25 June 1987

Assemblyman Mark A. Siegel
Chairman
Committee on Corporations, Authorities & Commissions
NEW YORK STATE ASSEMBLY
Legislative Office Building/Room 842
Albany, N.Y. 12248

Re: 6896-A

Dear Assemblyman Siegel:

This letter is to endorse Assembly Bill 6896-A, which would amend Subdivision 9 of Section 3038 of the Public Authorities Law.

We continue to support passage of this important legislation in the form of the amended bill, just as we supported the initial bill as proposed by the City of New York.

Such an amendment to the enabling legislation of the Municipal Assistance Corporation is essential to the City at this time.

Sincerely,

Stephen J. Weinstein
Executive Director

aa: 201
IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

-------- A. ASSEMBLY -------

IN ASSEMBLY--Introduced by M. of A.

--read once and referred to the Committee on

*PUBLIC LAW*

(Requires New York state public authorities control board approval of certain municipal assistance corporation agreements or debt)

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Pub Aut. St pub auth control bd

AN ACT

to amend the public authorities law, in relation to requiring public authority control board approval of certain municipal assistance corporation agreements or debt

The People of the State of New York, represented in Senate and Assembly, do enact as follows:
Section 1. The public authorities law is amended by adding a new section fifty-two to read as follows:

§ 52. Additional powers of the New York State public authorities control board in regard to the municipal assistance corporation for the city of New York. I. Notwithstanding the provisions of any other law to the contrary, but subject to any contractual agreements already in effect on the date this section takes effect between the municipal assistance corporation for the city of New York and the holders of its notes and bonds, the New York State public authorities control board shall have the power and duty to receive applications for approval and shall have the power to approve or disapprove:

(a) the issuance by the municipal assistance corporation for the city of New York of any refunding bonds by such corporation after the date on which this section shall have become a law if such refunding bonds will be used for any purpose other than solely for the purpose of redeeming such corporation's bonds not otherwise yet due; or

(b) any memorandum of agreement to which the municipal assistance corporation for the city of New York is party, other than the memoranda of agreement dated March thirtieth, nineteen hundred eighty-four or April second, nineteen hundred eighty-six, which is intended to dictate the manner in which excess or surplus funds of such corporation shall be distributed and spent; or

(c) any changes or amendments to any memorandum of agreement to which the municipal assistance corporation for the city of New York is party dated either March thirtieth, nineteen hundred eighty-four or April second, nineteen hundred eighty-six, or changes in the timing, distribution or amount to be distributed of such excess or surplus funds by such corporation pursuant to such memoranda.
2. Any application made concerning such refunding shall include the terms and conditions of such refunding as well as the planned uses of the proceeds of such refunding. Any application made concerning memoranda of agreement shall include the manner in which the excess or surplus funds will be generated and the planned uses of such funds.

3. The board may require as part of such application such information as it deems necessary and shall act upon such application within a reasonable time.

§ 2. Section three thousand thirty-three of such law is amended by adding a new subdivision six to read as follows:

6. Notwithstanding any provision of law to the contrary, but subject to any contractual agreements already in effect on the date this section takes effect between the corporation and the holders of its notes and bonds, the corporation shall:

(a) not issue any refunding bonds without the approval of the New York state public authorities control board pursuant to section fifty-two of this chapter unless a resolution is adopted by a vote of the board of the corporation expressly providing that such refunding bonds will be used solely for the purpose of redeeming the corporation’s bonds not otherwise yet due; or

(b) not enter into a memorandum of agreement dated after the date on which this section takes effect which is intended to dictate the manner in which excess or surplus funds of the corporation are distributed and spent without the approval of the New York state public authorities control board pursuant to section fifty-two of this chapter.

(c) neither alter or change any memorandum of agreement dated either March thirtieth, nineteen hundred eighty-four or April second, nineteen hundred eighty-six nor change the manner of distribution, the timing or
the amount of the payment or payments of excess or surplus funds to be
made available by the corporation as originally specified in either such
memorandum of agreement without the approval of the New York state pu-

tic authorities control board pursuant to section fifty-two of this
chapter.

(d) prepare an annual report to be submitted to the members of the New
York state public authorities control board detailing the progress made
to date in meeting the desired level of disbursement of excess or sur-
plus funds of the corporation pursuant to both memoranda of agreement
dated March thirtieth, nineteen hundred eighty-four and April second,
nine hundred eighty-six.

§ 3. Paragraph b of subdivision nine of section three thousand thirty-
eight of such law, as amended by chapter seven hundred seventy-seven of
the laws of nineteen hundred seventy-eight, is amended to read as
follows:

b. In addition to the foregoing limitation the city shall not, at any
date, issue any short-term obligations which would cause the aggregate
principal amount of its outstanding short-term obligations (excluding
bond anticipation notes) plus the aggregate principal amount of all
notes and bonds issued by the corporation (less (1) any notes or bonds
which have been refunded or renewed and any notes or bonds in an amount
equal to the aggregate principal amount of bond anticipation notes of
the city acquired by the corporation, whether or not then held by the
 corporation (except bond anticipation notes of the city acquired by the
corporation in consideration of the surrender by the corporation to the
city of bond anticipation notes of the city), and any notes or bonds is-

ued for a purpose set forth in subparagraph (b), (c) or (d) of section
three thousand thirty-seven, in subdivision two-a of section three
thousand thirty-three, or subparagraph eighteen of section three
thousand ten of this article, and less any notes or bonds of the cor-
poration issued for the purpose of making deposits into any of its capi-
tal reserve funds, (II) any short-term obligations of the city then held
by the corporation other than bond anticipation notes and (III) any
short-term obligations of the city issued and payable within the same
fiscal year) to exceed [four] five billion five hundred million dollars
plus, in the discretion of the board of directors, an additional amount
not exceeding five hundred million dollars [plus, in the discretion of
the board of directors, until June thirty-first, nineteen hundred seventy-
six, a further additional amount not exceeding two hundred million
dollars].

§ 4. This act shall take effect immediately.
Section ____. Section three thousand thirty-six-a of the public authorities law is amended to add a new subdivision seven to read as follows:

7. Notwithstanding any other provisions of this act, (1) the corporation shall not exercise its discretion to prepay any debt of the corporation except from the proceeds of refunding bonds or interest earned on such proceeds and (2) any certification setting forth the cash requirements or additional cash requirements of the corporation pursuant to subdivision one of section three thousand thirty-six or subdivision one of section three thousand thirty-six-a shall reflect the transfer to the appropriate bond service fund from any capital reserve fund established under such sections of any amount in excess of the principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding.
18 June 1987

Edward I. Koch, Mayor
Harrison J. Goldin, Comptroller
THE CITY OF NEW YORK

Dear Mayor Koch and Comptroller Goldin:

In connection with the proposed purchase of $335,030 million of general obligation bonds of the City of New York (the "City") with proceeds of certain bonds of the Municipal Assistance Corporation For The City of New York (the "Corporation") on June 18, 1987, and the concomitant delivery of a certificate entitled "Certificate of the City of New York" (Document No. 17), we hereby specifically request that you, on behalf of the City, agree that the City will not issue any short-term obligations which would cause the City not to be in compliance with subsection (9) of Section 3038 of the Municipal Assistance Corporation For The City of New York Act.

Sincerely,

[Felix G. Robatyn's signature]
Felix G. Robatyn
Chairman
June 2, 1987

MEMORANDUM

TO: DISTRIBUTION BELOW
FROM: MICHAEL BURKE
Assistant Corporation Counsel
RE: Proposed Legislation

Enclosed is a revised draft of the proposed bill amending MAC Act §3038. The revision reflects the comments and suggestions received on the draft distributed on May 29. It is expected that the bill will be transmitted to Albany this week for immediate introduction.

Distribution
Maxine Gillman
Steven Markbreiter
Stephen Weinstein
AN ACT to amend subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the city of New York and to repeal subparagraph b of subdivision nine of section three thousand thirty-eight of such law relating thereto.

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

Section 1. Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law, as amended by chapter seven hundred seventy-seven of the laws of nineteen hundred seventy-eight, is amended to read as follows:

a. The city shall not, at any time issue any short-term obligations [which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation] to exceed (i) six billion six hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty per cent of the base debt.
limit, during the fiscal year ending June 30, 1978 the additional
amount may not exceed twenty-five per cent of the base debt limit,
during the fiscal year ending June 30, 1979, the additional amount
may not exceed twenty per cent of the base debt limit, and during
the fiscal year ending June 30, 1980 the additional amount may not
exceed fifteen per cent of the base debt limit] in violation of the
limitations on short-term borrowing set forth in section nine-b of the
New York state financial emergency act for the city of New York.

§2. Subparagraph b of subdivision nine of section three
thousand thirty-eight of such law is REPEALED, and subparagraphs c
and d are relettered subparagraphs b and c.

§3. Subparagraph b of subdivision nine of section three
thousand thirty-eight of such law, as added by chapter one hundred
sixty-nine of the laws of nineteen hundred seventy-five and
relettered by section two of this act, is amended to read as follows:

b. Notwithstanding any other provision of this act, the
corporation shall not have the authority to modify or waive the
limitations on the aggregate amount of outstanding short-term
obligations of the city permitted to be outstanding in excess of the
limits specified in [paragraphs] paragraph (a) [and (b)] of this
subdivision.

§4. This act shall take effect immediately.
MEMORANDUM IN SUPPORT

TITLE: AN ACT to amend subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the city of New York and to repeal subparagraph b of subdivision nine of section three thousand thirty-eight of such law relating thereto

SUMMARY OF PROVISIONS: The bill would amend subdivision nine of section three thousand thirty-eight of the public authorities law, which establishes certain tests and requirements which must be met before the City of New York may issue short-term obligations, by repealing such restrictions and substituting therefor the limitations on short-term borrowings by the City set forth in section nine-b of the New York State Financial Emergency Act for The City of New York (the "FEA").

REASONS FOR SUPPORT: Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law provides that the City of New York may not issue short-term obligations if the aggregate principal amount of its outstanding short-term obligations together with the aggregate principal amount of all bonds issued by the Municipal Assistance Corporation for The City of New York ("MAC"), with certain exceptions, would be caused to exceed seven billion two hundred and sixty million dollars. Subparagraph b of the same subdivision sets forth a similar test but provides for additional exclusions such as bonds issued by MAC to meet the City's seasonal borrowing needs or to reduce the City's requirements for advances by the state, as well as any short-term obligations of the City issued and payable within the same fiscal year. The debt limit under this second test is set at five billion dollars. If the City fails to meet either test, it is prohibited from issuing short term obligations.

Application of the above-described limitations may prevent the City from meeting its seasonal financing needs in the coming fiscal year, despite the fact that the City has been and will continue to be in compliance with all restrictions imposed upon it by the Local Finance Law (the "LFL") and the FEA. While the restrictions set forth in subdivision nine may have served a legitimate purpose when they were created during the fiscal crisis, they currently bear little relationship to the City's ability to meet and pay its seasonal borrowing obligations, based as they are, in large part, on the aggregate amount of MAC debt outstanding. It would be absurd to apply these restrictions in such a manner as to prevent the City from meeting its legitimate seasonal borrowing needs. Such a result was obviously not intended by the Legislature when it adopted the MAC Act's restrictions on short-term borrowing, and that result should not now be permitted.

This bill will remove the obsolete restrictions contained in subdivision nine and substitute therefor the extensive limitations on short-term borrowing set forth in section nine-b of the FEA. These limitations are better designed to meet the objectives of short-term debt restrictions since they are based in general on the amount of anticipated revenues and taxes against which the City's short-term debt is issued. Repeal of subdivision nine will not violate any covenant of the State, the City or MAC with the holders of bonds or notes.

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.

Respectfully submitted,

James Brenner
Legislative Representative

-3-
May 29, 1987

MEMORANDUM

TO: DISTRIBUTION BELOW

FROM: MICHAEL BURKE  
Assistant Corporation Counsel

RE: Proposed Legislation

Enclosed is a revised draft of the proposed bill amending MAC Act §3038. The revision reflects the comments and suggestions received on the draft distributed on May 15.

Distribution

Maxine Gillman  
Steven Markbreiter  
Stephen Weinstein
AN ACT to repeal subparagraph b of subdivision nine of section three thousand thirty-eight of the public authorities law and to amend such law, relating to the issuance of short-term obligations by the city of New York

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

Section 1. Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law, as amended by chapter seven hundred seventy-seven of the laws of nineteen hundred seventy-eight, is amended to read as follows:

a. The city shall not, at any time issue any short-term obligations [which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation] to exceed (i) six billion six hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty per cent of the base debt
limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five per cent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty per cent of the base debt limit, and during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen per cent of the base debt limit] in violation of the limitations on short-term borrowing set forth in section nine-b of the New York state financial emergency act for the city of New York.

§2. Subparagraph b of subdivision nine of section three thousand thirty-eight of such law is REPEALED, and subparagraph c is relettered subparagraph b.

§3. Subparagraph b of subdivision nine of section three thousand thirty-eight of such law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five and as relettered by §2, is amended to read as follows:

b. Notwithstanding any other provision of this act, the corporation shall not have the authority to modify or waive the limitations on the aggregate amount of outstanding short-term obligations of the city permitted to be outstanding in excess of the limits specified in [paragraphs] paragraph (a) [and (b)] of this subdivision.

§4. Subparagraph d of subdivision nine of section three thousand thirty-eight of such law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is relettered subparagraph c.

§5. This act shall take effect immediately.
MEMORANDUM IN SUPPORT

TITLE: AN ACT to repeal subparagraph b of subdivision nine of section three thousand thirty-eight of the public authorities law and to amend such law, relating to the issuance of short-term obligations by the city of New York

SUMMARY OF PROVISIONS: The bill would amend subdivision nine of section three thousand thirty-eight of the public authorities law, which establishes certain tests and requirements which must be met before the City of New York may issue short-term obligations, by substituting the limitations on short-term borrowings by the City set forth in section nine-b of the New York State Financial Emergency Act for The City of New York (the "FEA").

REASONS FOR SUPPORT: Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law provides that the City of New York may not issue short-term obligations if the aggregate principal amount of its outstanding short-term obligations together with the aggregate principal amount of all bonds issued by the Municipal Assistance Corporation for The City of New York ("MAC"), with certain exceptions, would be caused to exceed seven billion two hundred and sixty million dollars. Subparagraph b of the same subdivision sets forth a similar test but provides for additional exclusions such as bonds issued by MAC to meet the City's seasonal borrowing needs or to reduce the City's requirements for advances by the state, as well as any short-term obligations of the City issued and payable within the same fiscal year. The debt limit under this second test is set at five billion dollars. If the City fails to meet either test, it is prohibited from issuing short-term obligations.

Application of the above-described limitations may prevent the City from meeting its seasonal financing needs in the coming fiscal year, despite the fact that the City has been and will continue to be in compliance with all restrictions imposed upon it by the Local Finance Law (the "LFL") and the FEA. While the restrictions set forth in subdivision nine may have served a legitimate purpose when they were created during the fiscal crisis, they currently bear little relationship to the City's ability to meet and pay its seasonal borrowing obligations, based as they are, in large part, on the aggregate amount of MAC debt outstanding. It would be absurd to apply these restrictions in such a manner as to prevent the City from meeting its legitimate seasonal borrowing needs. Such a result was obviously not intended by the Legislature when it adopted the MAC Act's restrictions on short-term borrowing, and that result should not now be permitted.

This bill will remove the obsolete restrictions contained in subdivision nine and substitute therefor the extensive limitations on short-term borrowing set forth in section nine-b of the FEA. These limitations are better designed to meet the objectives of short-term debt restrictions since they are based in general on the amount of anticipated revenues and taxes against which the City's short-term debt is issued. Repeal of subdivision nine will not violate any covenant of the State, the City or MAC with the holders of bonds or notes.

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.

Respectfully submitted,

James Brenner
Legislative Representative
Date: 18 May 1987

To: See Distribution

From: Maxine H. Gillman

Re: Legislative Matters

Enclosed is a revised proposal to amend Section 3038(9) of the Public Authorities Law. It was proposed by the City in response to concerns of Albany staffers of the perception of removal of a legitimate fiscal restraint. Barring comments to the contrary from any of you, it is acceptable to us.

I am also enclosing a draft of a letter which we may consider sending to Albany officials if the deadlock over Per Capita Aid continues much longer. I would appreciate your comments on it.

Thank you.

Enclosures (2)

Distribution: James M. Dubin
Allen L. Thomas
Saul H. Finkelstein
John J. Keohane
Donald J. Robinson
Kathleen A. McDonough

ba:111
May 15, 1987

MEMORANDUM

TO: DISTRIBUTION BELOW

FROM: MICHAEL BURKE Assistant Corporation Counsel

RE: Proposed Legislation

Enclosed is a revised draft of the proposed bill amending MAC Act §3038. The revision reflects the comments and suggestions of staff members of the Senate Finance and Assembly Ways and Means Committees. It was indicated that the substitution of the existing FEA test was preferable to outright repeal of §3038(9).

Distribution

Maxine Gillman
Steven Markbreiter
Stephen Weinstein
AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, relating to the issuance of short-term obligations by the city of New York

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

Section 1. Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law is amended to read as follows:

a. The city shall not, at any time issue any short-term obligations [which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with note holders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation] to exceed (i) six billion six hundred million (hereafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty percent of the base debt
limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five per cent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty per cent of the base debt limit, and during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen per cent of the base debt limit] in excess of the limitations on short-term borrowing set forth in section nine-b of section two of chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, constituting the New York state financial emergency act for the city of New York.

§2. Subparagraph b of subdivision nine of section three thousand thirty-eight of such law is REPEALED, subparagraph c is relettered subparagraph b and is amended to read as follows:

b. Notwithstanding any other provision of this act, the corporation shall not have the authority to modify or waive the limitations on the aggregate amount of outstanding short-term obligations of the city permitted to be outstanding in excess of the limits specified in [paragraphs] paragraph (a) [and (b)] of this subdivision.

§3. Subparagraph d of subdivision nine of section three thousand thirty-eight of such law is relettered subparagraph c.

§2. This act shall take effect immediately.
AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the City of New York.

The bill would repeal subdivision nine of section three thousand thirty-eight of the public authorities law which establishes certain tests and requirements which must be met before the City of New York may issue short-term obligations.

Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law provides that the City of New York may not issue short-term obligations if the aggregate principal amount of its outstanding short-term obligations together with the aggregate principal amount of all bonds issued by the Municipal Assistance Corporation for The City of New York ("MAC"), with certain exceptions, would be caused to exceed seven billion two hundred and sixty million dollars. Subparagraph b of the same subdivision sets forth a similar test but provides for additional exclusions such as bonds issued by MAC to meet the City's seasonal borrowing needs or to reduce the City's requirements for advances by the state, as well as any short-term obligations of the City issued and payable within the same fiscal year. The debt limit under this second test is set at five billion dollars. If the City fails to meet either test, it is prohibited from issuing short term obligations.

Application of the above-described limitations may prevent the City from meeting its seasonal financing needs in the coming fiscal year, despite the fact that the City has been and will continue to be in compliance with all restrictions imposed upon it by the Local Finance Law (the "LFL") and the Financial Emergency Act for The City of New York (the "FEA"). While the restrictions set forth in subdivision nine may have served a legitimate purpose when they were created during the fiscal crisis, they currently bear little relationship to the City's ability to meet and pay its seasonal borrowing obligations, based as they are, in large part, on the aggregate amount of MAC debt outstanding. It would be absurd to apply these restrictions in such a manner as to prevent the City from meeting its legitimate seasonal borrowing needs. Such a result was obviously not intended by the Legislature when it adopted the MAC Act's restrictions on short-term borrowing, and that result should not now be permitted.

