted.
- (b) No agency shall enter into or renew a contract for the creation or maintenance of records if such contract impairs the right of the public to inspect or copy the agency's records.

Section 88. Access to state legislative records

1. The temporary president of the senate and the speaker of the assembly shall promulgate rules and regulations for their respective houses in conformity with the provisions of this article, pertaining to the availability, location and nature of records, including, but not limited to:
 - (a) the times and places such records are available;
 - (b) the persons from whom such records may be obtained;

(c) the fees for copies of such records, which shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record, except when a different fee is otherwise prescribed by law.

2. The state legislature shall, in accordance with its published rules, make available for public inspection and copying:

- (a) bills and amendments thereto, fiscal notes, introducers' bill memoranda, resolutions and amendments thereto, and index records;
- (b) messages received from the governor or the other house of the legislature, and home rule messages;
- (c) legislative notification of the proposed adoption of rules by an agency;
- (d) transcripts or minutes, if prepared, and journal records of public sessions including meetings of committees and subcommittees and public hearings, with the records of attendance of members thereat and records of any votes taken;
- (e) internal or external audits and statistical or factual tabulations of, or with respect to, material otherwise available for public inspection and copying pursuant to this section or any other applicable provision of law;
- (f) administrative staff manuals and instructions to staff that affect members of the public;
- (g) final reports and formal opinions submitted to the legislature;
- (h) final reports or recommendations and minority or dissenting reports and opinions of members of committees, subcommittees, or commissions of the legislature;
- (i) any other files, records, papers or documents required by law to be made available for public inspection and copying.
- (j) external audits conducted pursuant to section ninety-two of the legislative law and schedules issued pursuant to subdivision two of section ninety of the legislative law.

3. Each house shall maintain and make available for public inspection and copying:

- (a) a record of votes of each member in every session and every committee and subcommittee meeting in which the member votes;
- (b) a record setting forth the name, public office address, title, and salary of every officer or employee; and
- (c) a current list, reasonably detailed, by subject matter of any records required to be made available for public inspection and copying pursuant to this section.

Section 89. General provisions relating to access to records; certain cases

The provisions of this section apply to access to all records, except as hereinafter specified:

1. (a) The committee on open government is continued and shall consist of the lieutenant governor or the delegate of such officer, the secretary of state or the delegate of such officer, whose office shall act as secretariat for the committee, the commissioner of the office of general services or the delegate of such officer, the director of the budget or the delegate of such officer, and seven other persons, none of whom shall hold any other state or local public office except the representative of local governments as set forth herein, to be appointed as follows: five by the governor, at least two

of whom are or have been representatives of the news media, one of whom shall be a representative of local government who, at the time of appointment, is serving as a duly elected officer of a local government, one by the temporary president of the senate, and one by the speaker of the assembly. The persons appointed by the temporary president of the senate and the speaker of the assembly shall be appointed to serve, respectively, until the expiration of the terms of office of the temporary president and the speaker to which the temporary president and speaker were elected. The four persons presently serving by appointment of the governor for fixed terms shall continue to serve until the expiration of their respective terms. Thereafter, their respective successors shall be appointed for terms of four years. The member representing local government shall be appointed for a term of four years, so long as such member shall remain a duly elected officer of a local government. The committee shall hold no less than two meetings annually, but may meet at any time. The members of the committee shall be entitled to reimbursement for actual expenses incurred in the discharge of their duties.

(b) The committee shall:

- i. furnish to any agency advisory guidelines, opinions or other appropriate information regarding this article;
- ii. furnish to any person advisory opinions or other appropriate information regarding this article;
- iii. promulgate rules and regulations with respect to the implementation of subdivision one and paragraph (c) of subdivision three of section eighty-seven of this article;
- iv. request from any agency such assistance, services and information as will enable the committee to effectively carry out its powers and duties;
- v. develop a form, which shall be made available on the internet, that may be used by the public to request a record; and
- vi. report on its activities and findings regarding this article and article seven of this chapter, including recommendations for changes in the law, to the governor and the legislature annually, on or before December fifteenth.

2. (a) The committee on public access to records may promulgate guidelines regarding deletion of identifying details or withholding of records otherwise available under this article to prevent unwarranted invasions of personal privacy. In the absence of such guidelines, an agency may delete identifying details when it makes records available.

(b) An unwarranted invasion of personal privacy includes, but shall not be limited to:

- i. disclosure of employment, medical or credit histories or personal references of applicants for employment;
- ii. disclosure of items involving the medical or personal records of a client or patient in a medical facility;
- iii. sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes;
- iv. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it; or

v. disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency; or

vi. information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law.

(c) Unless otherwise provided by this article, disclosure shall not be construed to constitute an unwarranted invasion of personal privacy pursuant to paragraphs (a) and (b) of this subdivision:

i. when identifying details are deleted;

ii. when the person to whom a record pertains consents in writing to disclosure;

iii. when upon presenting reasonable proof of identity, a person seeks access to records pertaining to him or her; or

iv. when a record or group of records relates to the right, title or interest in real property, or relates to the inventory, status or characteristics of real property, in which case disclosure and providing copies of such record or group of records shall not be deemed an unwarranted invasion of personal privacy.

2-a. Nothing in this article shall permit disclosure which constitutes an unwarranted invasion of personal privacy as defined in subdivision two of this section if such disclosure is prohibited under section ninety-six of this chapter.