Repeal of the restrictions in subdivision nine will not give the City unfettered discretion in issuing short-term debt. Rather, the City will continue to be governed by the extensive limitations on short-term borrowing set forth in the LFL and, in particular, section nine-b of the FEA. These limitations are better designed to meet the objectives of short-term debt restrictions since they are based in general on the amount of anticipated revenues and taxes against which the City's short-term debt is issued. Repeal of subdivision nine will not violate any covenant of the State, the City or MAC with the holders of bonds or notes.

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.

Respectfully submitted,

James Brenner
Legislative Representative
AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, relating to the issuance of short-term obligations by the city of New York

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

Section 1. Subdivision nine of section three thousand thirty-eight of the public authorities law is REPEALED.

§2. This act shall take effect immediately.
MEMORANDUM IN SUPPORT

TITLE: AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the city of New York

SUMMARY OF PROVISIONS: The bill would repeal subdivision nine of section three thousand thirty-eight of the public authorities law.

REASONS FOR SUPPORT: Absent enactment of this proposal, the City of New York (the "City") will be unable to issue any short-term obligations to finance its seasonal cash needs for the fiscal year beginning July 1, 1987.

Section three thousand thirty-eight of the Public Authorities Law ("Section 3038"), of which subdivision nine is but one provision, was enacted into law at the height of the City fiscal crisis in June 1975 as a component of the program establishing MAC as a financing agent and fiscal monitor for the City. Section 3038 set certain conditions for the extension of benefits to the City by MAC, reflective of the circumstances existing at that time. For example, among them were the phased elimination of operating expenses from the City's capital budget and the annual audit of City financial statements by a nationally-recognized independent accounting firm.

The provision in question is one of eight conditions. It establishes two absolute dollar limitations upon two separate computations of combined MAC debt and City short-term debt. Unless both these limitations are satisfied, the City cannot issue any short-term obligations.

It would be contrary to today's public policy considerations to perpetuate this anachronistic test. Some twelve years after its enactment to enable the State to address the City's unprecedented fiscal predicament in an air of uncertainty and crisis, it now produces the unintended results set forth above. In the interim, the City fiscal picture has been a complete about-face. Even if that were not the case, other statutory restrictions on the City's issuance of short-term obligations are imposed in the Local Finance Law (Sections 25 and 104), the Financial Emergency for the City of New York Act (Section 5413 of the Unconsolidated Laws).

The City stands in sharp contrast to its financial condition in 1975. The City's current fiscal year is the seventh in which it has operated with a GAAP-balanced budget, and it has reported results, independently audited, on a GAAP-basis for the past six years. Moreover, the City has successfully re-established itself in both the short-term and long-term credit markets to meet its seasonal cash and capital financing needs in full. Seasonal borrowing has been at about $1 billion, or 5% of the total budget, in recent years, all duly paid at maturity. This is markedly different from the $6 billion of outstanding short-term notes which the City could not pay when this statutory provision was enacted.

Between 1975 and 1980, MAC's authority to issue new debt to aid the City, in terms of both dollar limitation and purpose, was expanded and extended several times, rising
from an initial $3 billion to an ultimate $10 billion, of which $9.5 billion was actually issued. Since January 1, 1985, MAC's financing activities have been limited to the issuance of refunding obligations to reduce its own debt service costs and even its year-to-year debt service requirements. However, the absolute dollar limitations of Section 3038(9) were never materially altered to reflect those substantial changes.

The condition contained in subparagraph (b) of Section 3038(9), as calculated today, could not be met. While this has posed no problem to date because the limitation is one of issuance and not maintenance, it would now operate to prohibit the City from issuing any new short-term obligations, even those payable within the same fiscal year, and even to replace any portion of the $1 billion of such obligations maturing in June 1987.

Ongoing seasonal financing capability is essential for a major governmental entity like the City, just as it is for the State. It is ironic that provisions enacted to prevent recurring fiscal problems for an extremely troubled City in 1975 would in fact precipitate a real predicament for a fiscally prudent City in 1987.

Any of these factors alone would provide sufficient support for repeal of Section 3038(9). Taken together, they make a compelling case for excision of a mathematical formula embodied in statute twelve years ago to serve an important public purpose which now produces results at odds with fiscal propriety.

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.
MEMORANDUM IN SUPPORT

TITLE: AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the city of New York

SUMMARY OF PROVISIONS: The bill would repeal subdivision nine of section three thousand thirty-eight of the public authorities law.

REASONS FOR SUPPORT: Absent enactment of this proposal: (1) the City of New York (the "City") will be unable to issue any short-term obligations to finance its seasonal cash needs for the fiscal year beginning July 1, 1987; and (2) the Municipal Assistance Corporation for The City of New York ("MAC") will be unable to pay to the City approximately $335 million for capital projects previously raised in the public credit markets and currently held by MAC for such purpose.

Section three thousand thirty-eight of the Public Authorities Law ("Section 3038"), of which subdivision nine is but one provision, was enacted into law at the height of the City fiscal crisis in June 1975 as a component of the program establishing MAC as a financing agent and fiscal monitor for the City. Section 3038 set certain conditions for the extension of benefits to the City by MAC, reflective of the circumstances existing at that time. For example, among them were the phased elimination of operating expenses from the City's capital budget and the annual audit of City financial statements by a nationally-recognized independent accounting firm.

The provision in question is one of eight conditions. It establishes two absolute dollar limitations upon two separate computations of combined MAC debt and City short-term debt. Unless both these limitations are satisfied, MAC cannot pay any money over to the City for any purpose and the City cannot issue any short-term obligations.

It would be contrary to today's public policy considerations to perpetuate this anachronistic test. Some twelve years after its enactment to enable the State to address the City's unprecedented fiscal predilection in an air of uncertainty and crisis, it now produces the unintended results set forth above. In the interim, much has changed. Subsequent to enactment of Section 3038(9), other statutory restrictions on the City's issuance of short-term obligations were imposed in the Local Finance Law (Sections 25 and 104), the Financial Emergency for the city of New York Act (Section 5413 of the Unconsolidated Laws), and ensured contractually in the City's undertakings with the purchasers of its bonds by means of the "State Covenant." The City stands in sharp contrast to its financial condition in 1975. The City's current fiscal year is the seventh in which it has operated with a GAAP-balanced budget, and it has reported results, independently audited, on a GAAP-basis for the past six years.

Moreover, the City has successfully re-established itself in both the short-term and long-term credit markets to meet its seasonal cash and capital financing needs in full. Seasonal borrowing has been at about $1 billion, or 5% of the total
budget, in recent years, all duly paid at maturity. This is markedly different from the $6 billion of outstanding short-term notes which the City could not pay when this statutory provision was enacted.

Between 1975 and 1980, MAC's authority to issue new debt to aid the City, in terms of both dollar limitation and purpose, was expanded and extended several times, rising from an initial $3 billion to an ultimate $10 billion, of which $9.5 billion was actually issued. Since January 1, 1985, MAC's financing activities have been limited to the issuance of refunding obligations to reduce its own debt service costs and even its year-to-year debt service requirements. However, the absolute dollar limitations of Section 3038(9) were never materially altered to reflect those substantial changes.

The condition contained in subparagraph (b) of Section 3038(9), as calculated today, could not be met. While this has posed no problem to date because the limitation is one of issuance and not maintenance, it would now operate in the following two ways: the City could not issue any new short-term obligations, even those payable within the same fiscal year, and even to replace any portion of the $1 billion of such obligations maturing in June 1987; and MAC could not pay approximately $335 million of bond proceeds for City capital projects which it currently holds exclusively for that use. This would leave that money, which the City has requested MAC to deliver in June of this fiscal year, inaccessible to the City for which it was raised and unavailable legally for any other purpose.

Ongoing seasonal financing capability is essential for a major governmental entity like the City, just as it is for the State. It is ironic that provisions enacted to prevent recurring fiscal problems for an extremely troubled City in 1975 would in fact precipitate a real predicament for a fiscally prudent City in 1987.

Any of these factors alone would provide sufficient support for repeal of Section 3038(9). Taken together, they make a compelling case for excision of a mathematical formula embodied in statute twelve years ago to serve an important public purpose which now produces results at odds with fiscal propriety.

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.
MEMORANDUM IN SUPPORT

TITLE: AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the city of New York

SUMMARY OF PROVISIONS: The bill would repeal subdivision nine of section three thousand thirty-eight of the public authorities law.

REASONS FOR SUPPORT: Absent enactment of this proposal: (1) the City of New York (the "City") will be unable to issue any short-term obligations to finance its seasonal cash needs for the fiscal year beginning July 1, 1987; and (2) the Municipal Assistance Corporation (MAC) for the City of New York ("MAC") will be unable to pay to the City approximately $335 million for capital projects previously raised in the public credit markets and currently held by MAC for such purpose.

Section three thousand thirty-eight of the Public Authorities Law ("Section 3038"), of which subdivision nine is but one provision, was enacted into law at the height of the City fiscal crisis in June 1975 as a component of the program establishing MAC as a financing agent and fiscal monitor for the City. Section 3038 set certain conditions for the extension of benefits to the City by MAC, reflective of the circumstances existing at that time. For example, among them were the phased elimination of operating expenses from the City's capital budget and the annual audit of City financial statements by a nationally-recognized independent accounting firm.

The provision in question is one of eight conditions. It establishes two absolute dollar limitations upon two separate computations of combined MAC debt and City short-term debt. Unless both these limitations are satisfied, MAC cannot pay any money over to the City for any purpose and the City cannot issue any short-term obligations.

It would be contrary to today's public policy considerations to perpetuate this anachronistic test. Some twelve years after its enactment to enable the State to address the City's unprecedented fiscal predicament in an air of uncertainty and crisis, it now produces the unintended results set forth above. In the interim, much has changed. Subsequent to enactment of Section 3038(9), other statutory restrictions on the City's issuance of short-term obligations were imposed in the Local Finance Law (Sections 25 and 104), the Financial Emergency for the city of New York Act (Section 543 of the Unconsolidated Laws), and ensured contraction in the City's undertakings with the purchasers of its bonds by means of the "State Covenant." The City stands in sharp contrast to its financial condition in 1975. The City's current fiscal year is the seventh in which it has operated with a GAAP-balanced budget, and it has reported results, independently audited, on a GAAP-basis for the past six years.

Moreover, the City has successfully re-established itself in both the short-term and long-term credit markets to meet its seasonal cash and capital financing needs in full. Seasonal borrowing has been at about $1 billion, or 5% of the total...
budget, in recent years, all duly paid at maturity. This is markedly different from the $6 billion of outstanding short-term notes which the City could not pay when this statutory provision was enacted.

Between 1975 and 1980, MAC's authority to issue new debt to aid the City, in terms of both dollar limitation and purpose, was expanded and extended several times, rising from an initial $3 billion to an ultimate $10 billion, of which $9.5 billion was actually issued. Since January 1, 1985, MAC's financing activities have been limited to the issuance of refunding obligations to reduce its own debt service costs and even its year-to-year debt service requirements. However, the absolute dollar limitations of Section 3038(9) were never materially altered to reflect those substantial changes.

The condition contained in subparagraph (b) of Section 3038(9), as calculated today, could not be met. While this has posed no problem to date because the limitation is one of issuance and not maintenance, it would now operate in the following two ways: the City could not issue any new short-term obligations, even those payable within the same fiscal year, and even to replace any portion of the $1 billion of such obligations maturing in June 1987; and MAC could not pay approximately $335 million of bond proceeds for City capital projects which it currently holds exclusively for that use. This would leave that money, which the City has requested MAC to deliver in June of this fiscal year, inaccessible to the City for which it was raised and unavailable legally for any other purpose.

Ongoing seasonal financing capability is essential for a major governmental entity like the City, just as it is for the State. It is ironic that provisions enacted to prevent recurring fiscal problems for an extremely troubled City in 1975 would in fact precipitate a real predicament for a fiscally prudent City in 1987.

Any of these factors alone would provide sufficient support for repeal of Section 3038(9). Taken together, they make a compelling case for exculsion of a mathematical formula embodied in statute twelve years ago to serve an important public purpose which now produces results at odds with fiscal propriety.

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.
AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, relating to the issuance of short-term obligations by the city of New York

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

Section 1. Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law is amended to read as follows:

a. The city shall not, at any time issue any short-term obligations [which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corporation] to exceed (i) six billion six hundred million (hereafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty percent of the base debt
limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five per cent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty per cent of the base debt limit, and during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen per cent of the base debt limit] in excess of the limitations on short-term borrowing set forth in section nine-b of section two of chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, constituting the New York state financial emergency act for the city of New York.

§2. Subparagraph b of subdivision nine of section three thousand thirty-eight of such law is REPEALED, subparagraph c is relettered subparagraph b and is amended to read as follows:

b. Notwithstanding any other provision of this act, the corporation shall not have the authority to modify or waive the limitations on the aggregate amount of outstanding short-term obligations of the city permitted to be outstanding in excess of the limits specified in [paragraphs] paragraph (a) [and (b)] of this subdivision.

§3. Subparagraph d of subdivision nine of section three thousand thirty-eight of such law is relettered subparagraph c.

§2. This act shall take effect immediately.
April 17, 1987

MEMORANDUM

TO: STEPHEN J. WEINSTEIN
   Executive Director
   Municipal Assistance Corporation

   MAXINE GILLMAN
   Counsel and Secretary
   Municipal Assistance Corporation

FROM: MICHAEL BURKE
   Assistant Corporation Counsel

RE: Repeal of MAC Act Section 3038(d)

Enclosed is a draft of a bill, with a memorandum in support, repealing §3038(d) of the MAC Act which contains certain restrictions on the issuance of short-term debt by the City. As you know, the restrictions, based in large part on the aggregate amount of outstanding MAC debt, would currently prevent the City from meeting its seasonal financing needs. Please forward any comments of the bill on the memorandum in support to me by Tuesday, April 21.

cc: Paul Rephen
AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the city of New York

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

Section 1. Subdivision nine of section three thousand thirty-eight of the public authorities law, as amended by chapter seven hundred seventy-seven of the laws of nineteen hundred seventy-eight, is REPEALED.

§2. This act shall take effect immediately.
MEMORANDUM IN SUPPORT

TITLE: AN ACT to repeal subdivision nine of section three thousand thirty-eight of the public authorities law, in relation to the issuance of short-term obligations by the city of New York

SUMMARY OF PROVISIONS: The bill would repeal subdivision nine of section three thousand thirty-eight of the public authorities law which establishes certain tests and requirements which must be met before the city of New York (the "City") may issue short-term obligations.

REASONS FOR SUPPORT: Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law provides that the City may not issue short-term obligations if the aggregate principal amount of its outstanding short-term obligations together with the aggregate principal amount of all bonds issued by the Municipal Assistance Corporation for The City of New York ("MAC"), with certain exceptions, would exceed seven billion two hundred and sixty million dollars. Subparagraph b of the same subdivision sets forth a similar test but provides for additional exclusions such as bonds issued by MAC to meet the City's seasonal borrowing needs or to reduce the City's requirements for advances by the state, as well as any short-term obligations of the City issued and payable within the same fiscal year. The debt limit under this second test is set at five billion dollars. If the City fails to meet either test, it is prohibited from issuing short-term obligations.

As a result of recent large issuances of long-term MAC obligations, application of the above-described limitations will prevent the City from meeting its seasonal financing needs in the coming fiscal year, despite the fact that the City has been and will continue to be in compliance with all restrictions imposed upon it by the Local Finance Law (the "LFL") and the Financial Emergency Act for The City of New York (the "FEA"). While the restrictions set forth in subdivision nine may have served a legitimate purpose when they were created during the fiscal crisis, they currently bear little relationship to the City's ability to meet and pay its seasonal borrowing obligations, based as they are, in large part, on the aggregate amount of MAC debt outstanding. The amount of MAC debt has increased on account of large refundings undertaken to take advantage of lower interest rates. It would be absurd for this sound financial policy to prevent the City from meeting its legitimate seasonal borrowing needs. Such a result was obviously not intended by the Legislature when it adopted the MAC Act's restrictions on short-term borrowing, and that result should not now be permitted.

Repeal of the restrictions in subdivision nine will not give the City unfettered discretion in issuing short-term debt. Rather, the City will continue to be governed by the extensive limitations on short-term borrowing set forth in the LFL and, in particular, section nine-b of the FEA. These limitations are better designed to meet the objectives of short-term debt restrictions since they are based in general on the amount of anticipated revenues and taxes against which the City's short-term debt is issued.

Accordingly, the Mayor urges upon the Legislature the earliest possible favorable consideration of this proposal.

Respectfully submitted,

James Brenner
Legislative Representative
12 May 1987

Senator Warren M. Anderson
Majority Leader
NEW YORK STATE SENATE
The Capitol
Albany, New York 12247

Assemblyman Melvin H. Miller
Speaker
NEW YORK STATE ASSEMBLY
The Capitol
Albany, New York 12248

Dear Senator Anderson and Assemblyman Miller:

I am writing to express my strong support for a bill proposed by the City of New York ('87 Law #37) that would repeal Subdivision 9 of Section 3038 of the Public Authorities Law.

That provision was enacted into law at the time of the City fiscal crisis in June 1975 in the act establishing the Municipal Assistance Corporation as a financing agent and fiscal monitor for the City. The subdivision in question sets dollar limitations upon two separate computations of combined Corporation debt and City short-term debt. Unless both tests are satisfied, the City may not issue any short-term obligations.

The limitation contained in Subparagraph (b) of Section 3038(9), as calculated today, would be exceeded. While this has posed no problem to date because the limitation applies only to issuance, prospectively it would prohibit the City from issuing new short-term obligations. Such a result is at odds with fiscal propriety.

Some twelve years after its enactment to address the City's unprecedented financial problems in an era of dire circumstances, it could now produce such an unintended result. In the interim, much has changed. Furthermore, other statutory restrictions on the City's issuance of short-term obligations are currently imposed in the Local Finance Law and in the Financial Emergency Act and ensure that seasonal borrowing by the City is adequately controlled. Therefore, it would be contrary to today's public policy considerations to perpetuate such an anachronistic test.
Since 1975, the Corporation's authority to issue new debt to aid the City, in terms of both dollar limitation and purpose, was expanded and extended several times, rising from an initial $3 billion to an ultimate $10 billion, of which $9.5 billion was actually issued. Since January 1, 1985, the Corporation's financing activities have been limited to the issuance of refunding obligations to reduce its own debt service costs and even its year-to-year debt service requirements. However, the absolute dollar amounts contained in Section 3038(9) were never materially altered to reflect those substantial changes.

The City today stands in sharp contrast to 1975. Its current fiscal year is the seventh in which it has operated with a GAAP-balanced budget, and it has reported results, independently audited, on a GAAP-basis for the past six years. Moreover, the City has successfully re-established itself in both the short-term and long-term credit markets to meet its cash flow and capital financing needs. Seasonal borrowing has been at about $1 billion, or 5% of the total budget, in recent years, all duly paid at maturity. This is markedly different from the $6 billion of outstanding short-term notes which the City could not pay when this statutory provision was enacted.

Ongoing seasonal financing capability at a reasonable level is essential for a major governmental entity like the City, just as it is for the State. It is ironic that provisions enacted to prevent recurring fiscal problems for an extremely troubled City in 1975 could precipitate a predicament for a fiscally prudent City in 1987.