3. (a) Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with subdivision five of this section. An agency shall not deny a request on the basis that the request is voluminous or that locating or reviewing the requested records or providing the requested copies is burdensome because the agency lacks sufficient staffing or on any other basis if the agency may engage an outside professional service to provide copying, programming or other services required to provide the copy, the costs of which the agency may recover pursuant to paragraph (c) of subdivision one of section eighty-seven of this article. An agency may require a person requesting lists of names and addresses to provide a written certification that such person will not use such lists of names and addresses for solicitation or fund-raising purposes and will not sell, give or otherwise make available such lists of names and addresses to any other person for the purpose of allowing that person to use such lists of names and addresses for solicitation or fund-raising purposes. If an agency determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part. Upon payment of, or offer to pay, the fee prescribed therefor, the entity shall provide a copy of such record and certify to the correctness of such copy if so requested, or as the case may be, shall certify that it does not have possession of such record or that such record cannot be found after diligent search. Nothing in this article shall be construed to require any entity to prepare any record not possessed or maintained by such entity except the records specified in subdivision three of section eighty-seven and subdivision three of section eighty-eight of this article. When an agency

has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, it shall be required to do so. When doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency shall be required to retrieve or extract such record or data electronically. Any programming necessary to retrieve a record maintained in a computer storage system and to transfer that record to the medium requested by a person or to allow the transferred record to be read or printed shall not be deemed to be the preparation or creation of a new record.

(b) All entities shall, provided such entity has reasonable means available, accept requests for records submitted in the form of electronic mail and shall respond to such requests by electronic mail, using forms, to the extent practicable, consistent with the form or forms developed by the committee on open government pursuant to subdivision one of this section and provided that the written requests do not seek a response in some other form.

4. (a) Except as provided in subdivision five of this section, any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive or governing body of the entity, or the person therefor designated by such head, chief executive, or governing body, who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. In addition, each agency shall immediately forward to the committee on open government a copy of such appeal when received by the agency and the ensuing determination thereon. Failure by an agency to conform to the provisions of subdivision three of this section shall constitute a denial.

(b) Except as provided in subdivision five of this section, a person denied access to a record in an appeal determination under the provisions of paragraph (a) of this subdivision may bring a proceeding for review of such denial pursuant to article seventy-eight of the civil practice law and rules. In the event that access to any record is denied pursuant to the provisions of subdivision two of section eighty-seven of this article, the agency involved shall have the burden of proving that such record falls within the provisions of such subdivision two. Failure by an agency to conform to the provisions of paragraph (a) of this subdivision shall constitute a denial.

(c) The court in such a proceeding may assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed, when:

- i. the agency had no reasonable basis for denying access; or
- ii. the agency failed to respond to a request or appeal within the statutory time.

5. (a) (1) A person acting pursuant to law or regulation who, subsequent to the effective date of this subdivision, submits any information to any state agency may, at the time of submission, request that the agency except such information from disclosure under paragraph (d) of subdivision two of section eighty-seven of this article. Where the request itself contains information which if disclosed would defeat the purpose for which the exception is sought, such information shall also be excepted from disclosure.

(1-a) A person or entity who submits or otherwise makes available any records to any agency, may, at any time, identify those records or portions thereof that may contain critical infrastructure information, and request that the agency that maintains such records except such information from disclosure under subdivision two of section eighty-seven of this article. Where the request itself contains information which if disclosed would defeat the purpose for which the exception is sought, such information shall also be excepted from disclosure.

(2) The request for an exception shall be in writing and state the reasons why the information should be excepted from disclosure.

(3) Information submitted as provided in subparagraphs one and one-a of this paragraph shall be excepted from disclosure and be maintained apart by the agency from all other records until fifteen days after the entitlement to such exception has been finally determined or such further time as ordered by a court of competent jurisdiction.

(b) On the initiative of the agency at any time, or upon the request of any person for a record excepted from disclosure pursuant to this subdivision, the agency shall:

(1) inform the person who requested the exception of the agency's intention to determine whether such exception should be granted or continued;

(2) permit the person who requested the exception, within ten business days of receipt of notification from the agency, to submit a written statement of the necessity for the granting or continuation of such exception;

(3) within seven business days of receipt of such written statement, or within seven business days of the expiration of the period prescribed for submission of such statement, issue a written determination granting, continuing or terminating such exception and stating the reasons therefor; copies of such determination shall be served upon the person, if any, requesting the record, the person who requested the exception, and the committee on public access to records.

(c) A denial of an exception from disclosure under paragraph (b) of this subdivision may be appealed by the person submitting the information and a denial of access to the record may be appealed by the person requesting the record in accordance with this subdivision:

(1) Within seven business days of receipt of written notice denying the request, the person may file a written appeal from the determination of the agency with the head of the agency, the chief executive officer or governing body or their designated representatives.

(2) The appeal shall be determined within ten business days of the receipt of the appeal. Written notice of the determination shall be served upon the person, if any, requesting the record, the person who requested the exception and the committee on public access to records. The notice shall contain a statement of the reasons for the determination.

(d) A proceeding to review an adverse determination pursuant to paragraph (c) of this subdivision may be commenced pursuant to article seventy-eight of the civil practice law and rules. Such proceeding, when brought by a person seeking an exception from disclosure pursuant to this subdivision, must be commenced within fifteen days of the service of the written notice containing the adverse determination provided for in subparagraph two of paragraph (c) of this subdivision.

(e) The person requesting an exception from disclosure pursuant to this subdivision shall in all proceedings have the burden of proving entitlement to the exception.