I therefore urge the earliest possible favorable consideration of this proposal by the Legislature.

Sincerely,

[Signature]

Felix G. Rohatyn
Chairman
STATE OF NEW YORK

6896-A

1987-1988 Regular Sessions

IN ASSEMBLY

March 31, 1987

Introduced by M. of A. SIEGEL, WEINER - read once and referred to the Committee on Ways and Means - committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee.

AN ACT to amend the public authorities law, in relation to the issuance of short-term obligations by the city of New York and to repeal paragraph b of subdivision nine of section three thousand thirty-eight of such law relating thereto.

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

Section 1. Paragraph a of subdivision nine of section three thousand thirty-eight of the public authorities law, as amended by chapter seven of the laws of one thousand nine hundred seventy-eight, is amended to read as follows:

a. The city shall not, at any time issue any short-term obligations which would cause the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, renewed, redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for a purpose set forth in subparagraph (b) of section three thousand thirty-seven or in subparagraph eighteen of section three thousand ten of this article, and less any notes other than notes issued in anticipation of the issuance of bonds of the corporation, or bonds of the corporation issued for the purpose of making deposits into any of its capital reserve funds, and less any short-term obligations of the city then held by the corpora-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.
tion) to exceed (i) six billion six hundred million (hereinafter called
the base debt limit) plus (ii) an additional amount, not exceeding ten
percent of the base debt limit; provided, however, that during the
fiscal years ending June 30, 1976 and 1977 such additional amount may
not exceed thirty percent of the base debt limit, during the fiscal
year ending June 30, 1978 the additional amount may not exceed twenty-
five per cent of the base debt limit, during the fiscal year ending June
30, 1979, the additional amount may not exceed twenty percent of the
base debt limit, and during the fiscal year ending June 30, 1980 the ad-
ditional amount may not exceed fifteen percent of the base debt limit,
in violation of the limitations on short-term borrowing set forth in
section nine-b of the New York state financial emergency act for the
city of New York.

§ 2. Paragraph b of subdivision nine of section three thousand thirty-
eight of such law is REPEALED and paragraphs c and d are relettered
paragraphs b and c.

§ 3. Paragraph b of subdivision nine of section three thousand thirty-
eight of such law, as added by chapter one hundred sixty-nine of the
laws of nineteen hundred seventy-five and relettered by section two of
this act, is amended to read as follows:

b. Notwithstanding any other provision of this act, the corporation
shall not have the authority to modify or waive the limitations on the
aggregate amount of outstanding short-term obligations of the city per-
mits to be outstanding in excess of the limits specified in
paragraphs (a) and (b) of this subdivision.

§ 4. This act shall take effect immediately.
MEMORANDUM IN SUPPORT

TITLE: AN ACT to amend the public authorities law, in relation to the issuance of short-term obligations by the city of New York and to repeal subparagraph b of subdivision nine of section three thousand thirty-eight of such law relating thereto.

SUMMARY OF PROVISIONS: The bill would amend subdivision nine of section three thousand thirty-eight of the public authorities law, which establishes certain tests and requirements which must be met before the City of New York may issue short-term obligations, by repealing such restrictions and substituting therefor the limitations on short-term borrowings by the City set forth in section nine-b of the New York State Financial Emergency Act for the City of New York (the "FEA").

REASONS FOR SUPPORT: Subparagraph a of subdivision nine of section three thousand thirty-eight of the public authorities law provides that the City of New York may not issue short-term obligations if the aggregate principal amount of its outstanding short-term obligations together with the aggregate principal amount of all bonds issued by the Municipal Assistance Corporation for the City of New York ("MAC"), with certain exceptions, would be caused to exceed seven billion two hundred and sixty million dollars. Subparagraph b of the same subdivision sets forth a similar test but provides for additional exclusions such as bonds issued by MAC to meet the City's seasonal borrowing needs or to reduce the City's requirements for advances by the state, as well as any short-term obligations of the City issued and payable within the same fiscal year. The debt limit under this second test is set at five billion dollars. If the City fails to meet either test, it is prohibited from issuing short-term obligations.

Application of the above-described limitations may prevent the City from meeting its seasonal financing needs in the coming fiscal year, despite the fact that the City has been and will continue to be in compliance with all restrictions imposed upon it by the Local Finance Law (the "LFL") and the FEA. While the restrictions set forth in subdivision nine may have served a legitimate purpose when they were enacted during the fiscal crisis, they currently bear little relationship to the City's ability to meet and pay its seasonal borrowing obligations, based as they are, in large part, on the aggregate amount of MAC debt outstanding. It would be absurd to apply these restrictions in such a manner as to prevent the City from meeting its legitimate seasonal borrowing needs. Such a result was obviously not intended by the Legislature when it adopted the MAC Act's restrictions on short-term borrowing, and the result should not now be permitted.

This bill will remove the obsolete subdivision nine and substitute therefor the short-term borrowing set forth in section seven of that act. The new test will simply reflect the City's anticipated revenues and taxes against its debt. Repeal of subdivision nine of the Local Finance Law of the State, the City or MAC notes.

Accordingly, the Mayor urges earliest possible favorable consideration.
City of New York
Short-Term Debt Issuance Limits--
MAC Act Section 3038(9)(a) and (b)

As of March 31, 1987

Section 3038(9)(a)

1. Aggregate outstanding City short-term debt $1,000,000,000

2. Aggregate principal amount of all notes and bonds issued by MAC 18,546,376,000

Total Additions (Items 1 and 2) 19,546,376,000

3. Less:
   (a) any notes or bonds of MAC which have been redeemed, refunded, paid or cancelled 10,361,198,000
   (b) any notes (other than bond anticipation notes) or bonds of MAC issued for a purpose
      (i) set forth in Section 3037(b) to pay for items permitted to be in the City's capital budget 2,709,513,300
      (ii) Section 3010(18) (Federal Guarantee Reserve Fund) 69,909,709
      (iii) of making deposits into any MAC capital reserve fund 637,224,764

4. Less any short-term obligations of the City then held by MAC 0

Total Subtractions (Items 3 and 4) 13,777,845,773

Net Total (Additions Minus Subtractions) 5,768,530,227

Section 3038(9)(a) Limit 7,260,000,000

Margin at March 31, 1987
(Limit Minus Net Total) $1,491,469,773
Section 3038 (9) Debt Limits As of March 31, 1987
Page 2 of 3

Section 3038(9)(b)

1. Aggregate City outstanding short-term debt, excluding BANs. $ 1,000,000,000

2. Plus aggregate principal amount of all notes and bonds issued by MAC 18,546,376,000

Total Additions (Items 1 and 2) 19,546,376,000

3. Less any MAC notes or bonds which have been refunded or renewed; not reduced by principal payments 8,223,678,000

4. Less MAC notes or bonds in an amount equal to the principal amount of City BANs acquired by MAC (other than BANs acquired in exchange for other BANs) 1,013,810,000

5. Less any MAC notes or bonds issued for the following purposes:
   (i) Section 3037(b) (items permitted to be included in the City's capital budget) 2,709,513,300
   (ii) Section 3037(c) (reduction of state advance) 407,851,134
   (iii) Section 3037(d) (City seasonal borrowing needs) 0
   (iv) Section 3033(2-a) (the Subordinated Notes) 335,490,000
   (v) Section 3010(18) (Federal Guarantee Reserve) 69,909,709
   (vi) deposits into MAC capital reserve funds 637,224,764
6. Less any City short-term debt held by MAC other than BANs $ -0-

7. Less any City short-term debt issued and payable in the same fiscal year 1,000,000,000

Total Subtractions (Items 3 through 7) 14,397,476,907

Net Total (Additions Minus Subtractions) 5,148,899,093

Section 3038(9)(b) Limit 5,000,000,000

Margin At March 31, 1987 (Limit Minus Net Total) $ -148,899,093
The banks and pension funds have agreed to defer the payment in full of such short-term obligations of the City until July 1, 1986, subject to equal annual reductions of outstanding principal from the end of the moratorium period to July 1, 1986, if the City, among other things, continues to pay 6% per annum interest on such short-term obligations of the City.

At present, the Corporation holds an aggregate of approximately $2.814 billion principal amount of short-term obligations of the City.

VARIOUS CONTROL PROGRAMS

Conditions to Payments by the Corporation

The Act provides that, at the time of any purchase by the Corporation of City obligations, any exchange of the Corporation’s bonds or notes for short-term City obligations or any other payment to the City of the Corporation’s funds, the City is required to agree to observe and perform a number of statutory conditions which the Corporation may modify from time to time, but may not waive. The statutory conditions, as modified by the Corporation and agreed to by the City, are to remain in effect until all bonds and notes of the Corporation have been repaid or such repayment is provided for as specified in the Act.

The statutory conditions which the City is required to observe and perform are designed to (i) reform and unify the City’s system of accounting, (ii) provide independent review of the City’s expenditures, and (iii) establish limits and controls over the City’s debt-incurring power. These conditions, and the City’s compliance therewith to date, may be briefly summarized as follows:

(i) The City has informed the Corporation that the City has initiated steps to adopt as its method of accounting the accounting principles set forth in the State Comptroller’s Uniform System of Accounts for Municipalities, as that system may be modified by the State Comptroller in consultation with the City Comptroller. The City is to complete the transition to such accounting method as promptly as is reasonably practicable, so that the audited financial statements provided to the Corporation for the City’s 1977-78 fiscal year and for each subsequent fiscal year can be prepared in accordance with such accounting method. The City is also required over the next ten fiscal years to eliminate from its capital budget those expenses properly includable only in its expense budget under such accounting method. The City has reported that, for the 1975-76 fiscal year, it allocated $654 million in its Capital Budget to fund operating expense items. The Financial Plan projects further allocations to fund such items of $572 million in the 1976-77 fiscal year and of $515 million in the 1977-78 fiscal year.

(ii) The City must submit its financial statements for an independent annual audit by the State Comptroller or, at his election, by an independent certified public accounting firm, beginning with the 1977-78 fiscal year, and must submit its proposed expense budgets (and any subsequent increases therein) for each fiscal year and each quarter thereof to the Corporation for review as to whether the City is maintaining an expense budget in which the total of all income equals or exceeds the total of all expenditure items. The City is currently in compliance with these requirements.

(iii) The amount of short-term debt which the City may have outstanding is subject to certain limitations. The sum of the aggregate principal amounts of the City’s outstanding short-term obligations (excluding those held by the Corporation) and the Corporation’s outstanding notes and bonds may not exceed 130% of the “Base Debt Limit” of $6.1 billion during the current fiscal year, with such limit decreasing in 5% annual increments to 110% for the 1980-81 fiscal year and each fiscal year thereafter. In addition, any excess of this sum over $4.5 billion (which may be increased, in the discretion of the Board of Directors, by an additional amount not exceeding $500 million) must consist solely of bond anticipation notes or short-term obligations of the City issued and payable within the same fiscal year. The Corporation is authorized to police these limits by making an advance determination as to whether a proposed issuance of short-term obligations by the City violates the debt limits and by reporting any adverse determination to the City Comptroller, who is then prohibited from issuing such obligations.
Date: 31 March 1987

To: Felix G. Rohatyn, Chairman

From: Stephen J. Weinstein, Executive Director

Re: Statutory Change

A problem in the operation of one of the more remote provisions of the Corporation's enabling act requires revision in the current session of the State Legislature. Without a change, it would not be permissible either for us to pay the remaining capital proceeds to the City (approximately $335 million which they would like by June) or for the City to sell short-term notes to finance its seasonal borrowing needs for the next fiscal year (about $1 billion which is scheduled for July).

This problem has surfaced in connection with a recent routine calculation undertaken periodically at the request of the City. We and Paul Weiss and Hawkins have scrutinized the law and the mathematics and concluded that they are being applied correctly. There appears to be no construction that produces a different conclusion and that would obviate the need for legislation now. This is the first time that the provision would produce such a result, but it is the inevitable product of a flawed statutory requirement.

Briefly, at the end of the MAC Act there are a series of eight conditions imposed on the City for receipt of aid from the Corporation, drafted at the time of original adoption in 1975. The Corporation is charged with policing these provisions. The last of those established two absolute dollar limitations upon two separate computations of combined MAC debt and City short-term debt. At present, the first of the two number tests can still be met, while it will not always remain so, and the second can no longer be met. Unless both are satisfied, the City is prohibited from selling any new notes.

These statutory formulas have been troublesome through the years, as the mandated methodology is complex and illogical and is capable, as we are now seeing, of producing bizarre results. Importantly, the dollar limits have been unchanged for twelve years, during which the Corporation's borrowing authority was expanded from $3 billion to $10 billion, and the City's short-term financing practices and needs have changed dramatically. Following the letter of the law introduces an anomaly in which the Corporation's levels of financing overwhelm the City's short-term borrowing, regardless of the level of the latter.
Accordingly, we are dealing with what can be appropriately categorized as an anachronism stemming from the days of the original fiscal crisis. A convincing case can be made along these lines which becomes compelling when the adverse and uncalled for consequences to the City are identified. The preferred resolution would be to excise these vestigial provisions in their entirety. Should that prove difficult to accomplish, various additional patches to these crazy-quilt formulas could produce sufficient room for the foreseeable future.

Procedurally, it seems that the City ought to take the lead in this effort, and the Corporation should support it strongly when asked by the Governor, State Comptroller and the legislative leaders. I have today advised City budget officials of the problem, so that we can work out mutually acceptable strategy and substance, but more widespread discussions have yet to begin. It is imperative that whatever solution is ultimately agreed to be enacted into law at the earliest possible time, in order to facilitate the City's ongoing financial planning.

cc: Edward M. Kresky, Vice Chairman
    Eugene J. Keilin, Chairman, Finance Committee

aa: 201
FINANCIAL DISCLOSURE ACT 1987
STATE OF NEW YORK

1987-1988 Regular Sessions

SENATE—ASSEMBLY

July 2, 1987

IN SENATE -- Introduced by Sens. ANDERSON, OHRENSTEIN, BRUNO, COOK, DALY, DONOVAN, DUNNE, FARLEY, FLOSS, GOODHUE, GOODMAN, JOHNSON, KEHOE, KNOX, KUEHL, LACK, LAVALLE, E. LEVY, N. LEVY, LOMBARDI, MARCHE, MARINO, MCGRATH, MEGA, PADAVAN, PRESENT, ROLISON, SCHERMERHORN, SENDAR, SKELOS, SPANO, STAFFORD, TRUNZO, TULLY, VELELLA, VOLKER, BABBS, BARTOSIEWICZ, BERNSTEIN, CONNOR, GOLD, JENKINS, MARKOWITZ, MASIELLO, MENDEZ, NOLAN, ONORATO, OPPENHEIMER, PATTERSON, PERRY, QUATTROCICCHI, RUIZ, STACHOWSKI, STAVISKY, WEINSTEIN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. M. H. MILLER, RAPPLEYEA, KOPPELL, NADLER, DUGAN, HALPIN, TALLON -- Multi-Sponsored by -- M. of A. ABBATE, ABRAMSON, BARBARO, BARNETT, BARRAGA, BECKER, BEHAN, BENNETT, BIANCHI, BOYLAND, BRAGMAN, BRENNAN, BRODSKY, BUTLER, CASALE, CATAPANO, CLARK, COCHRANE, COLOMBO, CONNELLY, CONNERS, Cooke, COOMBE, CROWLEY, D'ANDREA, DANIELS, DAVIS, DEARIE, DELTORO, DIAZ, DINAPOLI, ENGEL, EVE, FARRELL, Feldman, FRISA, GANTT, GENOVESI, CORSI, GOTTFRID, GRABER, GRANNIS, GREEN, GREENE, GRIFFITH, HARENBURG, HASPER, HEALEY, HEVESI, HILLMAN, HINCHLEY, HOYT, JACOBS, JENKINS, KANE, KELLEHER, KREMERS, LAPAYETTE, LARKIN, LENTOL, LOPEZ, MACNEIL, MARSHALL, MAYERSON, MCCANN, MCNULTY, MCPHILLIPS, R. H. MILLER, MURPHY, MURTAUGH, NOLAN, NOMAN, NOZZOLO, O'NEIL, ORTLOFF, PAROLA, PASSANANTE, PATAKI, PATTON, PAXON, PHEFFER, PILLITTERI, PORDUM, PRESCOTT, PROUD, RETTLIATHA, RIVERA, ROBACH, SANDERS, SAWICKI, SCHIMMINGER, SCHMIDT, SEABROOK, SEMINERIO, SERRANO, SHEFFER II, SIEGEL, SILVER, STRANIERE, P. M. SULLIVAN, TALOMIE, TEDISCO, TOCCI, TONKO, VANN, VITALIANO, WEINSTEIN, WEPRIN, YELOLI, YOUNG, ZALESKI, ZIMMER -- (at request of the Governor) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, the executive law and the legislative law, in relation to regulating business or professional

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

LBD11506-02-7
activities of, and requiring financial disclosure by, statewide
elected officials, members of the legislature, legislative employees
and state officers and employees and certain political party chairmen,
creating an ethics commission and committee in connection therewith;
to amend the judiciary law, in relation to providing for financial
disclosure by certain judges, officers and employees of the courts of
record of the unified court system; to amend the general municipal
law, in relation to requiring financial disclosure statements for
elected officials and certain officers and employees of certain coun-
ties, cities, towns and villages and for certain state and local
political party officials and creating a temporary state commission on
local government ethics; to amend the lobbying act, in relation to the
threshold for listing of expenses in the aggregate; to amend chapter
one thousand forty of the laws of nineteen hundred eighty-one relating
to the New York temporary state commission on lobbying, in relation to
extending the expiration date of such chapter; and repealing paragraph
(d) of subdivision two of section eighty-eight of the public officers
law, relating to public inspection of financial disclosure statements,
and section eighty of the legislative law, relating to the creation of
a legislative committee on ethics.

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

1. Section 1. Short title. Sections two through seventeen of this act
shall be known and may be cited as the "Ethics in Government Act".

§ 2. Section seventy-three of the public officers law, as amended by
chapter nine hundred forty-one of the laws of nineteen hundred sixty-
four, subdivisions one, two, four and nine as amended and subdivisions
three, six and ten as added and subdivision eight as renumbered by chap-
ter one thousand twelve of the laws of nineteen hundred sixty-five, the
opening paragraph of subdivision one as amended by chapter seven hundred
sixty-four of the laws of nineteen hundred eighty-three, subparagraph
one of paragraph (a) of subdivision six as amended by chapter nine hun-
dred forty of the laws of nineteen hundred seventy-four, subdivision
five as amended by section twenty of this act, and subdivision seven as
amended by chapter four hundred twenty of the laws of nineteen hundred
sixty-eight, is amended to read as follows:

§ 73. Business or professional activities by state officers and em-
ployees 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 accord-
ance 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 occupa-
tion 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 [and], the industrial board of [standards and] 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 [or], any public benefit corporation [or], 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 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:

(1) heads of state departments and their deputies and assistants;
(2) officers and employees of statewide elected officials;
(3) 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:

(1) 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;
(2) 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 ag-
gregating thirty thousand dollars or more; and

(iii) that person (usually designated by the rules of a county commit-
tee as the "county leader" or "chairman of the executive committee") by
whatever title designated, who pursuant to the rules of a county commit-
tee or in actual practice, possesses or performs any or all of the fol-
lowing 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 com-
mittie, if such a committee is created by the rules of the county com-
mittie or exists de facto, or any other committee or subcommittee of the
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 com-
mittie or subcommittee vested with the rights, powers, duties or privi-
ileges of the county committee pursuant to the rules of the county com-
mittee, 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.