(f) Where the agency denies access to a record pursuant to paragraph (d) of subdivision two of section eighty-seven of this article, the agency shall have the burden of proving that the record falls within the provisions of such exception.

(g) Nothing in this subdivision shall be construed to deny any person access, pursuant to the remaining provisions of this article, to any record or part excepted from disclosure upon the express written consent of the person who had requested the exception.

(h) As used in this subdivision the term "agency" or "state agency" means only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor.

6. Nothing in this article shall be construed to limit or abridge any otherwise available right of access at law or in equity of any party to records.

7. Nothing in this article shall require the disclosure of the home address of an officer or employee, former officer or employee, or of a retiree of a public employees' retirement system; nor shall anything in this article require the disclosure of the name or home address of a beneficiary of a public employees' retirement system or of an applicant for appointment to public employment; provided however, that nothing in this subdivision shall limit or abridge the right of an employee organization, certified or recognized for any collective negotiating unit of an employer pursuant to article fourteen of the civil service law, to obtain the name or home address of any officer, employee or retiree of such employer, if such name or home address is otherwise available under this article.

8. Any person who, with intent to prevent the public inspection of a record pursuant to this article, willfully conceals or destroys any such record shall be guilty of a violation.

9. When records maintained electronically include items of information that would be available under this article, as well as items of information that may be withheld, an agency in designing its information retrieval methods, whenever practicable and reasonable, shall do so in a manner that permits the segregation and retrieval of available items in order to provide maximum public access.

Section 90. Severability

If any provision of this article or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the article or the application thereof to other persons and circumstances.

Article 6-A PERSONAL PRIVACY PROTECTION LAW

Section 91. Short title

This article shall be known as the "personal privacy protection law".

Section 92. Definitions

(1) Agency. The term "agency" means any state board, bureau, committee, commission, council, department, public authority, public benefit corporation, division, office or any other governmental entity performing a governmental or proprietary function for the state of New York, except the judiciary or the state legislature or any unit of local government and shall not include offices of district attorneys.

(2) Committee. The term "committee" means the committee on open government as constituted pursuant to subdivision one of section eighty-nine of this chapter.

(3) Data subject. The term "data subject" means any natural person about whom personal information has been collected by an agency.

(4) Disclose. The term "disclose" means to reveal, release, transfer, disseminate or otherwise communicate personal information or records orally, in writing or by electronic or any other means other than to the data subject.

(5) Governmental unit. The term "governmental unit" means any governmental entity performing a governmental or proprietary function for the federal government or for any state or any municipality thereof.

(6) Law. The term "law" means state or federal statute, rule or regulation.

(7) Personal information. The term "personal information" means any information concerning a data subject which, because of name, number, symbol, mark or other identifier, can be used to identify that data subject.

(8) Public safety agency record. The term "public safety agency record" means a record of the commission of correction, the temporary state commission of investigation, the department of correctional services, the division for youth, the division of parole, the crime victims board, the division of probation and correctional alternatives or the division of state police or of any agency or component thereof whose primary function is the enforcement of civil or criminal statutes if such record pertains to investigation, law enforcement, confinement of persons in correctional facilities or supervision of persons pursuant to criminal conviction or court order, and any records maintained by the division of criminal justice services pursuant to sections eight hundred thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-seven-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight hundred thirty-nine, eight hundred forty-five, and eight hundred forty-five-a of the executive law and by the department of state pursuant to section ninety-nine of the executive law.

(9) Record. The term "record" means any item, collection or grouping of personal information about a data subject which is maintained and is retrievable by use of the name or other identifier of the data subject irrespective of the physical form or technology used to maintain such personal information. The term "record" shall not include personal information which is not used to make any determination about the data subject if it is:

- (a) a telephone book or directory which is used exclusively for telephone and directory information;
- (b) any card catalog, book or other resource material in any library;
- (c) any compilation of information containing names and addresses only which is used exclusively for the purpose of mailing agency information;
- (d) personal information required by law to be maintained, and required by law to be used, only for statistical research or reporting purposes;
- (e) information requested by the agency which is necessary for the agency to answer unsolicited requests by the data subject for information; or
- (f) correspondence files.

(10) Routine use. The term "routine use" means, with respect to the disclosure of a record or personal information, any use of such record or personal information relevant to the purpose for which it was collected, and which use is necessary to the statutory duties of the agency that collected or obtained the record or personal information, or necessary for that agency to operate a program specifically authorized by law.

(11) System of records. The term "system of records" means any group of records under the actual or constructive control of any agency pertaining to one or more data subjects from which personal information is retrievable by use of the name or other identifier of a data subject.

Section 93. Powers and duties of the committee

(1) The committee shall prepare a directory derived from the information provided pursuant to section three of chapter six hundred seventy-seven of the laws of nineteen hundred eighty and subdivision four of section ninety-four of this article. The directory shall include the name of each system of records subject to the provisions of this article, the name and subdivision of the agency maintaining it, the title and business address of the person responsible therefor, the approximate number of data subjects and the categories of information collected, and sufficient information for the identification of rules promulgated by agencies pursuant to this article. Individuals shall be permitted to purchase the directory for a reasonable price as set by the committee in accordance with law.

(2) The committee may, upon request of a data subject eligible to make a request under section ninety-five of this article, investigate, make findings and furnish an advisory opinion in connection with the requirements of section ninety-five of this article. Prior to the issuance of an advisory opinion, the committee may require an agency to provide additional information which the committee deems necessary to render an opinion. However, no system of records exempt from the provisions of section ninety-five of this article shall be subject to the provisions of this subdivision.