2. [No] In addition to the prohibitions contained in subdivision seven
hereof, no statewide elected official, state officer or employee [of a
state agency], member of the legislature or legislative employee shall
receive, or enter into any agreement express or implied for, compensa-
tion for services to be rendered in relation to any case, proceeding,
application, or other matter before any state agency, whereby his com-
ensation is to be dependent or contingent upon any action by such
agency with respect to any license, contract, certificate, ruling, deci-
sion, 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. No statewide elected official, member of the legislature, legisla-
tive employee, full-time salaried state officer or employee [of a state
agency, full-time salaried legislative employee, or member of the
legislature] or state officer or employee who is subject to the provi-
sions of section seventy-three-a of this chapter 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 ser-
dives by himself or another against the interest of the state in rela-
tion 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 [of a state agency, member of the legislature [or], 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 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 subdivision 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 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.

5. No statewide elected official, state officer or employee [of a state agency], member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any gift having a value of seventy-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing 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 [of a state agency], member of the legislature or legislative employee under such circumstances.

6. (a) Every [member of the legislature or] 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 [secretary of the senate, if a member or employee of that body, or with the clerk of the assembly, if a member or employee of that body legislative ethics committee established by section eighty of the legislative law a (written) 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.
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) On or before January thirty-first in each year the secretary of the senate and the clerk of the assembly shall prepare a report containing the statements required to be filed pursuant to paragraph (a) of this subdivision. Copies of such statements shall be open to public inspection in the office of the secretary of the senate and the clerk of the assembly. Each house may adopt rules to implement the provisions of this subdivision, insofar as they relate to members of the legislative and legislative employees.

(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 guilty of a misdemeanor 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 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) No person who has served as [an] a state officer or employee [of a state agency] 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. 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 personally participated during the period of his service or employment; nor shall any person who has served as the head of a state department which is a regulatory agency, or the department of transportation, or a deputy thereof, within a period of two years after the termination of such service receive compensation for any services rendered on behalf of any person, firm, corporation or association in any case, proceeding or application before the department with which he so served wherein 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,
or in promoting or opposing, directly or indirectly, the passage of
bills or resolutions before either house of the legislature; nor shall
any), or which was under his or her active consideration. 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; provided, however, that
nothing. No legislative employee who is subject to the provisions of
section seventy-three-a of this chapter shall during the term of office
of the legislature in which he or she was so employed, receive compensa-
tion at any time during the remainder of such term after leaving the em-
ploy of the legislature for any services on behalf of any person, firm,
corporation or association to promote or oppose, directly or indirectly,
the passage of bills or resolutions by either house of the legislature
in relation to any matter with respect to which such person was directly
concerned and in which he personally participated during the period of
his service or employment. A legislative employee who acted primarily in
a supervisory capacity in such matter and who was not personally in-
volved in the development, negotiation or implementation of the matter
to an important and material degree, may, with the approval of the
legislative ethics committee, receive such compensation and perform such
services. Nothing herein contained shall prohibit any state agency from
adopting rules concerning practice before it by former officers or em-
ployees more restrictive than the requirements of this subdivision.

[8] 2. 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.

[9] 10. Nothing [herein] contained in this section, the judiciary law,
the education law or any other law or disciplinary rule shall be con-
strained or applied to prohibit any firm (or), association or corporation,
in which any present or former statewide elected official, state officer
or employee (of a state agency), or political party chairman, member of
the legislature or legislative employee is a member, associate, retired
member, of counsel or shareholder, from appearing, practicing, communi-
cating 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 legisla-
ture or officer or employee, or political party chairman, where such
statewide elected official, state officer or employee (of a state
agency), member of the legislature or legislative employee, or political
party chairman does not share in the [profits] 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 [herein]
contained in this section, the judiciary law, the education law or any
other law or disciplinary rule be construed to prohibit any firm (or),

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 [of a state agency, full-time
salaried legislative employee, or member of the legislature] 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 coun-
sel or shareholder, from appearing, practicing, communicating or other-
wise rendering services in relation to any matter before, or transacting
business with, the court of claims, where such statewide elected offi-
cial, member of the legislature, legislative employee, full-time
salaried state officer or employee [of a state agency, full-time
salaried legislative employee, or member of the legislature] or state
officer or employee who is subject to the provisions of section seventy-
three-a of this chapter does not share in the [profits] 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 edu-
cation 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 other-
wise 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 affili-
ated 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 opposi-
tion 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 con-
stitute 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 mem-
ber 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, applica-
tion or other matter listed in paragraph (a) or (b) of subdivision seven
of this section shall not orally communicate, with or without compensa-
tion, 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 cor-
poration shall not be deemed to have made an appearance under the provi-
sions 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 stationary,
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. 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 or subdivision seven, eight or twelve
of this section shall be [guilty of a misdemeanor] 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
the legislative ethics committee, as the case may be, with respect to
persons subject to their respective jurisdictions. The state ethics com-
misson acting pursuant to subdivision thirteen of section ninety-four
of the executive law, or the legislative ethics committee acting pur-
suant to subdivision twelve of section eighty of the legislative law, as
the case may be, may, in lieu of a civil penalty, with respect to a vi-
olation of subdivisions two through five or subdivision seven or eight
of this section, refer a violation of any such subdivision to the appro-
riate prosecutor and upon such conviction, but only after such refer-
ral, such violation shall be punishable as a class A misdemeanor.

§ 3. Such law is amended by adding a new section seventy-three-a to
read as follows:

§ 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 divi-
sion, 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 consti-
tuent units except community colleges 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, commis-
sions, councils or other state agencies, who receive annual compensation
in excess of thirty thousand dollars or hold policy-making positions, as
annually determined by the appointing authority and set forth in a writ-
ten instrument which shall be filed with the state ethics commission es-
blished by section ninety-four of the executive law during the month
of February, provided however, that the appointing authority shall amend
such written instrument thereafter 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 thirty thousand dollars 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 thereafter 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 thirty thousand dollars or 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-eight 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, 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:

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

(2) 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.

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 finan-
cial disclosure or the filing of an incomplete or deficient supplemen-
tary 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 pur-
suant 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 four-
teen days after such meeting shall file such statement within seven days
after the last day to withdraw their names in accordance with the provi-
sions of such section of the election law;

(v) candidates for member of the legislature who file party designat-
ing 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 in the next
succeeding primary election;

(vi) candidates for independent nomination who have not been design-
ated 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; and

(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.

(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 em-
ployee, such statement shall be filed with the legislative ethics com-
mittee 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 com-
mission 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) Political party chairman and any person required to file such
statement who commences employment after May fifteenth of any year 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 an-
nual financial disclosure statement with both the state ethics com-
mission 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 sub-
ject 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
thirty thousand dollars notwithstanding that such person would not
otherwise be required to file with respect to any one particular em-
ployment 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 commis-
sion or such committee on the basis that his aggregate annual compensa-
tion from all such employers is in excess of thirty thousand dollars.
(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 sub-
division 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 subdivi-
sion by complying with the earliest applicable deadline only.
3. The annual statement of financial disclosure shall contain the in-
formation and shall be in the form set forth hereinbelow:
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.

4. (a) List any office, trusteeship, directorship, partnership, or posi-
tion of any nature including honorary positions, if known, and ex-
cluding membership positions, 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.
If said entity was licensed by any state or local agency, was regu-
lated by any state regulatory agency or local agency, or, as a regu-
lar 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.
(b) List any office, trusteeship, directorship, partnership, or position of any nature including honorary positions, if known, and excluding membership positions, 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. If said 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.

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<tr>
<th>Position</th>
<th>Organization</th>
<th>State or Local Agency</th>
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5. (a) List the name, address and description of any occupation, employment, 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.
<table>
<thead>
<tr>
<th>Position</th>
<th>Name &amp; Address of Organization</th>
<th>Description</th>
<th>State or Local Agency</th>
</tr>
</thead>
</table>

(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.

<table>
<thead>
<tr>
<th>Position</th>
<th>Name &amp; Address of Organization</th>
<th>Description</th>
<th>State or Local Agency</th>
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</table>

6. List any interest, in excess of $1,000, excluding bonds and notes, held by the reporting individual, such individual's spouse or unemancipated child, or partnership of which any such person is a member, or corporation, ten per centum 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 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.

<table>
<thead>
<tr>
<th>Self, Spouse or Child</th>
<th>Entity Interest in Contract</th>
<th>Relationship to Entity and Interest in Contract</th>
<th>Contracting State or Local Agency</th>
<th>Category of Value of Contract</th>
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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.

<table>
<thead>
<tr>
<th>Category of Gift</th>
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<tr>
<td>Value of Gift</td>
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<table>
<thead>
<tr>
<th>Self, Spouse or Child</th>
<th>Name of Donor</th>
<th>Address</th>
<th>Nature of Gift</th>
</tr>
</thead>
</table>

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 emancipated 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.

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.
1. 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 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.

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

3. 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.)

12. 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, state salary, income from other 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.

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<tr>
<th>Self/Spouse</th>
<th>Source</th>
<th>Nature</th>
<th>Category of Amount</th>
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</table>
14. List the sources of any deferred 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 1. 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.

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<th>Source</th>
<th>Category of Amount</th>
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15. List each assignment of income in excess of $1000, 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 $1000, which would otherwise be required to be reported herein and is not or has not been so reported.

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<tr>
<th>Item Assigned or Transferred</th>
<th>Assigned or Transferred to Category of Value</th>
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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 if the reporting person or the reporting person's spouse holds more than five percent of the stock of a corporation in which the stock is publicly traded or more than ten percent 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 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 bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits 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.

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<tr>
<th>Self/ Spouse</th>
<th>Issuing Entity</th>
<th>Type of Security</th>
<th>Category of Market</th>
<th>Percentage of corporate stock owned or controlled</th>
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<td>Value as of the close</td>
<td>of the taxable year last occurring prior to the filing of this statement</td>
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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 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.

<table>
<thead>
<tr>
<th>Self/ Spouse/ Other Party</th>
<th>Location</th>
<th>Size</th>
<th>General Nature</th>
<th>Acquisition Date</th>
<th>Category of Market Value</th>
<th>Percentage of Ownership</th>
</tr>
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</table>

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.

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<thead>
<tr>
<th>Name of Debtor</th>
<th>Type of Obligation, Date Due, and Nature of Collateral, if any</th>
<th>Category of Amount</th>
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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. Revolving charge account information shall only be set forth if liability thereon is in excess of $5,000 at the time of filing. 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.

<table>
<thead>
<tr>
<th>Name of Creditor or Guarantor</th>
<th>Type of Liability and Collateral, if any</th>
<th>Category of Amount</th>
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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 willfully fails to file an annual statement of financial disclosure or who knowingly and willfully 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 assessed 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.

§ 4. Section seventy-six of such law, as added by chapter ten hundred twelve of the laws of nineteen hundred sixty-five, is amended to read as follows:

§ 76. Receiving bribes by members of legislature. A member of either house of 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, [or who gives or offers or promises to give any official vote in consideration that another member of the legislature, or person elected to become such member, shall give any such vote, either upon the same or another question, is punishable by imprisonment in a state prison not exceeding ten years, or by a fine not exceeding five thousand dollars, or by both] shall be guilty of a class D felony.

§ 5. Section seventy-eight of such law, as amended by chapter six hundred fifty-six of the laws of nineteen hundred sixty-nine, is amended to read as follows:

§ 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.

§ 6. Paragraph (d) of subdivision two of section eighty-eight of such law is REPEALED and paragraphs (e) through (j) are relettered paragraphs (d) through (i).

§ 7. The executive law is amended by adding a new section ninety-four to read as follows:

§ 94. State ethics commission; functions, powers and duties; review of financial disclosure statements; advisory opinions; investigation and enforcement. i. There is established within the department of state a state ethics commission which shall consist of five members and shall have and exercise the powers and duties set forth in this section only with respect to statewide elected officials and state officers and employees, as defined in section seventy-three of the public officers law, and candidates for statewide elected office, and with respect to the political party chairman as that term is defined in section seventy-three of the public officers law.

2. The members of the commission shall be appointed by the governor provided, however, that one member shall be appointed on the nomination of the comptroller and one member shall be appointed on the nomination of the attorney general. Of the three members appointed by the governor without prior nomination, no more than two members shall belong to the same political party and at least two members shall not be public officers or employees or hold any public office, elected or appointed. No member shall hold office in any political party or be employed as a lobbyist.

3. Members of the commission shall serve for terms of five years; provided, however, that of the members first appointed without prior nomination, one shall serve for one year, one shall serve for three years, and one shall serve for five years, as designated by the governor; the member first appointed on the nomination of the comptroller
shall serve for four years and the member first appointed on the nomina-
tion of the attorney general shall serve for two years.
4. The governor shall designate the chairman of the commission from
among the members thereof, who shall serve as chairman at the pleasure
of the governor. The chairman or any three members of the commission may
call a meeting.
5. Any vacancy occurring on the commission shall be filled within
sixty days of its occurrence, by the governor, in the same manner as the
member whose vacancy is being filled was appointed. A person appointed
to fill a vacancy occurring other than by expiration of a term of office
shall be appointed for the unexpired term of the member he succeeds.
6. Three members of the commission shall constitute a quorum, and the
commission shall have power to act by majority vote of the total number
of members of the commission without vacancy.
7. Members of the commission may be removed by the governor for sub-
stantial neglect of duty, gross misconduct in office, inability to dis-
charge the powers or duties of office or violation of this section, af-
ter written notice and opportunity for a reply.
8. The members of the commission shall not receive compensation but
shall be reimbursed for reasonable expenses incurred in the performance
of their official duties.
9. The commission shall:
(a) Appoint an executive director who shall act in accordance with the
policies of the commission. The commission may delegate authority to the
executive director to act in the name of the commission between meetings
of the commission provided such delegation is in writing and the spe-
cific powers to be delegated are enumerated;
(b) Appoint such other staff as are necessary to carry out its duties
under this section;
(c) Adopt, amend, and rescind rules and regulations to govern proce-
dures of the commission, which shall include, but not be limited to, the
procedure whereby a person who is required to file an annual financial
disclosure statement with the commission may request an additional
period of time within which to file such statement, due to justifiable
cause or undue hardship; such rules or regulations shall provide for a
date beyond which in all cases of justifiable cause or undue hardship no
further extension of time will be granted;
(d) Promulgate guidelines to assist appointing authorities in deter-
mining which persons hold policy-making positions for purposes of sec-
ション seventy-three of the public officers law;
(e) Make available forms for annual statements of financial disclosure
required to be filed pursuant to section seventy-three of the public
officers law;
(F) Review financial disclosure statements in accordance with the
provisions of this section, provided however, that the commission may
delegate all or part of this review function to the executive director
who shall be responsible for completing staff review of such statements
in a manner consistent with the terms of the commission's delegation;
(g) Receive complaints alleging a violation of section seventy-three,
seventy-three or seventy-four of the public officers law;
(h) Permit any person required to file a financial disclosure state-
ment to request the commission to delete from the copy thereof made
available for public inspection one or more items of information which
may be deleted by the commission, after denial of a request for deletion
by the public advisory council as provided in subdivision eighteen of
this section, upon a finding by a majority of the total number of mem-
bers of the commission without vacancy that the information which would otherwise be required to be made available for public inspection will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision thirteen of this section. The commission shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council;

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

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

(k) Permit any person who has not been determined by his or her appointing authority to hold a policy-making position but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the commission deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the commission, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:

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

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

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

(iv) the adoption or repeal of any rule or regulation having the force and effect of law; and

(1) Prepare an annual report to the governor and the legislature summarizing the activities of the commission and recommending changes in
the laws governing the conduct of statewide elected officials, state
officers and employees and political party chairman.

(m) Upon certification of a question by the public advisory council to
the commission, as provided in paragraph (k) of subdivision eighteen of
this section, the commission may determine a question common to a class
or defined category of persons or items of information required to be
disclosed, where determination of the question will prevent undue repet-
ition of requests for exemption or deletion or prevent undue complica-
tion in complying with the requirements of such section.

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

11. If a person required to file a financial disclosure statement with
the commission has failed to file a disclosure statement or has filed a
deficient statement, the commission shall notify the reporting person in
writing, state the failure to file or detail the deficiency, provide
the person with a fifteen day period to cure the deficiency, and advise
the person of the penalties for failure to comply with the reporting
requirements. Such notice shall be confidential. If the person fails to
make such filing or fails to cure the deficiency within the specified
time period, the commission shall send a notice of delinquency: (a) to
the reporting person; and (b) in the case of a statewide elected offic-
ial, to the temporary president of the senate and the speaker of the
assembly; and (c) in the case of a state officer or employee, to the ap-
pointing authority for such person.

12. (a) If a reporting person has filed a statement which reveals a
possible violation of section seventy-three, seventy-three-a or seventy-
four of the public officers law, or the commission receives a sworn com-
plaint alleging such a violation by a reporting person or a state off-
cier or employee subject to the provisions of section seventy-three of
the public officers law, or if the commission determines on its own ini-
tiative to investigate a possible violation, the commission shall notify
the reporting person in writing, describe the possible or alleged viola-
tion of such section seventy-three, seventy-three-a or seventy-four and
provide the person with a fifteen day period in which to submit a writ-
ten response setting forth information relating to the activities cited
as a possible or alleged violation of law. If the commission thereafter
makes a determination that further inquiry is justified, it shall give
the reporting person an opportunity to be heard. The commission shall
also inform the reporting individual of its rules regarding the conduct
of adjudicatory proceedings and appeals and the due process procedural
mechanisms available to such individual. If the commission determines
at any stage of the proceeding, that there is no violation or that any
potential conflict of interest violation has been rectified, it shall so
advise the reporting person and the complainant, if any. All of the
foregoing proceedings shall be confidential.

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

13. An individual who knowingly and intentionally violates the provisions of subdivision two through five or subdivision seven, eight or twelve of section seventy-three of the public officers law or a reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this section shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the commission with respect to persons subject to its jurisdiction. For a violation of this subdivision, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the public officers law, the commission may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of section seventy-three of the public officers law, except that the appointing authority may impose disciplinary action as otherwise provided by law. The state ethics commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties herein authorized and commission denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in paragraph (h) or paragraph (l) of subdivision nine of this section. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or commission denial of such a request shall be final unless modified, suspended or vacated within thirty days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the state ethics commission, pursuant to article seventy-eight of the civil practice law and rules.

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

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

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

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

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

(c) Conduct any investigation necessary to carry out the provisions of
this section. Pursuant to this power and duty, the commission may admin-
ister oaths or affirmations, subpoena witnesses, compel their attendance
and require the production of any books or records which it may deem
relevant or material.

17. (a) Notwithstanding the provisions of article six of the public
officers law, the only records of the commission which shall be availa-
ble for public inspection are:

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

(2) Notices of delinquency sent under subdivision eleven of this sec-
tion;

(3) Notices of reasonable cause sent under paragraph (b) of subdivi-

des twelve of this section; and

(4) Notices of civil assessments imposed under this section.

(b) Notwithstanding the provisions of article seven of the public offi-
cers law, no meeting or proceeding, including any such proceeding con-
templated under paragraph (h) or (i) of subdivision nine of this sec-
tion, of the commission shall be open to the public, except if expressly
provided otherwise by the commission.

18. (a) There is established within the state ethics commission a pu-

tic advisory council which shall consist of five members and shall have
(b) The members of the public advisory council shall be appointed by the

governor provided, however, that one member shall be appointed on the
nomination of the comptroller and one member shall be appointed on the
nomination of the attorney general. Of the three members appointed by
the governor without prior nomination, no more than two members shall
belong to the same political party and at least two members shall not be
public officers or employees or hold any public office, elected or
appointed. No member shall hold office in any political party or be em-
ployed as a lobbyist.

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

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

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

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

(g) The members of the public advisory council shall not receive com-
pensation but shall be reimbursed for reasonable expenses incurred in
the performance of their official duties.

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

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

(i) Pending any application for deletion or exemption either to the
public advisory council or to the commission upon appeal of an adverse
determination by the public advisory council, all information which is
the subject of or a part of the application shall remain confidential.
Upon an adverse determination by the commission, the reporting individ-
(j) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding, including any such proceeding contemplated under paragraph (h) or (i) of subdivision nine of this section, of the commission shall be open to the public, except if expressly provided otherwise by the public advisory council.

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

§ 8. Section one hundred sixty-six of such law, as added by chapter six hundred ninety-seven of the laws of nineteen hundred fifty-four, is amended to read as follows:

§ 166. Record of appearances. Every regulatory agency of the state shall keep a record of appearances before it or its appropriate divisions or bureaus of attorneys, agents and representatives on behalf of any person, firm, corporation or association subject to its regulatory jurisdiction, for which they receive a fee, which record shall be open to public inspection. The term "regulatory agency" as used in this section 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 [and], 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 this chapter.

§ 9. Section eighty of the legislative law is REPEALED and a new section eighty is added to read as follows:

§ 80. Legislative ethics committee; functions, powers and duties; review of financial disclosure statements; advisory opinions; investigation and enforcement. 1. There is established a legislative ethics committee which shall consist of eight members of the legislature and shall have and exercise the powers and duties set forth in this section only with respect to members of the legislature, legislative employees as defined in section seventy-three of the public officers law and candidates for member of the legislature.

2. Two members of the committee shall be appointed by the temporary president of the senate, two by the speaker of the assembly, two by the minority leader of the senate, and two by the minority leader of the assembly.

3. Members of the committee shall serve for terms of two years concurrent with their legislative terms of office.

4. The temporary president of the senate and the speaker of the assembly shall each designate one member of the committee from his respective
house as a co-chairperson thereof. The co-chairpersons jointly or any
five members of the committee may call a meeting.
5. Any vacancy occurring on the committee shall be filled within sixty
days by the appointing authority.
6. Five members of the committee shall constitute a quorum, and the
committee shall have power to act by majority vote of the total number
of members of the committee without vacancy.
7. The members of the committee shall be reimbursed for reasonable ex-
penses incurred in the performance of their official duties.
8. The committee shall:
   a. Appoint an executive director who shall act in accordance with the
      policies of the committee;
   b. Appoint such other staff as are necessary to carry out its duties
      under this section;
   c. Adopt, amend, and rescind rules and regulations to govern proce-
dures of the committee which shall not be subject to the promulgation
and hearing requirements of the state administrative procedure act,
which shall include, but not be limited to, the procedure whereby a per-
son who is required to file an annual financial disclosure statement
with the committee may request an additional period of time within which
the committee may request an additional period of time within which
to file such statement, due to justifiable cause or undue hardship, such
rules or regulations shall provide for a date beyond which in all cases
of justifiable cause or undue hardship no further extension of time will
be granted;
   d. Promulgate guidelines to assist appointing authorities in determin-
ing which persons hold policy-making positions for purposes of section
seventy-three-a of the public officers law and may promulgate guidelines
for public officials and corporations in determining the positions of public
persons from net revenues for purposes of subdivision ten of section
seventy-three of the public officers law, and promulgate guidelines to
benefit any private, association or corporation in which any present or for-
mer statewide elected official, state officer or employee, member of the
legislature or legislative employee, or political party chairman is a
member, associate, retired member, or counsel or shareholder, in com-
plying with the provisions of subdivision ten of section seventy-three
of the public officers law with respect to the separation of such present
or former statewide elected official, state officer or employee,
member of the legislature or legislative employee, or political party
chairman from the net revenues of the firm, association or corporation.
Such firm, association or corporation shall not be required to adopt the
procedures contained in the guidelines to establish compliance with sub-
division ten of section seventy-three of the public officers law, but if
such firm, association or corporation does adopt such procedures, it
shall be deemed to be in compliance with such subdivision ten;
   e. Make available forms for financial disclosure statements required
   to be filed pursuant to subdivision six of section seventy-three and
section seventy-three-a of the public officers law;
   f. Review financial disclosure statements in accordance with the
provisions of this section, provided however, that the committee may
delegate all or part of the review function relating to financial disc-
losure statements filed by legislative employees pursuant to sections
seventy-three and seventy-three-a of the public officers law to the exec-
cutive director who shall be responsible for completing staff review of
such statements in a manner consistent with the terms of the committee's
delegation;
g. Receive complaints alleging a violation of section seventy-three, seventy-three-a or seventy-four of the public officers law;

h. Permit any person required to file a financial disclosure statement to request the committee to delete from the copy thereof made available for public inspection one or more items of information, which may be deleted by the committee, after denial of a request for deletion made to the legislative advisory council as provided in subdivision seventeen of this section, upon a finding by a majority of the total number of members of the committee without vacancy that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting person's official duties. In the event that four members of the committee find in favor of the request and four members find against the request, a deciding vote shall be cast by an advisory member to the committee who shall be a person, other than a member of the legislature, legislative employee, person employed as a lobbyist, officer in a political party or member of the legislative advisory council, designated by joint nomination of the temporary president of the senate and the speaker of the assembly. If such request for deletion is denied, the committee, in its notification of denial, shall inform the person of his or her right to appeal the committee's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section. The committee shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council;

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

j. Advise and assist the legislature in establishing rules and regulations relating to possible conflicts between private interests and official duties of present members of the legislature and legislative employees;
k. Prepare an annual report to the legislature summarizing the activities of the committee and recommending changes in the laws governing the conduct of members of the legislature and legislative employees.

1. Upon certification of a question by the public advisory council to the committee, as provided in paragraph 7 of subdivision eighteen of this section, the committee may determine a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition of requests for exemption or deletion or prevent undue complication in complying with the requirements of such section.

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

10. If a person required to file a financial disclosure statement with the committee has failed to file a financial disclosure statement or has filed a deficient statement, the committee shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the committee shall send a notice of delinquency: (a) to the reporting person; (b) in the case of a senator, to the temporary president of the senate, and if a member of assembly, to the speaker of the assembly; and (c) in the case of a legislative employee, to the appointing authority for such person and to the temporary president of the senate and/or the speaker of the assembly, as the case may be, who has jurisdiction over such appointing authority.

ll. a. If a reporting person has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law, or the committee receives a sworn complaint alleging such a violation by a reporting person or a legislative employee subject to the provisions of section seventy-three of the public officers law, or if the committee determines on its own initiative to investigate a possible violation by a reporting person or a legislative employee subject to the provisions of section seventy-three of the public officers law, the committee shall notify the reporting person in writing, describe the possible or alleged violation of such section seventy-three, seventy-three-a or seventy-four and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the committee thereafter makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. The committee shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the committee determines at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the
reporting person and the complainant, if any. All of the foregoing
proceedings shall be confidential.

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

12. An individual who knowingly and intentionally violates the provi-
sions of subdivisions two through five or subdivision seven, eight or
twelve of section seventy-three of the public officers law or a report-
ing individual who knowingly and wilfully fails to file an annual state-
ment of financial disclosure of any knowingly and wilfully with intent
to deceive makes a false statement or gives information which such indi-
vidual knows to be false on such statement of financial disclosure
filed pursuant to this section shall be assessed a civil penalty in an
amount not to exceed ten thousand dollars. Assessment of a civil penalty
hereunder shall be made by the committee with respect to persons subject
to its jurisdiction. For a violation of this section, the legislative
ethics committee 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 crim-
inal may be imposed for a failure to file, or for a false filing, of
such statement, or a violation of section seventy-three of the public
officers law, except that the appointing authority may impose discipli-
nary action as otherwise provided by law. The legislative ethics com-
mitee shall be deemed to be an agency within the meaning of article three
of the state administrative procedure act and shall adopt rules govern-
ing the conduct of adjudicatory proceedings and appeals taken pursuant
to a proceeding commenced under article seventy-eight of the civil prac-
tice law and rules relating to the assessment of the civil penalties
herein authorized and committee denial of requests for certain dele-
tions or exemptions to be made from a financial disclosure statement as
authorized in paragraph a or paragraph i of subdivision eight of this
section. Such rules, which shall not be subject to the promulgation and
hearing requirements of the state administrative procedure act, shall
provide for due process procedural mechanisms substantially similar to
those set forth in such article three but such mechanisms need not be
identical in terms or scope. Assessment of a civil penalty or committee
denial of such a request shall be final unless modified, suspended or
vacated within thirty days of imposition, with respect to the assessment
of such penalty, or unless such denial of request is reversed within
such time period, and upon becoming final shall be subject to review at
the instance of the affected reporting individuals in a proceeding com-
enced against the legislative ethics committee, pursuant to article
seventy-eight of the civil practice law and rules.

13. A copy of any notice of delinquency or notice of reasonable cause
sent pursuant to subdivisions ten and eleven of this section shall be
14. Upon written request from any person who is subject to the
requirements of sections seventy-three, seventy-three-a and seventy-four
of the public officers law, the committee shall render advisory opinions
on the requirements of said provisions. An opinion rendered by the com-
mittee, unless amended or revoked, shall be binding on the
committee in any subsequent proceeding concerning the person who
requested the opinion and who acted in good faith, unless material facts
were omitted or misrepresented by the person in the request for an opinion.
Such opinion may also be relied upon by such person, and may be intro-
duced and shall be a defense in any criminal or civil action. Such
requests shall be confidential, but the committee may publish such opin-
ions provided that the name of the requesting person and other iden-
tifying details shall not be included in the publication.

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

a. Administer and enforce all the provisions of this section;

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

16. a. Notwithstanding the provisions of article six of the public of-
icers law, the only records of the committee which shall be available
for public inspection are:

(1) the information set forth in an annual statement of financial dis-
closure filed pursuant to section seventy-three-a of the public officers
law, except the categories of value or amount which shall be confiden-
tial, and any other item of information deleted pursuant to paragraph b
of subdivision eight of this section;

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

(3) notices of delinquency sent under subdivision ten of this section;

(4) notices of reasonable cause sent under paragraph b of subdivision
eleven of this section; and

(5) notices of civil assessment imposed under this section.

b. Notwithstanding the provisions of article seven of the public of-
icers law, no meeting or proceeding of the committee shall be open to
the public, except if expressly provided otherwise by the committee.

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

17. a. There is established within the legislative ethics committee a
legislative advisory council which shall consist of five members and
shall have and exercise the powers and duties set forth in this
subdivision.
b. Three members of the legislative advisory council shall be persons, other than members of the legislature or legislative employees or persons employed as lobbyists or officers in any political party, no more than two of whom shall belong to the same political party, who shall be appointed upon the joint nomination of the temporary president of the senate and the speaker of the assembly. The chairman of the senate judiciary committee and the chairman of the assembly judiciary committee shall also serve as members of the legislative advisory council.

c. Members of the legislative advisory council shall serve for terms of two years or, in the case of members of the legislature, during their term in office as chairman of their respective judiciary committees.

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

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

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

g. The legislative advisory council shall:

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

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

h. Where the council is of the opinion that a determination of a question common to a class or defined category of persons or items of information with respect to requests for deletion or exemption will pre-
vent undue repetition of such requests or undue complication, the coun-

cil may certify the question to the committee for resolution and dispo-
sition in accordance with paragraph 1 of subdivision eight of this
section.
§ 10. Subdivision one of section eight hundred six of the general
municipal law, as amended by chapter one thousand nineteen of the laws
of nineteen hundred seventy, is amended to read as follows:

1. (a) The governing body of each county, city, town, village and
school district shall and the governing body of any other municipality
may by local law, ordinance or resolution adopt a code of ethics setting
forth for the guidance of its officers and employees the standards of
conduct reasonably expected of them. Such code shall provide standards
for officers and employees with respect to disclosure of interest in
legislation before the local governing body, holding of investments in
conflict with official duties, private employment in conflict with offi-
cial duties, future employment and such other standards relating to the
conduct of officers and employees as may be deemed advisable. Such
codes may regulate or prescribe conduct which is not expressly pro-
hibited by this article but may not authorize conduct otherwise
prohibited. Such codes may provide for the prohibition of conduct or
disclosure of information and the classification of employees or
officers.

(b) Effective on and after January first, nineteen hundred ninety-one,
such codes of political subdivisions, as defined in section eight hundred
ten of this article, may contain provisions which require the fil-
ing of completed annual statements of financial disclosure with the ap-
propriate body, as defined in section eight hundred ten of this article.
Nothing herein shall be construed to restrict any political subdivision
or any other municipality from requiring such a filing prior to January
first, nineteen hundred ninety-one. Other than as required by subdivi-
sion two of section eight hundred eleven of this article, the governing
body of any such political subdivision or other municipality may at any
time subsequent to the effective date of this paragraph (b), adopt a
local law, ordinance or resolution pursuant to subdivision one of sec-
tion eight hundred eleven of this article and any such political subdiv-
ision or municipality, acting by its governing body, may take such other
action as is authorized in such subdivision. Any political subdivision
or other municipality to which all of the provisions of section eight
hundred twelve of this article apply may elect to remove itself from the
ambit of all (but not some) provisions of such section in the manner
authorized in subdivision three of such section eight hundred twelve. In
such event any such political subdivision or municipality shall be sub-
ject to certain conditions and limitations set forth in paragraphs (a),
(b) and (c) of such subdivision three which shall include, but not be
limited to, the promulgation of a form of an annual statement of finan-
cial disclosure described in subdivision one of such section eight hundred
eleven.
§ 11. Subdivision three of section eight hundred six of such law, as
amended by chapter one thousand nineteen of the laws of nineteen hundred
seventy, is amended to read as follows:

3. (The) Until January first, nineteen hundred ninety-one, the clerk
of each municipality shall file in the office of the state comptroller
and on or after January first, nineteen hundred ninety-one, the clerk of
each municipality and of each political subdivision, as defined in sec-
tion eight hundred ten of this article, shall file with the temporary
state commission on local government ethics established by section eight
hundred thirteen of this article, if such temporary state commission be 
in existence, and in all events shall maintain as a record subject to 
public inspection:
(a) a copy of any code of ethics or any amendments to any code of 
ethics adopted within thirty days after the adoption of such code or 
such amendment,
(b) a statement that such municipality or political subdivision has 
established a board of ethics, in accordance with section eight 
hundred eight and/or pursuant to other law, charter, code, local law, ordinance 
or resolution, and the composition of such board, within thirty days af-
ter the establishment of such board.
(c) a copy of the form of annual statement of financial disclosure 
described in subdivision one of section eight hundred eleven of this ar-
ticle, and either a statement of the date such annual statement form was 
promulgated by local law, ordinance or resolution of the governing body, 
if adopted pursuant to subparagraph (i) of paragraph (a) of subdivision 
one of section eight hundred eleven of this article, or a statement that 
the governing body has, by local law, ordinance or resolution, resolved 
to continue the use of an authorized form of annual statement of finan-
cial disclosure in use on the date such local law, ordinance or resolu-
tion is adopted, if adopted pursuant to subparagraph (ii) of paragraph 
(a) of subdivision one of section eight hundred eleven of this article, 
and if as of January first, nineteen hundred ninety-one, no such form 
was promulgated and no such resolve was made to continue using an exist-
ing annual statement form, a statement that the provisions of section 
eight hundred twelve of this article apply or that it is a municipality 
which is not subject to the provisions of section eight hundred twelve 
of this article because it is not a political subdivision as defined in 
section eight hundred ten of this article.
(d) on or before the fifteenth day of February in each year, the 
controller or the temporary state commission on local government ethics 
if such commission be in existence, or the clerk of the municipality or 
political subdivision during or after calendar year nineteen hundred 
ninety-one if such commission not be in existence, as the case may be, 
shall submit to the legislature a report listing the name of each 
county, city, town, village and school district which has as of the 
seventy-first day of December next preceding, failed to so file with him 
or with it, as the case may be, a code of ethics, or in the case of a 
filing by the clerk of the municipality or political subdivision, stat-
ing whether or not the municipality or political subdivision has in ef-
fact as of the filing date, a code of ethics.
(e) not later than April first, nineteen hundred ninety-one, the comp-
troller shall submit to the temporary state commission on local govern-
ment ethics:
(i) a report that sets forth, (A) the name of each political subdivi-
sion, as such term is defined in section eight hundred ten of this arti-
cle, the governing body of which has elected to satisfy the requirements 
of subdivision one of section eight hundred eleven of this article by 
continuing to use the annual statement form in existence at the time 
such election is made as authorized by subdivision one of section eight 
hundred eleven of this article, and (B) the name of each political sub-
division, as so defined, other than those listed in clause (A) of this 
subparagraph (1), that timely promulgated an annual statement form of 
financial disclosure in accordance with subdivision one of section eight 
hundred eleven of this article, and (C) in a separate category, sets 
forth the name of those political subdivisions that failed to continue
using its existing form or to promulgate a form and which, therefore, b
operation of subdivision two of section eight hundred eleven of this ar
ticle have become subject, as of January first, nineteen hundred ninety
one, to the provisions of section eight hundred twelve of this article
The comptroller shall, at the same time such report is submitted to th
temporary state commission on local government ethics, notify each
political subdivision which is contained in the latter category that i
is subject to section eight hundred twelve of this article; and
(ii) a copy of the most recent filing by all municipalities an
political subdivisions, made pursuant to paragraphs (a), (b), (c) an
(d) of this subdivision.
§ 12. Section eight hundred eight of such law is amended by adding
new subdivision five to read as follows:
§ 12. A board of ethics of a political subdivision (as defined in sectio
eight hundred ten of this article) and of any other municipality, which
is required by local law, ordinance or resolution to be, or which pur
suant to local authority, in practice is, the repository for complete:
anual statements of financial disclosure shall notify the temporary
state commission on local government ethics if such commission be in ex-
istence and if not, shall file a statement with the clerk of its munici-
pality, that it is the authorized repository for completed annual state-
ments of financial disclosure, and that on account thereof such com-
pleted statements will be filed with it and not with the commission.
Should any local law, ordinance or resolution be adopted which provides
for the filing of such completed annual statements with the temporary
state commission on local government ethics instead of with such board
of ethics, such board of ethics shall notify the temporary state commis-
sion on local government ethics of that fact.
§ 13. Such law is amended by adding a new section eight hundred ten to
read as follows:
§ 810. Additional definitions. As used in sections eight hundred
eleven, eight hundred twelve and eight hundred thirteen of this article:
1. The term "political subdivision" shall mean a county, city, town or
village having a population of fifty thousand or more and shall include
a city with a population of one million or more.
2. The term "local elected official" shall mean an elected official of
the political subdivision, except judges or justices of the unified
court system.
3. The term "local officer or employee" shall mean the heads (other
than local elected officials) of any agency, department, division, coun-
cil, board, commission, or bureau of a political subdivision and their
depuities and assistants, and the officers and employees of such agen-
cies, departments, divisions, boards, bureaus, commissions or councils
who hold policy-making positions, as annually determined by the appoint-
ing authority and set forth in a written instrument which shall be filed
with the appropriate body during the month of February; except that the
term "local officer or employee" shall not mean a judge, justice, off-
cer or employee of the unified court system.
4. The term "state agency" shall mean any state department, or divi-
sion, 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 consti-
tuent units except community colleges and the independent institutions
operating statutory or contract colleges on behalf of the state.
5. The term "spouse" shall mean the husband or wife of the reporting
individual unless living separate and apart from the reporting individ-
ual with the intention of terminating the marriage or providing for
permanent separation or unless separated pursuant to: (a) a judicial or-
der, decree or judgment, or (b) a legally binding separation agreement.