(3) Within thirty business days of the receipt of a privacy impact statement or supplemental statement by an agency the committee shall review such statement to determine whether the maintenance of the system is within the lawful authority of the agency and to determine whether there have been established rules and procedures as required by section ninety-four of this article. However, such review by the committee shall not include examination of personal information or records collected or maintained by such agency. After review of such information the committee may notify the agency of the result of its review. Such notification and result shall not constitute an advisory opinion and shall not be reported as such by the committee and there shall be no obligation upon the agency to respond to such notification or result.

(4) The committee shall promulgate rules for the specification of the form of the privacy impact statement. Such privacy impact statement shall include the following:

- (a) the name of the agency and the subdivision within the agency that will maintain the system of records, and the name or title of the system of records in which such information will be maintained;
- (b) the title and business address of the official within the agency responsible for the system of records;
- (c) where applicable, the procedures by which a data subject may gain access to personal information pertaining to such data subject in the system of records and the procedures by which a data subject may seek to amend or correct its contents;
- (d) the categories and the approximate number of persons on whom records will be maintained in the system of records;
- (e) the categories of information which will be collected and maintained in the system of records;
- (f) the purposes for which each category of information within the system of records will be collected and maintained;
- (g) the disclosures of personal information within the system of records that the agency will regularly make for each category of information, and the authority for such disclosures;

- (h) the general or specific statutory authority for the collection, maintenance and disclosure of each category of information within the system of records;
 - (i) policies governing retention and timely disposal of information within the system of records in accordance with law;
 - (j) each and every source for each category of information within the system of records;
 - (k) a statement indicating whether the system of records will be maintained manually, by automated data system, or both.
- (5) The committee shall report its activities and findings, including recommendations for changes in the law, to the governor and the legislature annually, on or before December fifteenth.
- (6) In order to carry out the provisions of this article, the committee is authorized to:
- (a) enter into contracts or other arrangements or modifications thereof, with any government, any governmental unit, or any department of the state, or with any individual, firm, association or corporation within the amounts appropriated therefor and subject to the audit and warrant of the state comptroller;
 - (b) delegate any of its functions to such officers and employees of the committee as the committee may designate;
 - (c) establish model guidelines with respect to the implementation of this article.

Section 94. Agency obligations

- (1) Each agency that maintains a system of records shall:
- (a) except when a data subject provides an agency with unsolicited personal information, maintain in its records only such personal information which is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order, or to implement a program specifically authorized by law;
 - (b) consistent with the standards of paragraph (a) of this subdivision, maintain all records used by the agency to make any determination about any data subject with accuracy, relevance, timeliness and completeness provided however, that personal information or records received by an agency from another governmental unit for inclusion in public safety agency records shall be presumed to be accurate;
 - (c) collect personal information directly from the data subject whenever practicable, except when collected for the purpose of making quasi-judicial determinations;
 - (d) provide each data subject whom it requests to supply information to be maintained in a record, at the time of the initial request, with notification as provided in this paragraph. Where such notification has been provided, subsequent requests for information from the data subject to be maintained in the same record need not be accompanied by notification unless the initial notification is not applicable to the subsequent request. Notification shall include:
 - (i) the name of the agency and any subdivision within the agency that is requesting the personal information and the name or title of the system of records in which such information will be maintained;
 - (ii) the title, business address and telephone number of the agency official who is responsible for the system of records;

- (iii) the authority granted by law, which authorizes the collection and maintenance of the information;
 - (iv) the effects on such data subject, if any, of not providing all or any part of the requested information;
 - (v) the principal purpose or purposes for which the information is to be collected; and
 - (vi) the uses which may be made of the information pursuant to paragraphs (b), (e) and (f) of subdivision one of section ninety-six of this article;
- (e) ensure that no record pertaining to a data subject shall be modified or destroyed to avoid the provisions of this article;
- (f) cause the requirements of this article to be applied to any contract it executes for the operation of a system of records, or for research, evaluation or reporting, by the agency or on its behalf;
- (g) establish written policies in accordance with law governing the responsibilities of persons pertaining to their involvement in the design, development, operation or maintenance of any system of records, and instruct each such person with respect to such policies and the requirements of this article, including any other rules and regulations and procedures adopted pursuant to this article, and the penalties for noncompliance;
- (h) establish appropriate administrative, technical and physical safeguards to ensure the security of records;
- (i) establish rules governing retention and timely disposal of records in accordance with law;
- (j) designate an agency employee who shall be responsible for ensuring that the agency complies with all of the provisions of this article;
- (k) whenever a data subject is entitled under this article to gain access to a record, disclose such record at a location near the residence of the data subject whenever reasonable, or by mail;
- (l) upon denial of a request under subdivision one or two of section ninety-five of this article, inform the data subject of its procedures for review of initial determinations and the name and business address of the reviewing officials.
- (2) In order to carry out the provisions of this article each agency that maintains a system of records shall promulgate rules which shall set forth the following:
- (a) procedures by which a data subject can learn if a system of records contains any records pertaining to him or her;
 - (b) reasonable times, places and means for verifying the identity of a data subject who requests access to his or her record;
 - (c) procedures for providing access, upon the data subject's request, to the data subject's record;
 - (d) procedures for reviewing a request from a data subject for access to, and for correction or amendment of his or her record, for making a determination on such request, and for an appeal within the agency of an initial adverse agency determination.
- (3) Each agency, for disclosures made pursuant to paragraphs (d), (i) and (l) of subdivision one of section ninety-six of this article, except for disclosures made for inclusion in public safety agency records when such record is requested for the purpose of obtaining information required for the investigation of a violation of civil or criminal statutes within the disclosing agency, shall:

(a) keep an accurate accounting of the date, nature and purpose of each disclosure of a record or personal information, and the name and address of the person or governmental unit to whom the disclosure is made;

(b) retain the accounting made under paragraph (a) of this subdivision as part of said record for at least five years after the disclosure for which the accounting is made, or for the life of the record disclosed, whichever is longer;

(c) at the request of the data subject, inform any person or other governmental unit to which a disclosure has been or is made of any correction, amendment, or notation of dispute made by the agency, provided that an accounting of the prior disclosure was made or that the data subject to whom the record pertains provides the name of such person or governmental unit;

(d) with respect to a disclosure made for inclusion in a public safety agency record or to a governmental unit or component thereof whose primary function is the enforcement of civil or criminal statutes, notify the receiving governmental unit that an accounting of such disclosure is being made pursuant to this subdivision and that such accounting will be accessible to the data subject upon his or her request unless otherwise specified by the receiving governmental unit pursuant to paragraph (e) of this subdivision;

(e) with respect to a disclosure made for inclusion in a public safety agency record or to a governmental unit or component thereof whose primary function is the enforcement of civil or criminal statutes, if in its request for the record the receiving governmental unit states that it has determined that access by the data subject to the accounting of such disclosure would impede criminal investigations and specifies the approximate date on which such determination will no longer be applicable, refuse the data subject access to such accounting or information that such accounting has been made, except upon court ordered subpoena, during the applicable time period. Upon the expiration of said time period the disclosing agency shall inquire of the receiving governmental unit as to the continued relevancy of the initial determination and, unless requested in writing by the receiving governmental unit to extend the determination for a specified period of time, shall make available to the data subject an accounting of said disclosure; and

(f) in making a disclosure pursuant to subdivision one of section ninety-six of this article, an agency shall make such disclosure pursuant to paragraph (d), (i) or (l) of said subdivision only when such disclosure cannot be made pursuant to any other paragraph of said subdivision.

(4) (a) Any agency which established or substantially modified a system of records after December fifteenth, nineteen hundred eighty, but before the effective date of this article, or which did not report to the committee a system of records which it maintained prior to December fifteenth, nineteen hundred eighty, shall file notice with the committee pursuant to chapter six hundred seventy-seven of the laws of nineteen hundred eighty within thirty business days of the effective date of this article.

(b) Any agency which seeks to establish a system of records subsequent to the effective date of this article shall file with the committee a privacy impact statement as prescribed by subdivision four of section ninety-three of this article. Any agency which seeks to modify a system of records in a way which would render inaccurate any information set forth in the privacy impact statement, in the notice described in paragraph (a) of this subdivision or in the notice filed pursuant to chapter six hundred seventy-seven of the laws of nineteen hundred eighty, shall file with the committee a supplemental statement to conform the privacy impact statement or notice to the proposed modification. Unless the date by which such proposed system or modification is required by law to be instituted is less than thirty business days from the date of the filing of the privacy impact

statement, no such proposed system or modification shall be instituted until the completion of the procedures set forth in subdivision three of section ninety-three of this article.

(5) Each agency shall, within fifteen business days of the receipt of an advisory opinion issued by the committee, respond in writing to the committee as to the following:

- (a) the actions it has taken, or will take, to comply with the advisory opinion; or
- (b) the reasons for disagreement and noncompliance with the advisory opinion.

(6) On or before the first day of September of each year, each agency shall submit a report covering the preceding year to the committee. The report shall include, with respect to requests for access to records and with respect to requests for correction or amendment of records pursuant to subdivisions one and two of section ninety-five of this article, respectively, the following information:

- (i) the number of determinations made to grant such requests; and
- (ii) the number of determinations made to deny such requests, in whole or in part, respectively.

(7) The provisions of paragraphs (c) and (d) of subdivision one of this section shall not apply to the following:

- (a) personal information that is collected for inclusion in a public safety agency record;
- (b) personal information that is maintained by a licensing or franchise-approving agency or component thereof for the purpose of determining whether administrative or criminal action should be taken to restrain or prosecute purported violations of law, or to grant, deny, suspend, or revoke a professional, vocational, or occupational license, certification or registration, or to deny or approve a franchise;
- (c) personal information solicited from a data subject receiving services at a treatment facility, provided that each such data subject shall, as soon as practicable, be provided a notification including information specified in subparagraphs (i), (ii), (iii), (iv), (v) and (vi) of paragraph (d) of subdivision one of this section describing systems of records concerning the data subject maintained by the treatment facility.

(8) The provisions of subdivisions two, three and six of this section shall not apply to public safety agency records.

(9) Nothing in this article shall abrogate in any way any obligation regarding the maintenance of records otherwise imposed on an agency at law or in equity.

(10) Each agency record which is transferred to the state archives as a record which has sufficient historical or other value to warrant its continued preservation by the state shall, for the purposes of this article, be considered to be maintained by the state archives and shall be exempt from the requirements of this article, except as otherwise provided in this section and except that such record shall continue to be subject to inspection and correction by the data subject by application to the agency which compiled it, as provided in subdivisions one through four of section ninety-five of this chapter.