6. The term "local political party official" shall mean:
(a) any chairman of a county committee elected pursuant to section 2-
112 of the election law, or his or her successor in office, who received
compensation or expenses, or both, from constituted committee or politi-
cal committee funds, or both, during the reporting period aggregating
thirty thousand dollars or more;
(b) 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 commit-
tee or in actual practice, possesses or performs any or all of the fol-
lowing duties or roles, provided that such person 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:
(i) the principal political, executive and administrative officer of
the county committee;
(ii) the power of general management over the affairs of the county
committee;
(iii) the power to exercise the powers of the chairman of the county
committee as provided for in the rules of the county committee;
(iv) the power to preside at all meetings of the county executive com-
mittee, if such a committee is created by the rules of the county com-
mittee 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;
(v) the power to call a meeting of the county committee or of any com-
mittee or subcommittee vested with the rights, powers, duties or privi-
ileges of the county committee pursuant to the rules of the county com-
mittee, 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 for
the purpose of filling a vacancy or vacancies in the county committee
which exist by reason of an increase in the number of election districts
within the county occasioned by a change of the boundaries of one or
more election districts, taking effect after the election of its mem-
ers, or for the purpose of determining the districts that the elected
members shall represent until the next election at which such members of
such committee are elected; provided, however, that in no event shall
such power encompass the power of a chairperson of an assembly district
committee or other district committee smaller than a county and created
by the rules of the county committee, to call a meeting of such district
committee for such purpose;
(vi) the power to direct the treasurer of the party to expend funds of
the county committee;
or
(vii) the power to procure from one or more bank accounts of the
county committee the necessary funds to defray the expenses of the
county committee; and
(c) the city, town or village chairman or leader of a city, town or
village committee of a party as the term party is defined in section 1-
104 of the election law, but only with respect to a city, town or vil-
lance having a population of fifty thousand or more, and only if such
chairman or leader received compensation or expenses, or both, from con-
stituted committee or political committee funds, or both, during the
reporting period aggregating thirty thousand dollars or more. The term
chairman or leader is intended to refer to the person who performs the
functions and duties of the chief official of a party in the city, town
or village by whatever title designated.
The terms "constituted committee" and "political committee", as used
in this subdivision six, shall have the same meanings as those contained
in section 14-100 of the election law.
7. 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.
8. The term "unemancipated child" shall mean any son, daughter, step-
son or stepdaughter who is under age eighteen, unmarried and living in
the household of the reporting individual.
9. The term "appropriate body" or "appropriate bodies" shall mean:
(a) in the case of any political subdivision which has created or
hereafter creates a board of ethics which is in existence at the time an
annual statement of financial disclosure is due, and which has been
designated by local law, ordinance or resolution to be the repository
for such completed statements, such board of ethics;
(b) in the case of any political subdivision which has created or
hereafter creates a board of ethics which is in existence at the time an
annual statement of financial disclosure is due, and which has not been
designated by local law, ordinance or resolution to be the repository
for such completed statements, the temporary state commission on local
government ethics;
(c) in the case of any political subdivision for which no board of
ethics is in existence at the time an annual statement of financial disclo-
sure is due, the temporary state commission on local government
ethics.
10. The term "regulatory agency" shall have the same meaning as
ascribed to such term by subdivision one of section seventy-three of the
public officers law.
11. The term "ministerial matter" shall have the same meaning as
ascribed to such term by subdivision one of section seventy-three of the
public officers law.
12. The term "local agency" shall mean:
(a) any county, city, town, village, school district or district cor-
poration, or any agency, department, division, board, commission or
bureau thereof; and
(b) any public benefit corporation or public authority not included in
the definition of a state agency.
§ 14. Such law is amended by adding a new section eight hundred eleven
to read as follows:
§ 811. Proclamation of form of annual statement of financial disclo-
sure; authority of governing body with respect to persons subject
thereto. I. (a) The governing body of each political subdivision may,
not later than January first, nineteen hundred ninety-one, and the gov-
erning body of any other municipality may at any time subsequent to the
effective date of this section, adopt a local law, ordinance, or
resolution: (1) wherein it promulgates a form of annual statement of
financial disclosure which is designed to assure disclosure by municipal
officers and employees, which for the purposes of this section, the
definition for which shall be modified so as to also include a city with
a population of one million or more, and (in the case of a political
subdivision or any other county, city, town or village) which is
designed to assure disclosure by local elected officials and/or by local
political party officials of such financial information as is determined
necessary by the governing body, or (ii) wherein it resolves to continue
the use of an authorized form of annual statement of financial disclo-
sure in use on the date such local law, ordinance or resolution is
adopted. In either event, such local law, ordinance or resolution if and
when adopted shall specify by name of office or by title or classifica-
tion those municipal officers and employees and (in the case of a polit-
ical subdivision or any other county, city, town or village) those local
elected officials and/or those local political party officials which
shall be required to complete and file such annual statement. In a city
with a population of one million or more, such local law, ordinance or
resolution shall be at least as stringent in scope and substance as the
provisions of section eight hundred twelve of this article.

(b) The governing body of a political subdivision or any other county,
city, town or village, which requires the completion and filing of
either of such forms of annual statements of financial disclosure by
local or municipal officers and employees and/or by local elected offi-
cials shall have the power, if it so chooses, to require the completion
and filing of such annual statements of financial disclosure by local
political party officials as if such officials were officers or em-
ployees of such county, city, town or village, provided however, that a
person who is subject to the filing requirements of both subdivision two
of section seventy-three-a of the public officers law and of this sub-
division may satisfy the requirements of this subdivision by filing a
copy of the statement filed pursuant to section seventy-three-a of the
public officers law with the appropriate body, as defined in section
eight hundred ten of this article, on or before the filing deadline
provided in such section seventy-three-a, notwithstanding the filing
deadline otherwise imposed by this subdivision.

(c) The governing body of a political subdivision or any other county,
city, town or village which requires any local or municipal officer or
employee or any local elected official or any local political party offi-
cial to complete and file either of such annual statements of finan-
cial disclosure shall have, possess, exercise and enjoy all the rights,
powers and privileges attendant thereto which are necessary and proper
to the enforcement of such requirement, including but not limited to,
the promulgation of rules and regulations pursuant to local law, ordi-
nance or resolution, which rules or regulations may provide for the pu-

cil availability of items of information to be contained on such form
of statement of financial disclosure, the determination of penalties for
violation of such rules or regulations, and such other powers as are
conferred upon the temporary state commission on local government ethics
pursuant to section eight hundred thirteen of this article as such local
governing body determines are warranted under the circumstances existing
in its county, city, town or village.

(d) The local law, ordinance or resolution, if and when adopted, shall
provide for the annual filing of completed statements with either the
temporary state commission on local government ethics or with the board
of ethics of the political subdivision or other municipality and shall
contain the procedure for filing such statements and the date by which
such filing shall be required. If the board of ethics is designated as
the appropriate body, then such local law, ordinance or resolution shall
confer upon the board appropriate authority to enforce such filing requirement, including the authority to promulgate rules and regulations of the same import as those which the temporary state commission or local government ethics enjoys under section eight hundred thirteen of this article. Any such local law, ordinance or resolution shall authorize exceptions with respect to complying with timely filing of such disclosure statements due to justifiable cause or undue hardship. The appropriate body shall prescribe rules and regulations related to such exceptions with respect to extensions and additional periods of time within which to file such statement including the imposition of a time limitation upon such extensions.

(b) Nothing herein shall be construed to prohibit a political subdivision or other municipality from promulgating the form of annual financial disclosure statement set forth in section eight hundred twelve of this article. Promotion of the form of annual financial disclosure statement set forth in section eight hundred twelve of this article shall not be deemed an automatic election to be subject to the provisions of such section.

2. In the event that a political subdivision fails by January first, nineteen hundred ninety-one to promulgate, or fails by such date to elect to continue using, a form of annual statement of financial disclosure in the manner authorized in subdivision one of this section then the provisions of section eight hundred twelve of this article shall apply and after such date to any such political subdivision subject to the provisions of subdivision three of such section eight hundred twelve.

§ 15. Such law is amended by adding a new section eight hundred twelve to read as follows:

§ 812. Financial disclosure for local elected officials and certain officers and employees of counties, cities, towns and villages.
1. (a) Any political subdivision or other county, city, town or village to which all of the provisions of this section are made applicable, whether as the result of the provisions contained in subdivision two of section eight hundred eleven of this article or as a result of an election to be subject to the provisions of this section as permitted by subdivision two of this section, shall require (i) each of its local elected officials and local officers and employees, (ii) each local political party official and (iii) each candidate for local elected official with respect to such political subdivision, to file an annual statement of financial disclosure containing the information and in the form set forth in subdivision five 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 an 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 finan
cial 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 temporary state commission on local government ethics, 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 eight hundred thirteen of this article, shall file such statement within the additional period of time granted;

(iii) candidates for local elected official who file 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 designating petitions naming them as candidates for the next succeeding primary election;

(iv) candidates for independent nomination for local elected official 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 for local elected official in the next succeeding general or special or village election; and

(v) candidates for local elected official who receive the nomination of a party for a special election or who receive the nomination of a party other than at a primary election (whether or not for an uncontested office) shall file such statement within seven days after the date of the meeting of the party committee at which they are nominated.

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

(c) Such statement shall be filed with the appropriate body, as defined in section eight hundred ten of this article.

(d) The appropriate body, as defined in section eight hundred ten of this article, shall obtain from the "board of elections", as such term is defined in section 1-104 of the election law, lists of all candidates for local elected official, and from such lists, shall determine and publish lists 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) Local political party officials and any person required to file such statement who commences employment after May fifteenth of any year shall file such statement within thirty days after commencing employment or taking the position of local political party official, as the case may be.

(f) A person who is subject to the filing requirements of both subdivision two of section seventy-three-a of the public officers law and of this subdivision may satisfy the requirements of this subdivision by filing a copy of the statement filed pursuant to section seventy-three-a of the public officers law with the appropriate body, as defined in section eight hundred ten of this article, on or before the filing deadline provided in such section seventy-three-a, notwithstanding the filing deadline otherwise imposed by this subdivision.
(g) A person who is subject to the filing requirements of this subdivision from more than one political subdivision within the same county may satisfy the requirements of this subdivision by filing only one annual statement of financial disclosure with the appropriate body (as is required in that county) for the county in which such political subdivisions are located or if such political subdivisions cross one or more county boundary lines, then such single filing may be made for any of the counties in which one of such political subdivisions is located provided, however, that the appropriate bodies (as required by such other counties) are notified of the name of the county of such compliance by the person who is subject to the filing requirements of this subdivision, within the time limit for filing specified in this subdivision.

(h) A local elected official who is simultaneously a candidate for local elected official shall satisfy the filing deadline requirements of this subdivision by complying only with the deadline applicable to one who holds such local elected office.

(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.

3. The governing body of a county, city, town or village having a population of less than fifty thousand may by local law or ordinance elect to be subject to the provisions of this section. In such event, any such city, county, town or village shall be deemed to be a political subdivision under this section.

4. Any political subdivision or other county, city, town or village to which all of the provisions of this section are made applicable, whether as a result of the provisions contained in subdivision two of section eight hundred eleven of this article or as a result of an election to be subject to the provisions of this section as permitted by subdivision two of this section, may elect to remove itself from the ambit of all (but not some) provisions of this section (other than this subdivision) by adopting a local law, ordinance or resolution specifically referring to the authority conferred by this subdivision. Provided, however, that the terms of such local law, ordinance or resolution shall be subject to the following conditions and limitations:

(a) Such local law, ordinance or resolution must provide for the promulgation of a form of an annual statement of financial disclosure described in subdivision one of section eight hundred eleven of this article for use with respect to information the governing body requires to be reported for the calendar year next succeeding the year in which such local law, ordinance or resolution is adopted and for use with respect to information required to be reported for subsequent calendar years; and shall provide for the filing of completed statements with either the temporary state commission on local government ethics or with the board of ethics of the political subdivision or other municipality, as specified in subdivision one of section eight hundred eleven of this article.

(b) Such removal shall not be effective with respect to the annual financial disclosure statement for the calendar year in which the local law, ordinance or resolution is adopted (the filing of which statement is due on May fifteenth of the next succeeding year with certain exceptions), nor shall such removal be effective with respect to any required annual financial disclosure statement for the immediately preceding calendar year (the filing of which statement is due on May
fifteenth (with certain exceptions) of the calendar year in which such
local law, ordinance or resolution is adopted, nor shall such removal
be effective with respect to any other preceding year but such removal
shall apply first to the statement which would have been due on May fif-
teenth (with certain exceptions) of the second year next succeeding the
year in which such local law, ordinance or resolution is adopted, and
such removal shall apply thereafter to subsequent statements otherwise
due pursuant to this section.
(c) Such removal shall not affect the power to impose, or the imposi-
tion of, a penalty for failure to file, or for false filing, of any
required annual financial disclosure statement.
(d) The local law, ordinance or resolution referred to in paragraph
(a) of this subdivision or any other such local law, ordinance or
resolution so adopted may make provision for any other right, power or
privilege granted by subdivision one of such section eight hundred
eleven.
4. Nothing contained in this section shall be construed as precluding
the governing body of a political subdivision from requiring additional
and/or more detailed items of financial disclosure than are set forth in
subdivision five herebelow.
5. The annual statement of financial disclosure shall contain the in-
formation and shall be in the form set forth herebelow:

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE FOR

(Insert Name of Political Subdivision) — (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 emancipated children.

____________________________________________________________________________

____________________________________________________________________________

Answer each of the following questions completely, with respect to
the 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.

For the purposes of this statement, anywhere the term "local agency" shall appear such term shall mean a local agency, as defined in section eight hundred ten of the general municipal law, of the political subdivision for which this financial disclosure statement has been filed.

4. (a) List any office, trusteeship, directorship, partnership, or position of any nature including honorary positions, if known, and excluding membership positions, 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 or (insert name of political subdivision). If said 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.

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<tr>
<th>Position</th>
<th>Organization</th>
<th>State or Local Agency</th>
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(b) List any office, trusteeship, directorship, partnership, or position of any nature including honorary positions, if known, and excluding membership positions, 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. If said 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.
5. (a) List the name, address and description of any occupation, employment, 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.

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<tr>
<th>Position</th>
<th>Name &amp; Address of Organization</th>
<th>Description</th>
<th>State or Local Agency</th>
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(b) If the spouse or emancipated 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.
6. List any interest, in excess of $1,000, excluding bonds and notes, held by the reporting individual, such individual's spouse or unemancipated child, or partnership of which any such person is a member, or corporation, ten per centum 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 list any interest in any such contract on which final payment has been made and all obligations under the contract except from 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 state agency after public notice and pursuant to a process for competitive bidding or a process for competitive requests for proposals.

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<thead>
<tr>
<th>Entity Which Held Interest in Contract</th>
<th>Relationship to Entity and Interest in Contract</th>
<th>Contracting State or Local Agency</th>
<th>Category of Value of Contract</th>
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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 of 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.

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<tr>
<th>Category of Gift</th>
<th>Value of Gift</th>
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<td>Self,</td>
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<td>Spouse or Child</td>
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<td>Name of Donor</td>
<td>Address</td>
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<td>Nature of Gift</td>
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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 political subdivision for which this statement has been filed, 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.

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<th>Source</th>
<th>Description</th>
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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 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.

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<th>Category</th>
<th>Value *</th>
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* 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).

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(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 political subdivision for which this statement is filed. (This includes interests in or contributions to a pension fund, profit-sharing plan, or life or health insurance, buy-out agreements, severance payments, etc.)

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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, salary for government employment, income from other 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.

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<th>Category of Amount</th>
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<td>Self/ Spouse</td>
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<td>Source</td>
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<td>Nature</td>
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14. List the sources of any deferred 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 hereinafore. 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.

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<th>Source</th>
<th>Category</th>
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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.

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<tr>
<th>Item Assigned or Transferred</th>
<th>Assigned or Transferred to</th>
<th>Category of Value</th>
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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 if the reporting person or the reporting person's spouse holds more than five percent of the stock of a corporation in which the stock is publicly traded or more than ten percent 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 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 bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits 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 3 (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.

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<tr>
<th>Self/ Spouse</th>
<th>Issuing Entity</th>
<th>Type of Security</th>
<th>Category of Market Value as of the close of the taxable year last occurring prior to the filing of this statement</th>
<th>Percentage of corporate stock owned or controlled</th>
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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 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.

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<thead>
<tr>
<th>Self/ Spouse</th>
<th>Other Party</th>
<th>Location</th>
<th>Size</th>
<th>General Nature</th>
<th>Acquisition Date</th>
<th>Category of Market Value</th>
<th>Percentage of Ownership</th>
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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 ac-
counts receivable owed to the individual by a relative shall not be
reported.

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<thead>
<tr>
<th>Name of Debtor</th>
<th>Type of Obligation, Date Due, and Nature of Collateral, if any</th>
<th>Category of Amount</th>
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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 indivi-
dual or such individual's spouse or by any proprietorship, partner-
ship 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. Revolving
credit account information shall only be set forth if liability
thereon is in excess of $5,000 at the time of filing. Any loan is-
sued in the ordinary course of business by a financial institution
to finance educational costs, the cost of home purchase or improve-
ments for a primary or secondary residence, or purchase of a per-
sonally 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.

<table>
<thead>
<tr>
<th>Name of Creditor or Guarantor</th>
<th>Type of Liability and Collateral, if any</th>
<th>Category of Amount</th>
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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)

6. 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 assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the appropriate body, as such term is defined in section eight hundred ten of this article. For a violation of this subdivision, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the public officers law, the board of ethics of the political subdivision or other municipality 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. Each appropriate body, as such term is defined in section eight hundred ten of this article, shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in article three of the state administrative procedure act 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 appropriate body, pursuant to article seventy-eight of the civil practice law and rules.

§ 16. Such law is amended by adding a new section eight hundred thirteen to read as follows:

§ 813. Temporary state commission on local government ethics; functions, powers and duties; review of financial disclosure statements; advisory opinions; investigation and enforcement. 1. There is established a temporary state commission on local government ethics which shall consist of nine members and shall have and exercise the powers and duties set forth in this section.

2. The members of the commission shall be appointed by the governor, provided, however, that one member shall be appointed on the nomination of the temporary president of the senate; one on the nomination of the minority leader of the senate; one on the nomination of the speaker of the assembly; and one on the nomination of the minority leader of the assembly. Of the five members appointed by the governor without prior nomination, no more than three members shall belong to the same political party and at least three members shall not be public officers or em-
ployees or hold any public office, elected or appointed. No member shall hold office in any political party or be employed as a lobbyist.

3. Members of the commission shall serve for terms of years.

4. The governor shall designate the chairman of the commission from among the members thereof, who shall serve as chairman at the pleasure of the governor. The chairman or any five members of the commission may call a meeting.

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

6. Five members of the commission shall constitute a quorum, and the commission shall have power to act by majority vote of the total number of members of the commission without vacancy.

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

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

9. The commission shall:

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

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

c. Adopt, amend, and rescind rules and regulations to govern procedures of the commission, which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted. The commission may utilize or modify such rules or regulations or adopt separate rules or regulations for the purposes of paragraph (d) of subdivision one of section eight hundred eleven of this article;

d. Promulgate guidelines to assist appointing authorities in determining which persons hold policy-making positions for purposes of sections eight hundred eleven and eight hundred twelve of this article;

e. Make available forms for annual statements of financial disclosure required to be filed pursuant to section eight hundred twelve of this article;

f. Review completed financial disclosure statements in accordance with the provisions of sections eight hundred eleven, eight hundred twelve and this section, and in the case of a political subdivision which has elected to require the filing of completed statements with the commission, in accordance with the criteria established by duly adopted code of ethics, local law, ordinance or resolution, provided however, that the commission may delegate all or part of this review function to the executive director who shall be responsible for completing staff review.
of such statements in a manner consistent with the terms of the commission's delegation;

q. Receive complaints alleging a violation of section eight hundred eleven or eight hundred twelve of this article or a violation of the criteria for reporting requirements established by duly adopted code of ethics, local law, ordinance or resolution with respect to political subdivisions which have elected to require the filing of completed statements with the commission;

h. Permit any person required to file a financial disclosure statement to request the commission to delete from the copy thereof made available for public inspection one or more items of information which may be deleted by the commission, after denial of a request for deletion made to the local government advisory council as provided in subdivision seventeen of this section, upon a finding by a majority of the total number of members of the commission without vacancy that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section. The commission shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council;

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

j. Advise and assist any local agency in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former local elected officials, local political party officials and local officers and employees;

k. Permit any person who has not been determined by his or her appointing authority to hold a policy-making position but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the commission deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an
exemption where, in the discretion of the commission, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:
(i) contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as defined in section seventy-three of the public officers law;
(ii) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;
(iii) the obtaining of grants of money or loans; or
(iv) the adoption or repeal of any rule or regulation having the force and effect of law;
1. Prepare an annual report to the governor and the legislature summarizing the activities of the commission and recommending changes in the laws governing the conduct of local elected officials, local political party officials and local officers and employees. In addition, such report shall list the names of political subdivisions which have created boards of ethics, adopted codes of ethics and adopted forms of annual statements of financial disclosure;
2. Act as a repository for completed financial disclosure forms filed pursuant to section eight hundred eleven or eight hundred twelve of this article;
3. Upon certification of a question by the public advisory council to the commission, as provided in paragraph (k) of subdivision seventeen of this section, the commission may determine a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition of requests for exemption or deletion or prevent undue complication in complying with the requirements of such section.
10. The commission, or the executive director and staff of the commission if responsibility therefor has been delegated, shall inspect all financial disclosure statements filed with the commission to ascertain whether any person subject to the reporting requirements of section eight hundred eleven or eight hundred twelve of this article, and in the case of a political subdivision which has elected to require the filing of completed annual financial statements with the commission, subject to the reporting requirements contained in duly adopted code of ethics, local law, ordinance or resolution, has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section eight hundred eleven or eight hundred twelve of this article, or of duly adopted code of ethics, local law, ordinance or resolution, as the case may be.
11. If a person required to file a financial disclosure statement with the commission has failed to file a disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency: (a) to the reporting person; and (b) in the case of a local officer or employee, to the appointing authority for such person.
12. a. If a reporting person has filed a statement which reveals a possible violation of duly adopted code of ethics, local law, ordinance or resolution of section eight hundred eleven or eight hundred twelve of this article, or the commission receives a sworn complaint alleging
such a violation, or if the commission determines on its own initiative to investigate a possible violation, the commission shall notify the reporting person in writing, describe the possible or alleged violation of such code of ethics, local law, ordinance or resolution or of such section eight hundred eleven or eight hundred twelve of this article and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the commission thereafter makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. The commission shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the commission determines at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any. All of the foregoing proceedings shall be confidential.

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

13. A reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully 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 assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the commission with respect to persons subject to its jurisdiction. For a violation of this subdivision, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the public officers' law, the temporary state commission on local government ethics 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 commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties herein authorized and commission denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in paragraph h or paragraph i of subdivision nine of this section. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or commission denial of such a request shall be final unless modified.
suspended or vacated within thirty days of imposition, with respect to
the assessment of such penalty, or unless such denial of request is rev-
ereed within such time period, and upon becoming final shall be subject
to review at the instance of the affected reporting individuals in a
proceeding commenced against the temporary state commission on local
government ethics, pursuant to article seventy-eight of the civil prac-
tice law and rules.

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

15. Upon written request from any person who is subject to the juris-
diction of the commission, the commission shall render advisory opinions
on the requirements of said provisions. An opinion rendered by the com-
mission, until and unless amended or revoked, shall be binding on the
commission in any subsequent proceeding concerning the person who
requested the opinion and who acted in good faith, unless material facts
were omitted or misrepresented by the person in the request for an opinion.
Such opinion may also be relied upon by such person, and may be intro-
duced and shall be a defense, in any criminal or civil action. Such
requests shall be confidential, but the commission may publish such
opinions provided that the name of the requesting person and other iden-
tifying details shall not be included in the publication.

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

a. Administer and enforce all the provisions of this section;

b. Conduct any investigation necessary to carry out the provisions of
this section. Pursuant to this power and duty, the commission may admin-
ister oaths or affirmations, subpoena witnesses, compel their attendance
and require the production of any books or records which it may deem
relevant or material.

17. (a) There is established within the temporary state commission on
local government ethics a public advisory council which shall consist of
five members and shall have and exercise the powers and duties set forth
in this subdivision.

(b) The members of the public advisory council shall be appointed by
the governor provided, however, that one member shall be appointed on
the nomination of the temporary president of the senate and one member
shall be appointed on the nomination of the speaker of the assembly. Of
the three members appointed by the governor without prior nomination, no
more than two members shall belong to the same political party and at
least two members shall not be public officers or employees or hold any
public office, elected or appointed. No member shall hold office in any
political party or be employed as a lobbyist.

(c) Members of the public advisory council shall serve for terms of
four years concurrent with the term of office of the governor.

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

(e) Any vacancy occurring on the public advisory council shall be
filled within sixty days of its occurrence, by the governor, in the same
manner as the member whose vacancy is being filled was appointed. A per-
son appointed to fill a vacancy occurring other than by expiration of a
term of office shall be appointed for the unexpired term of the member
he succeeds.
(f) Three members of the public advisory council shall constitute a quorum, and the public advisory council shall have power to act by majority vote of the total number of members of the public advisory council without vacancy. Members of the council may be removed by the governor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this section after written notice and opportunity for reply.

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

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

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

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

(j) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding, including any such proceeding contemplated under paragraph h or i of subdivision nine of this section, of the commission shall be open to the public, except if expressly provided otherwise by the public advisory council.
(k) Where the council is of the opinion that a determination of a question common to a class or defined category of persons or items of information with respect to requests for deletion or exemption will prevent undue repetition of such requests or undue complication, the council may certify the question to the commission for resolution and disposition in accordance with paragraph (m) of subdivision nine of this section.

18. a. Notwithstanding the provisions of article six of the public officers law, the only records of the commission which shall be available for public inspection are:

(1) the information set forth in an annual statement of financial disclosure filed pursuant to local law, ordinance or resolution or filed pursuant to section eight hundred eleven or eight hundred twelve of this article except the categories of value or amount which shall remain confidential and any other item of information deleted pursuant to paragraph h of subdivision nine of this section, as the case may be;

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

(3) notices of reasonable cause sent under paragraph b of subdivision twelve of this section; and

(4) notices of civil assessments imposed under this section.

b. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the commission shall be open to the public, except if expressly provided otherwise by the commission.

19. There is hereby established a local government advisory board to assist the commission in the performance of its powers and duties. Such board shall consist of twelve members to be appointed by the governor; four shall be appointed on the nomination of the state conference of mayors; four shall be appointed on the nomination of the state association of towns; and four shall be appointed on the nomination of the state association of counties. The board shall inform the commission of policies and concerns of local governments with respect to the administration of the provisions of this article and disseminate information to local governments with respect to the operations of the commission.

§ 17. Section two hundred eleven of the judiciary law is amended by adding a new subdivision four to read as follows:

4. By September first, nineteen hundred eighty-eight, the chief judge, after consultation with the administrative board, shall approve a form of annual statement of financial disclosure which form shall apply to all judges, justices, officers and employees of the courts of record of the unified court system, who receive annual compensation in excess of thirty thousand dollars. Such form of annual statement of financial disclosure shall be substantially similar to the form set forth in subdivision three of section seventy-three-a of the public officers law. Within one year after approval of such form, the chief judge shall cause the chief administrator of the courts to promulgate rules or regulations which require every judge, justice, officer and employee of the courts of record of the unified court system who receives annual compensation in excess of thirty thousand dollars, to report the information required by the approved form effective first with respect to a filing which shall be required in nineteen hundred ninety-one (generally applicable to information for the preceding calendar year) and thereafter, effective for future annual filings. Any judge, justice, officer or employee of the courts of record of the unified court system who, pursuant to such rules or regulations, is required to file a completed annual statement of financial disclosure and who makes such filing in accordance
with the requirements contained in such rules or regulations, shall be
deemed to have satisfied the requirements of any other law mandating the
filing of a completed annual statement of financial disclosure for the
applicable calendar year which might otherwise apply to such judges,
justices, officers or employees, and no duplicate filing shall be
required on account of any other such law, notwithstanding the provi-
sions of such other law.

§ 18. The provisions of subdivision seven of section seventy-three of
the public officers law, as amended by section two of this act, shall
not apply to the appearance or rendition of services before a state or
local government agency, where the person subject to such restrictions
was substantially and actively involved in the case, proceeding, appli-
cation or other matter, or transaction of business, as of January first,
nineteen hundred eighty-eight and the substitution of a new counsel
would impose a substantial hardship on the client.

§ 19. It is the intention of the legislature in enacting the amend-
ments to subdivisions seven, eight, eleven, twelve and thirteen of sec-
tion seventy-three of the public officers law made by section two of
this act that all of such amendments were made in conjunction with the
amendments to subdivision ten of such section and that such amendments
form one interdependent and connected whole, and the legislature hereby
declares that it would not have made any amendment to such subdivisions
of section seventy-three of the public officers law in section two of
this act without making all of the other amendments to such subdivisions
made therein. Therefore, if any clause, sentence, paragraph or part of
subdivision ten of section seventy-three of the public officers law af-
ected by such amendments shall be adjudged, by a court of competent
jurisdiction and after any and all appeals have been exhausted in such
case or proceeding, to be invalid with respect to conduct prohibited by
subdivision seven, eight, eleven, twelve or thirteen of such section,
the judgment shall invalidate the remainder of such amendments to such
subdivisions and render all of the amendments to such subdivisions of
section seventy-three of the public officers law made in section two of
this act null and void, in which event, the provisions of such subdivi-
sions of section seventy-three of the public officers law as they ex-
isted immediately prior to the amendments made in section two hereof
shall be deemed revived.

§ 20. Subdivision five of section seventy-three of the public officers
law, as added by chapter ten hundred twelve of the laws of nineteen hun-
dred sixty-five, is amended to read as follows:

5. No officer or employee of a state agency, member of the legisla-
ture or legislative employee shall, directly or indirectly, solicit, ac-
cept or receive any gift having a value of (twenty-five) seventy-five
dollars or more whether in the form of money, service, loan, travel, en-
tertainment, hospitality, thing 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 any officer or employee of
a state agency, member of the legislature or legislative employee under
such circumstances.

§ 21. Subdivision one of section eight hundred five-a of the general
municipal law, as added by chapter one thousand nineteen of the laws of
nineteen hundred seventy, is amended to read as follows:
1. No municipal officer or employee shall: a. directly or in-
2. directly, solicit any gift, or accept or receive any gift having a value
3. of [twenty-five] seventy-five dollars or more, whether in the form of
4. money, service, loan, travel, entertainment, hospitality, thing or
5. promise, or in any other form, under circumstances in which it could
6. reasonably be inferred that the gift was intended to influence him, or
7. could reasonably be expected to influence him, in the performance of his
8. official duties or was intended as a reward for any official action on
9. his part;
10. b. disclose confidential information acquired by him in the course of
11. his official duties or use such information to further his personal in-
12. terests;
13. c. receive, or enter into any agreement, express or implied, for com-
14. pensation for services to be rendered in relation to any matter before
15. any municipal agency of which he is an officer, member or employee or of
16. any municipal agency over which he has jurisdiction or to which he has
17. the power to appoint any member, officer or employee; or
18. d. receive, or enter into any agreement, express or implied, for com-
19. pensation for services to be rendered in relation to any matter before
20. any agency of his municipality, whereby his compensation is to be depen-
21. dent or contingent upon any action by such agency with respect to such
22. matter, provided that this paragraph shall not prohibit the fixing at
23. any time of fees based upon the reasonable value of the services
24. rendered.

§ 22. Subparagraph (ii) of paragraph five of subdivision (b) of sec-
26. tion eight of section one of chapter one thousand forty of the laws of
27. nineteen hundred eighty-one, constituting the lobbying act, is amended
28. to read as follows:
29. (ii) expenses required to be reported pursuant to subparagraph (i)
30. of this paragraph shall be listed in the aggregate if [fifty] seventy-five
31. dollars or less and if more than [fifty] seventy-five dollars such ex-
32. penses shall be detailed as to amount, to whom paid, and for what pur-
33. pose; and where such expense is more than [fifty] seventy-five dollars
34. on behalf of any one person, the name of such person shall be listed.

§ 23. Subparagraph (ii) of paragraph six of subdivision (b) of section
35. nine of such act, as added by chapter nine hundred forty-six of the laws
36. of nineteen hundred eighty-three, is amended to read as follows:
37. (ii) any expenses required to be reported pursuant to subparagraph (i)
38. of this paragraph shall be listed in the aggregate if [fifty] seventy-
39. five dollars or less and if more than [fifty] seventy-five dollars such
40. expenses shall be detailed as to amount, to whom paid, and for what pur-
41. pose; and where such expenses are more than [fifty] seventy-five dollars
42. on behalf of any one person, the name of such person shall be listed.

§ 24. Subparagraph (ii) of paragraph five of subdivision (c) of sec-
45. tion ten of such act, such section as renumbered by chapter nine hundred
46. forty-six of the laws of nineteen hundred eighty-three, is amended to
47. read as follows:
48. (ii) any expenses required to be reported pursuant to subparagraph (i)
49. of this paragraph shall be listed in the aggregate if [fifty] seventy-
50. five dollars or less and if more than [fifty] seventy-five dollars such
51. expenses shall be detailed as to amount, to whom paid, and for what pur-
52. pose; and where such expenses are more than [fifty] seventy-five dollars
53. on behalf of any one person, the name of such person shall be listed.

§ 25. Section five of chapter one thousand forty of the laws of
55. nineteen hundred eighty-one, relating to the New York temporary state
56. commission on lobbying, as amended by chapter nine hundred forty-six of
the laws of nineteen hundred eighty-three, is amended to read as follows:

§ 5. This act shall take effect January first, nineteen hundred eighty-two, except that prior to such date the New York temporary state commission on regulation of lobbying, created pursuant to chapter nine hundred thirty-seven of the laws of nineteen hundred seventy-seven, shall prepare for the orderly transition of duties between it and the New York temporary state commission on lobbying, created pursuant to section four of section one of this act, and the implementation of the provisions of chapter nine hundred thirty-seven of the laws of nineteen hundred seventy-seven and of this act. This act shall remain in effect until December thirty-first, nineteen hundred eighty-seven ninety-one, provided, however, that the existence of the New York state temporary commission on lobbying shall continue until March thirty-first, nineteen hundred eighty-eight ninety-two for the purpose of receiving and processing registrations and reports required to be filed pursuant to sections five, eight, nine and ten of section one of this act.

§ 26. This act shall take effect immediately, except that sections two through sixteen and sections eighteen and nineteen of this act shall take effect January first, nineteen hundred eighty-nine and sections twenty through twenty-five of this act shall take effect December thirty-first, nineteen hundred eighty-seven; provided, however, that:

(a) the provisions of subdivision eight of section seventy-three of the public officers law, as renumbered and amended by section two of this act, with respect to legislative employees shall apply only to such employees who terminate their service or employment on or after January first, nineteen hundred eighty-nine;

(b) the provisions of section eight hundred thirteen of the general municipal law, as added by section sixteen of this act, shall remain in effect until and including December thirty-first, nineteen hundred ninety-two; upon the expiration of such provisions, the powers, duties and functions of the temporary state commission on local government ethics shall be transferred, assigned and devolved upon the respective board of ethics, if there be one, or if not, upon the governing body, of political subdivisions which are required by the provisions of sections eight hundred eleven and eight hundred twelve of the general municipal law, or which have elected pursuant to such sections, to be subject to the jurisdiction of such temporary state commission;

(c) the amendments made by sections twenty-two, twenty-three and twenty-four of this act shall apply to reports required to be filed after December thirty-first, nineteen hundred eighty-seven; and

(d) the provisions of sections twenty-two, twenty-three and twenty-four of this act shall remain in full force and effect for only so long as the lobbying act remains in effect pursuant to section five of chapter one thousand forty of the laws of nineteen hundred eighty-one as from time to time amended.

REPEAL NOTE.—Paragraph (d) of subdivision two of section eighty-eight of the public officers law, repealed by section six of this act, relates to public inspection and copying of members' code of ethics statements. These provisions were supplanted by new provisions contained in this act relating to public disclosure.

Section eighty of the legislative law, repealed by section nine of this act, relates to the special legislative committees on ethics. Such provisions were rendered unnecessary by the creation of a new legislative ethics committee in the same section of this act.
Miscellaneous Acts affecting MAC's Disposition of its Monies

1987
25 June 1987

Assemblyman Mark A. Siegel
Chairman
Committee on Corporations, Authorities & Commissions
NEW YORK STATE ASSEMBLY
Legislative Office Building/Room 842
Albany, N.Y. 12248

Re: 6896-A

Dear Assemblyman Siegel:

This letter is to endorse Assembly Bill 6896-A, which would amend Subdivision 9 of Section 3038 of the Public Authorities Law.

We continue to support passage of this important legislation in the form of the amended bill, just as we supported the initial bill as proposed by the City of New York.

Such an amendment to the enabling legislation of the Municipal Assistance Corporation is essential to the City at this time.

Sincerely,

[Signature]

Stephen J. Weinstein
Executive Director

aa: 201
July 23, 1987

Dear Mr. Rohatyn:

Thank you for writing in opposition to A.5746/S.2259, which would prohibit renewal or refunding of outstanding notes or bonds of the New York City Municipal Assistance Corporation. I greatly appreciate having your comments on this important matter.

In light of the recent close of the Legislative Session, I thought you might like to know the status of this initiative. As you may already be aware, A.5746 is being held within the Assembly Corporations Committee; its companion bill in the Senate, S.2259, is being held within the Finance Committee.

Thank you again for keeping me apprised of your views.

With regards.