Section 95. Access to records

(1) (a) Each agency subject to the provisions of this article, within five business days of the receipt of a written request from a data subject for a record reasonably described pertaining to that data subject, shall make such record available to the data subject, deny such request in whole or in part and provide the reasons therefor in writing, or furnish a written acknowledgement of the receipt of

such request and a statement of the approximate date when such request will be granted or denied, which date shall not exceed thirty days from the date of the acknowledgement.

(b) An agency shall not be required to provide a data subject with access to a record pursuant to this section if:

- (i) the agency does not have the possession of such record;
- (ii) such record cannot be retrieved by use of the data subject's description thereof, or by use of the name or other identifier of the data subject, without extraordinary search methods being employed by the agency; or
- (iii) access to such record is not required to be provided pursuant to subdivision five, six or seven of this section.

(c) Upon payment of, or offer to pay, the fee prescribed by section eighty-seven of this chapter, the agency shall provide a copy of the record requested and certify to the correctness of such copy if so requested. The record shall be made available in a printed form without any codes or symbols, unless accompanied by a document fully explaining such codes or symbols. Upon a data subject's voluntary request the agency shall permit a person of the data subject's choosing to accompany the data subject when reviewing and obtaining a copy of a record, provided that the agency may require the data subject to furnish a written statement authorizing discussion of the record in the accompanying person's presence.

(d) Each agency shall, provided such agency has reasonable means available, accept requests for records submitted through electronic mail and shall respond to such requests by electronic mail, using forms, to the extent practicable, consistent with the form or forms developed by the committee on open government, provided that the electronic mail requests do not seek a response in some other form.

(2) Each agency shall, within thirty business days of receipt of a written request from a data subject for correction or amendment of a record or personal information, reasonably described, pertaining to that data subject, which he or she believes is not accurate, relevant, timely or complete, either:

(a) make the correction or amendment in whole or in part, and inform the data subject that upon his or her request such correction or amendment will be provided to any or all persons or governmental units to which the record or personal information has been or is disclosed, pursuant to paragraph (c) of subdivision three of section ninety-four of this article; or

(b) inform the data subject of its refusal to correct or amend the record and its reasons therefor.

(3) Any data subject whose request under subdivision one or two of this section is denied in whole or in part may, within thirty business days, appeal such denial in writing to the head, chief executive or governing body of the agency, or the person designated as the reviewing official by such head, chief executive or governing body. Such official shall within seven business days of the receipt of an appeal concerning denial of access, or within thirty business days of the receipt of an appeal concerning denial of correction or amendment, either provide access to or correction or amendment of the record sought and inform the data subject that, upon his or her request, such correction or amendment will be provided to any or all persons or governmental units to which the record or personal information has been or is disclosed, pursuant to paragraph (c) of subdivision three of section ninety-four of this article, or fully explain in writing to the data subject the factual and statutory reasons for further denial and inform the data subject of his or her right to thereupon seek judicial review of the agency's

determination under section ninety-seven of this article. Each agency shall immediately forward to the committee a copy of such appeal, the determination thereof and the reasons therefor.

(4) If correction or amendment of a record or personal information is denied in whole or in part upon appeal, the agency shall inform the data subject of the right to file with the agency a statement of reasonable length setting forth the reasons for disagreement with the agency's determination and that, upon request, his or her statement of disagreement will be provided to any or all persons or governmental units to which the record has been or is disclosed, pursuant to paragraph (c) of subdivision three of section ninety-four of this article. With respect to any personal information about which a data subject has filed a statement of disagreement, the agency shall clearly note any portions of the record which are disputed, and shall attach the data subject's statement of disagreement as part of the record. When providing the data subject's statement of disagreement to other persons or governmental units pursuant to paragraph (c) of subdivision three of section ninety-four of this article, the agency may, if it deems appropriate, also include in the record a concise statement of the agency's reasons for not making the requested amendment.

(5) (a) Any agency which may not otherwise exempt personal information from the operation of this section may do so, unless access by the data subject is otherwise authorized or required by law, if such information is compiled for law enforcement purposes and would, if disclosed:

- (i) interfere with law enforcement investigations or judicial proceedings;
- (ii) deprive a person of a right to a fair trial or impartial adjudication;
- (iii) identify a confidential source or disclose confidential information relating to a criminal investigation; or
- (iv) reveal criminal investigative techniques or procedures, except routine techniques and procedures.

(b) When providing the data subject with access to information described in paragraph (b) of subdivision seven of section ninety-four of this article, an agency may withhold the identity of a source who furnished said information under an express promise that his or her identity would be held in confidence.

(6) Nothing in this section shall require an agency to provide a data subject with access to:

- (a) personal information to which he or she is specifically prohibited by statute from gaining access;
- (b) patient records concerning mental disability or medical records where such access is not otherwise required by law;
- (c) personal information pertaining to the incarceration of an inmate at a state correctional facility which is evaluative in nature or which, if such access was provided, could endanger the life or safety of any person, unless such access is otherwise permitted by law or by court order;
- (d) attorney's work product or material prepared for litigation before judicial, quasi-judicial or administrative tribunals, as described in subdivisions (c) and (d) of section three thousand one hundred one of the civil practice law and rules, except pursuant to statute, subpoena issued in the course of a criminal action or proceeding, court ordered or grand jury subpoena, search warrant or other court ordered disclosure.

(7) This section shall not apply to public safety agency records.

(8) Nothing in this section shall limit, restrict, abrogate or deny any right a person may otherwise have including rights granted pursuant to the state or federal constitution, law or court order.

Section 96. Disclosure of records

- (1) No agency may disclose any record or personal information unless such disclosure is:
- (a) pursuant to a written request by or the voluntary written consent of the data subject, provided that such request or consent by its terms limits and specifically describes:
 - (i) the personal information which is requested to be disclosed;
 - (ii) the person or entity to whom such personal information is requested to be disclosed; and
 - (iii) the uses which will be made of such personal information by the person or entity receiving it; or
 - (b) to those officers and employees of, and to those who contract with, the agency that maintains the record if such disclosure is necessary to the performance of their official duties pursuant to a purpose of the agency required to be accomplished by statute or executive order or necessary to operate a program specifically authorized by law; or
 - (c) subject to disclosure under article six of this chapter, unless disclosure of such information would constitute an unwarranted invasion of personal privacy as defined in paragraph (a) of subdivision two of section eighty-nine of this chapter; or
 - (d) to officers or employees of another governmental unit if each category of information sought to be disclosed is necessary for the receiving governmental unit to operate a program specifically authorized by statute and if the use for which the information is requested is not relevant to the purpose for which it was collected; or
 - (e) for a routine use, as defined in subdivision ten of section ninety-two of this article; or
 - (f) specifically authorized by statute or federal rule or regulation; or
 - (g) to the bureau of the census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title XIII of the United States Code; or
 - (h) to a person who has provided the agency with advance written assurance that the record will be used solely for the purpose of statistical research or reporting, but only if it is to be transferred in a form that does not reveal the identity of any data subject; or
 - (i) pursuant to a showing of compelling circumstances affecting the health or safety of a data subject, if upon such disclosure notification is transmitted to the data subject at his or her last known address; or
 - (j) to the state archives as a record which has sufficient historical or other value to warrant its continued preservation by the state or for evaluation by the state archivist or his or her designee to determine whether the record has such value; or
 - (k) to any person pursuant to a court ordered subpoena or other compulsory legal process; or
 - (l) for inclusion in a public safety agency record or to any governmental unit or component thereof which performs as one of its principal functions any activity pertaining to the enforcement of criminal laws, provided that, such record is reasonably described and is requested solely for a law enforcement function; or
 - (m) pursuant to a search warrant; or

(n) to officers or employees of another agency if the record sought to be disclosed is necessary for the receiving agency to comply with the mandate of an executive order, but only if such records are to be used only for statistical research, evaluation or reporting and are not used in making any determination about a data subject.

(2) Nothing in this section shall require disclosure of:

(a) personal information which is otherwise prohibited by law from being disclosed;

(b) patient records concerning mental disability or medical records where such disclosure is not otherwise required by law;

(c) personal information pertaining to the incarceration of an inmate at a state correctional facility which is evaluative in nature or which, if disclosed, could endanger the life or safety of any person, unless such disclosure is otherwise permitted by law;

(d) attorney's work product or material prepared for litigation before judicial, quasi-judicial or administrative tribunals, as described in subdivisions (c) and (d) of section three thousand one hundred one of the civil practice law and rules, except pursuant to statute, subpoena issued in the course of a criminal action or proceeding, court ordered or grand jury subpoena, search warrant or other court ordered disclosure.

Section 96-A. Prohibited conduct

1. Beginning on January first, two thousand ten the state and its political subdivisions shall not do any of the following, unless required by law:

(a) Intentionally communicate to the general public or otherwise make available to the general public in any manner an individual's social security account number. This paragraph shall not apply to any individual intentionally communicating to the general public or otherwise making available to the general public his or her social security account number.

(b) Print an individual's social security account number on any card or tag required for the individual to access products, services or benefits provided by the state and its political subdivisions.

(c) Require an individual to transmit his or her social security account number over the internet, unless the connection is secure or the social security account number is encrypted.

(d) Require an individual to use his or her social security account number to access an internet web site, unless a password or unique personal identification number or other authentication device is also required to access the internet website.

(e) Include an individual's social security account number, except the last four digits thereof, on any materials that are mailed to the individual, or in any electronic mail that is copied to third parties, unless state or federal law requires the social security account number to be on the document to be mailed. Notwithstanding this paragraph, social security account numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the social security account number. A social security account number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(f) Encode or embed a social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number as required by this section.

(g) Nothing in this section shall prohibit a county clerk or court from making available a document publicly recorded or filed prior to the effective date of this section, provided that if any individual requests redaction of a social security number from a publicly recorded document available to the public online, such number shall be promptly redacted by the county clerk. Nothing in this section shall limit disclosure of criminal history record information currently permitted.

2. As used in this section "social security account number" shall include the nine digit account number issued by the federal social security administration and any number derived therefrom. Such term shall not include any number that has been encrypted.

3. This section does not prevent the collection, use or release of a social security account number as required by state or federal law, or the use of a social security account number for internal verification, fraud investigation or administrative purposes.

* NB Effective January 1, 2010

Section 97. Civil remedies

(1) Any data subject aggrieved by any action taken under this article may seek judicial review and relief pursuant to article seventy-eight of the civil practice law and rules.

(2) In any proceeding brought under subdivision one of this section, the party defending the action shall bear the burden of proof, and the court may, if the data subject substantially prevails against any agency and if the agency lacked a reasonable basis pursuant to this article for the challenged action, award to the data subject reasonable attorneys' fees and disbursements reasonably incurred.

(3) Nothing in this article shall be construed to limit or abridge the right of any person to obtain judicial review or pecuniary or other relief, in any other form or upon any other basis, otherwise available to a person aggrieved by any agency action under this article.

Section 98. No waiver

Any agreement purporting to waive a data subject's rights under this article is hereby declared to be void as against public policy.

Section 99. Executive authority

Nothing in this article shall limit the authority of the governor to exercise his or her responsibilities.

Article 7 OPEN MEETINGS LAW

Section 100. Legislative declaration

It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable the governmental process to operate for the benefit of those who created it.

Section 101. Short title

This article shall be known and may be cited as "Open Meetings Law".

Section 102. Definitions

As used in this article:

1. "Meeting" means the official convening of a public body for the purpose of conducting public business, including the use of videoconferencing for attendance and participation by the members of the public body.
2. "Public body" means any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the general construction law, or committee or subcommittee or other similar body of such public body.
3. "Executive session" means that portion of a meeting not open to the general public.

Section 103. Open meetings and executive sessions

- (a) Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with section ninety-five of this article.
- (b) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.
- (c) A public body that uses videoconferencing to conduct its meetings shall provide an opportunity for the public to attend, listen and observe at any site at which a member participates.

Section 104. Public notice

1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.
2. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.
3. The public notice provided for by this section shall not be construed to require publication as a legal notice.
4. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.
5. When a public body has the ability to do so, notice of the time and place of a meeting given in accordance with subdivision one or two of this section, shall also be conspicuously posted on the public body's internet website.

Section 105. Conduct of executive sessions

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
 - a. matters which will imperil the public safety if disclosed;
 - b. any matter which may disclose the identity of a law enforcement agent or informer;
 - c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
 - d. discussions regarding proposed, pending or current litigation;
 - e. collective negotiations pursuant to article fourteen of the civil service law;
 - f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - g. the preparation, grading or administration of examinations; and
 - h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.
2. Attendance at an executive session shall be permitted to any member of the public body and any other persons authorized by the public body.

Section 106. Minutes

1. Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.
2. Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary need not include any matter which is not required to be made public by the freedom of information law as added by article six of this chapter.
3. Minutes of meetings of all public bodies shall be available to the public in accordance with the provisions of the freedom of information law within two weeks from the date of such meeting except that minutes taken pursuant to subdivision two hereof shall be available to the public within one week from the date of the executive session.

Section 107. Enforcement

1. Any aggrieved person shall have standing to enforce the provisions of this article against a public body by the commencement of a proceeding pursuant to article seventy-eight of the civil practice law and rules, and/or an action for declaratory judgment and injunctive relief. In any such action or proceeding, the court shall have the power, in its discretion, upon good cause shown, to declare any action or part thereof taken in violation of this article void in whole or in part. An unintentional failure to fully comply with the notice provisions required by this article shall not alone be grounds for

invalidating any action taken at a meeting of a public body. The provisions of this article shall not affect the validity of the authorization, acquisition, execution or disposition of a bond issue or notes.

2. In any proceeding brought pursuant to this section, costs and reasonable attorney fees may be awarded by the court, in its discretion, to the successful party. If a court determines that a vote was taken in material violation of this article, or that substantial deliberations relating thereto occurred in private prior to such vote, the court shall award costs and reasonable attorney's fees to the successful petitioner, unless there was a reasonable basis for a public body to believe that a closed session could properly have been held.

3. The statute of limitations in an article seventy-eight proceeding with respect to an action taken at executive session shall commence to run from the date the minutes of such executive session have been made available to the public.

Section 108. Exemptions

Nothing contained in this article shall be construed as extending the provisions hereof to:

1. judicial or quasi-judicial proceedings, except proceedings of the public service commission and zoning boards of appeals;
2. a. deliberations of political committees, conferences and caucuses.
b. for purposes of this section, the deliberations of political committees, conferences and caucuses means a private meeting of members of the senate or assembly of the state of New York, or of the legislative body of a county, city, town or village, who are members or adherents of the same political party, without regard to (i) the subject matter under discussion, including discussions of public business, (ii) the majority or minority status of such political committees, conferences and caucuses or (iii) whether such political committees, conferences and caucuses invite staff or guests to participate in their deliberations; and
3. any matter made confidential by federal or state law.

Section 109. Committee on open government

The committee on open government, created by paragraph (a) of subdivision one of section eighty-nine of this chapter, shall issue advisory opinions from time to time as, in its discretion, may be required to inform public bodies and persons of the interpretations of the provisions of the open meetings law.

Section 110. Construction with other laws

1. Any provision of a charter, administrative code, local law, ordinance, or rule or regulation affecting a public body which is more restrictive with respect to public access than this article shall be deemed superseded hereby to the extent that such provision is more restrictive than this article.
2. Any provision of general, special or local law or charter, administrative code, ordinance, or rule or regulation less restrictive with respect to public access than this article shall not be deemed superseded hereby.
3. Notwithstanding any provision of this article to the contrary, a public body may adopt provisions less restrictive with respect to public access than this article.

Section 111. Severability

If any provision of this article or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the article or the application thereof to other persons and circumstances.

Article 8 CONSTRUCTION; LAWS REPEALED; WHEN TO TAKE EFFECT

Section 115. Application of chapter

This chapter applies to civil officers only.

Section 116. Laws repealed

Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

Section 117. When to take effect

This chapter shall take effect immediately.