Sincerely,

Clarence D. Rappeleyea
Minority Leader

Mr. Felix G. Rohatyn
Chairman
Municipal Assistance Corporation
for the City of New York
1 World Trade Center
Suite 8901
New York, New York 10048
June 29, 1987

Mr. Felix G. Rohatyn, Chairman
Municipal Assistance Corporation
One World Trade Center
Suite 8901
New York, New York 10314

Dear Felix:

Thank you for your letter of June 12, 1987 concerning S.2259, which would require the Municipal Assistance Corporation to use its excess funds for debt retirement.

My staff has already advised staff of Senator Goodhue, the sponsor of this measure, that I cannot support this bill in its present form because of the impact that retroactive application would have on existing agreements between the State and the City. In the event that Senator Goodhue were to amend the bill to make it prospective only in application, however, I would reconsider my position on this legislation because of my long held belief that the MAC surplus should be earmarked for debt retirement.

I appreciate having the benefit of your view on this matter.

Sincerely,

Edward V. Regan
Comptroller

EVR:RLN:dmd
CC: Honorable Mary B. Goodhue
18 June 1987

Senator Warren M. Anderson
Assemblyman Melvin H. Miller
Senator Manfred Ohrenstein
Assemblyman Clarence D. Rappleyea, Jr.
Governor Mario M. Cuomo
Comptroller Edward V. Regan

Re: S-2259

Gentlemen:

I am writing concerning the deeply troubling ramifications of Senate Bill 2259. The bill seeks to alter the Municipal Assistance Corporation's existing system of accounts, to impose new conditions upon the disposition of its moneys and to impose certain procedural and substantive restrictions upon future refunding transactions. At the time of the bill's introduction in March by Senator Goodhue, the Corporation's Executive Director wrote to state our position before any action was taken.

I am writing again today because I understand that the bill, having been considered by both the Finance Committee and the Rules Committee, has now been reported to the full Senate.

We have concluded that the bill violates certain provisions of the Corporation's enabling legislation and general bond resolutions. At present, the Corporation has outstanding over $8 billion of bonds issued pursuant to two general resolutions adopted in accordance with the provisions of our enabling act. Proposals which alter the established operations of the Corporation pose significant questions of law.

Furthermore, while the bill purports to be prospective in nature, its provisions would preclude the Corporation from fulfilling its commitments under two existing agreements with the State and City to make available $2.7 billion in the period through 1995. One of the consequences stemming from this would be the unravelling of the new financing program for the Metropolitan Transportation Authority fashioned by the Legislature and the Governor in December 1986, in that $925 million for that program is to be provided by the Corporation. It would be unfortunate if new legislation were to jeopardize the ongoing refunding program or the availability of any of these funds.
Policy considerations aside, this bill would also procedurally cripple the Corporation. Requiring that approval of refundings and releases from the capital reserve funds be unanimous would effectively paralyze the functioning of the Board of Directors. Given the active professional lives of the Board members, which often include business travel, along with inevitable illnesses from time to time, the likelihood that all directors would be available at one time to authorize official actions is small. Simply, the Corporation would be unable to function.

In order to preserve the hard-won creditworthiness and financing ability of the Corporation, I respectfully urge you to use your leadership positions to ensure that this bill does not become law.

Sincerely,

Felix G. Rohatyn
Chairman
MEMORANDUM

Date: 11 June 1987
To: Stephen J. Weinstein, Executive Director
From: Maxine H. Gillman, Counsel
Re: S. 2259

S. 2259 (the "Goodhue Bill") would:

1. Require unanimous Board approval of refundings.
2. Prohibit low to high refundings.
3. Require unanimous Board approval for all withdrawals from the Capital Reserve Funds.
4. Require Capital Reserve Fund withdrawals to be used only to redeem bonds not otherwise yet due.
5. Require all monies in excess of all funds' requirements to be transferred to the Capital Reserve Funds and used to meet Capital Reserve Fund requirements or to redeem bonds not otherwise yet due.

S. 2259:

1. Could impair contract with bondholders in that it alters powers previously given to the Board of Directors, in violation of Section 3015 of the MAC Act and Section 906 of the General Bond Resolutions.
2. Could cause MAC to violate representations made to the Internal Revenue Service as to funding and withdrawals from Capital Reserve Funds.
3. Could prevent performance of MAC I and MAC II agreements by providing that excess funds may only be used to retire debt not otherwise yet due.
4. Could prevent current MAC practice of using current debt service payments on City bonds held by MAC which are deposited into the "114 Account" for current debt service on MAC bonds by requiring all such monies to be used only in accordance with the explicit listing in the MAC Act.
12 May 1987

Senator Warren M. Anderson
Majority Leader
NEW YORK STATE SENATE
The Capitol
Albany, New York 12247

Assemblyman Melvin H. Miller
Speaker
NEW YORK STATE ASSEMBLY
The Capitol
Albany, New York 12248

Dear Senator Anderson and Assemblyman Miller:

I am writing to express my strong support for a bill proposed by the City of New York (’87 Law #37) that would repeal Subdivision 9 of Section 3038 of the Public Authorities Law.

That provision was enacted into law at the time of the City fiscal crisis in June 1975 in the act establishing the Municipal Assistance Corporation as a financing agent and fiscal monitor for the City. The subdivision in question sets dollar limitations upon two separate computations of combined Corporation debt and City short-term debt. Unless both tests are satisfied, the City may not issue any short-term obligations.

The limitation contained in Subparagraph (b) of Section 3038(9), as calculated today, would be exceeded. While this has posed no problem to date because the limitation applies only to issuance, prospectively it would prohibit the City from issuing new short-term obligations. Such a result is at odds with fiscal propriety.

Some twelve years after its enactment to address the City’s unprecedented financial problems in an era of dire circumstances, it could now produce such an unintended result. In the interim, much has changed. Furthermore, other statutory restrictions on the City's issuance of short-term obligations are currently imposed in the Local Finance Law and in the Financial Emergency Act and ensure
24 March 1987

Assemblyman Mark A. Siegel
Chairman, Committee on Corporations,
Authorities and Commissions
NEW YORK STATE ASSEMBLY
Legislative Office Building/Room 842
Albany, N.Y. 12248

Re: A-5746

Dear Assemblyman Siegel:

This letter is in reference to Assembly Bill 5746, which was introduced by Assemblyman Henry William Barnett, read once and referred to the Assembly Committee on Corporations, Authorities and Commissions on March 12, 1987. I would like to express strong concern over the provisions of this bill.

The terms of the proposed legislation are specific to the Municipal Assistance Corporation. They appear to seek to impose both procedural and substantive restrictions upon future refunding transactions of the Corporation, and to impose new conditions upon the disposition of its moneys.

At present, the Corporation has outstanding over $8 billion of bonds issued pursuant to two general resolutions adopted in accordance with the provisions of our enabling act. Proposals which could potentially alter the flow of funds of the Corporation as prescribed in present statute and bond covenant could pose significant questions of law.

In addition, based upon existing funding mechanisms provided by statute and resolution, the Corporation has entered into two agreements with the Governor of the State of New York and the Mayor of the City of New York to make available a total of $2.675 billion of the Corporation's resources for important public purposes. Among these commitments is $925 million for capital projects of the New York City Transit Authority, which constitutes a critical component of the
Assemblyman Mark A. Siegel
24 March 1987
Page 2

overall financing program for the New York State Metropolitan Transportation Authority. These resources are to come from refunding savings, capital reserve releases and investment income. It would be unfortunate if new legislation were to jeopardize the ongoing refunding program or the availability of any of these funds.

For all of the reasons summarized above, I respectfully request that Assembly Bill 5746 not be reported by your committee.

I very much appreciate the opportunity to express our views on this matter so important to the Corporation and the State. Thank you for your consideration.

Sincerely,

Stephen J. Weinstein
Executive Director

cc: Assemblyman Saul Weprin
Chairman, Ways and Means Committee
18 March 1987

Philip R. Pitruzzello, Esq.
Assistant Counsel to the Governor
STATE OF NEW YORK
Executive Chamber
Albany, New York 12224

Re: Governor's Program Bill - State Bond Volume Ceiling

Dear Philip:

I have received your memorandum dated March 16, 1987 and attachments soliciting our comments regarding the Governor's Program Bill which, if enacted, would establish allocation procedures for New York State's bond volume ceiling under the Internal Revenue Code of 1986.

After reviewing the Corporation's current plans and consulting with Hawkins, Delafield & Wood, the Corporation's bond counsel, I have determined that the chances that the Corporation would require a volume cap allocation are remote. However, should those plans change or the market environment become significantly more attractive than it currently is, it is possible that we could find ourselves in a financing situation requiring such an allocation. In that event, we believe it to be in the Corporation's best interests, as well as those of the State of New York, to be considered a "State agency" rather than an "other issuer," which I believe we would be under the terms of the bill as presently constituted.

The Corporation has, since its inception, striven to distinguish itself as a credit separate and distinct from the City, for legal considerations and market perception, with success. To blur that distinction now by excluding the Corporation from the list of "State agencies" for volume cap allocation purposes could unnecessarily confuse the record.

Moreover, the Division of the Budget, the department charged in the bill with administering the volume cap allocations for State agencies, is already familiar with the
18 March 1987
Philip R. Pitruzzello, Esq.
Page 2

Corporation, its purposes and its State funding mechanism, while the Department of Commerce, the department performing the same tasks for local agencies and "other issuers," presumably is not. We therefore respectfully request that the Corporation be included in the definition of "State agency" for purposes of the volume cap allocation bill.

Thank you for the opportunity to present our position on this bill.

Sincerely,

Maxine H. Gillman
Counsel

cc: John J. Keohane, Esq.
Hawkins, Delafield & Wood

ba:111
MEMORANDUM

TO: Maxine H. Gillman, Esq.
Deputy Executive Director and Counsel
Municipal Assistance Corporation

FROM: Philip R. Pitruzzello
Assistant Counsel to the Governor

DATE: March 16, 1987

SUBJECT: Governor's Program Bill - State Bond Volume Ceiling

The enclosed has been prepared by this office for introduction this year as a Governor's Program bill. Since it appears to be of interest to you, I am soliciting your reaction. In reviewing the bill, please give particular attention to how existing programs and statutory authority may be affected by the bill.

If we are to consider your comments in our review of the bill, I would like to have your comments by Friday, March 20, 1987. If I have no response from you by that date I shall assume that you have no objection to the bill.

PRP:pm
Enclosures
AN ACT to amend the state finance law, in relation to the allocation of the unified state bond volume ceiling

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

Section 1. Legislative findings and declaration of policy. The legislature hereby finds and declares:

The federal tax reform act of nineteen hundred eighty-six establishes a unified statewide bond ceiling for tax exempt private activity bonds and notes issued in New York State. This ceiling applies to certain tax exempt private activity bonds and notes and, under certain circumstances, to governmental use bonds and notes issued by the state and its public authorities, local governments, agencies which issue on behalf of local governments, and to certain other issuers. The federal act establishes an allocation formula which was subject to temporary modification by gubernatorial executive order until December 31, 1987. That act also permits the state legislature to establish, by statute, an alternative formula for allocating the unified volume cap. Bonds and notes subject to the federal volume limitation require an allocation from the state's annual volume cap in order to qualify for federal tax exemption.

It is hereby declared to be the policy of the state to maximize the public benefit through the issuance of private activity bonds for the purposes of providing housing, economic development and energy efficiency and to provide for an orderly and efficient private activity bond allocation process for state and local agencies by establishing an alternative formula for making such allocations.

Section 2. Article fifteen of the state finance law is renumbered article sixteen. Sections two-hundred ten and two-hundred eleven are renumbered two-hundred twenty-three and two-hundred twenty-four, respectively.

Section 3. The state finance law is amended by adding a new article fifteen to read as follows:
ARTICLE 15
PRIVATE ACTIVITY BOND ALLOCATION ACT

§210. Short title.

§211. Definitions.

212. Covered bond limit for local agencies.

213. Covered bond limit for state agencies.

214. Statewide bond reserve.


216. Ineligible local agencies.

217. Municipal reallocation.

218. Year end allocation adjustment.

219. Carry forward of allocations.

220. Rules and regulations.

§210. Short title. This article may be cited as the "Private activity bond allocation act."

§211. Definitions. As used in this article, unless the context requires otherwise:

1. "Bonds" means bonds, notes or other obligations.

2. "Code" shall mean the internal revenue code of 1986.

3. "Covered bonds" shall mean those tax exempt private activity bonds and that portion of the nonqualified amount of an issue of governmental use bonds to which an allocation of the statewide ceiling is required for the interest earned by holders of such bonds to be exempt from federal taxation under the code.

4. "Director of the budget" means the director of the New York State division of the budget.

5. "Issuer" shall mean a local agency, state agency or other issuer.

6. "Local agency" shall mean an industrial development agency established or operating pursuant to article 18-A of the general municipal law, the Troy Industrial Development Authority and the Auburn Industrial Development Authority.

7. "Other issuer" shall mean any agency, political subdivision or other entity, other than a local agency or state agency, that is authorized to issue covered bonds.
8. "Qualified small issue bonds" shall mean qualified small issue bonds, as defined in section 144(a) of the code.


10. "Statewide ceiling" shall mean for any calendar year the highest state ceiling (as such term is used in section 146 of the code) applicable to New York State.

§212. The covered bond limit for local agencies and other issuers for any calendar year shall be an amount which bears the same ratio to one-third of the statewide ceiling as the population of the jurisdiction of such local agency bears to the population of the entire state. The commissioner of commerce shall administer allocations to local agencies as defined in section 211(6) of this chapter.

§213. The covered bond limit for all state agencies for any calendar year shall be one-third of the statewide ceiling. The director of the budget shall administer allocations under the state agency limit and may grant an allocation to any state agency as defined in section 211(9) of this chapter upon receipt of an application in such form as the director shall require.

§214. Statewide bond reserve. One-third of the statewide ceiling is hereby allocated to a statewide bond reserve to be administered by the director of the budget.

1. Allocation of the statewide bond reserve among state local agencies and other issuers. The director of the budget shall transfer a portion of the statewide bond reserve to the commissioner of commerce for allocation to and use by local
agencies and other issuers in accordance with the terms of this section. The remainder of the statewide bond reserve may be allocated by the director of the budget to state agencies in accordance with the terms of this section.

2. Allocation of statewide bond reserve to local agencies or other issuers.

(a) Local agencies or other issuers may at any time apply to the commissioner of commerce for an allocation from the statewide bond reserve. Such application shall demonstrate:

(i) that the requested allocation is a necessary requirement for the bonds' federally tax exempt status;

(ii) that local agency's or other issuer's remaining unused allocation provided pursuant to section 212 of this chapter will be insufficient for the specific project or projects for which reserve allocation is requested;

(iii) that in the case of an issue of covered bonds (other than governmental use bonds), the proposed project or projects for which the allocation is requested constitute a valid public purpose; and

(iv) that, except for those allocations made pursuant to the carry forward process described in section 219 of this chapter, that the requested allocation is reasonably expected to be used during the calendar year.

(b) In reviewing and approving or disapproving applications, the commissioner of commerce shall exercise discretion to ensure an equitable distribution of allocations from the statewide bond reserve to local agencies and other issuers. In the case of a request related to the financing of a project to provide or improve housing, the commissioner shall consult with the state director of housing prior to making a determination on such request.

(c) Applications for allocations shall be made in such form and contain such information and reports as the commissioner of commerce shall require.
3. Allocation of statewide bond reserve to state agencies. The director of the budget may make an allocation from the statewide bond reserve to any state agency.

Before making any allocation of statewide bond reserve to state agencies the director of the budget shall determine:

(i) that allocation is a necessary requirement for the bonds' federally tax exempt status;

(ii) that the state's remaining unused allocation provided pursuant to section 213 of this chapter will be insufficient for the specific project or projects for which reserve allocation is requested;

(iii) that in the case of an issue of covered bonds (other than governmental use bonds), the proposed project or projects for which the allocation is requested constitute a valid public purpose; and

(iv) that, except for those allocations made pursuant to the carry forward process described in section 219 of this chapter, that the requested allocation is reasonably expected to be used during the calendar year.

§215. Overlapping jurisdictions. In a geographic area represented by a county local agency and one or more sub-county local agencies, the allocation granted by paragraph two-hundred twelve of this article with respect to such area shall be apportioned one-half to the county local agency and one-half to the sub-county local agency or agencies. Where there is a local agency for the benefit of a village within the geographic area of a town for the benefit of which there is a local agency, the allocation of the village local agency shall be based on the population of the geographic area of the village, and the allocation of the town local agency shall be based upon the population of the geographic area of the town outside of the village. Notwithstanding the foregoing, a local agency may elect to surrender all or part of its allocation for such calendar year to another local agency with an overlapping jurisdiction. Such
election shall be made at such time and in such manner as the
commissioner of commerce shall prescribe.

§216. Ineligible local agencies. To the extent that any
allocation of the covered bond limit would be made by this act to
a local agency which is ineligible to receive such allocation
under the code or under regulations interpreting the state volume
cap provisions of the code, such allocation shall instead be made
to the political subdivision for whose benefit that local agency
was created.

§217. Municipal reallocation. The chief executive officer
of any political subdivision or, if such political subdivision
has no chief executive officer, the governing board of the
political subdivision for the benefit of which a local agency has
been established may withdraw all or any portion of the alloca-
tion granted by paragraph two-hundred twelve of this article to
such local agency and reallocate all or any portion of such
allocation, as well as all or any portion of the allocation
received pursuant to paragraph two-hundred sixteen of this
article, to the political subdivision or other issuer established
for the benefit of that political subdivision or may assign all
or any portion of the allocation received pursuant to paragraph
two-hundred sixteen of this article to the local agency created
for its benefit. The chief executive officer or governing board
of the political subdivision, as the case may be, shall notify
the commissioner of commerce of any such reallocation.

§218. Year end allocation adjustment. On or before
November first of each year, each state agency shall report to
the director of the budget and each local agency and each other
issuer shall report to the commissioner of commerce the amount of
bonds subject to allocation that will be issued prior to the end
of the then current calendar year, and the amount of the issuer's
allocation that will remain unused. As of November fifteenth of
each year, the unused portion of each issuer's allocation as
reported and the unallocated portion of the covered bond limit
for state agencies shall be added to the statewide bond reserve
and shall no longer be available to covered bond issuers except as otherwise provided herein. From November fifteenth through the end of the year, each local agency or other issuer having an allocation shall immediately report any changes to the status of their allocation or the status of projects for which allocations have been made to the commissioner of commerce. If the commissioner of commerce determines that a local agency or other issuer has overestimated the amount of bonds subject to allocation that will be issued prior to the end of the calendar year, he may recapture the amount of the allocation to such local agency or other issuer represented by such overestimation by notice to the local agency or other issuer, and add such allocation to the statewide bond reserve. The director of the budget may likewise make such determination and recapture with respect to state agency allocations.

§219. Carry forward of allocation.

1. No local agency or other issuer shall elect to carry forward any unused allocation (pursuant to section 146(f) of the code) without the prior approval of the commissioner of commerce. Likewise no state agency shall make such an election, or elect to issue or carry forward mortgage credit certificates without the prior approval of the director of the budget.

2. On or before November fifteenth of each year, each state agency seeking to carry forward an allocation for use in future years shall make a request for such a carry forward to the director of the budget, whose approval shall be required before a carry forward election is filed by or on behalf of any state agency. A later request may also be considered by the director of the budget, who may file a carry forward for any state agency with the consent of such agency.

3. On or before November fifteenth of each year, each local agency or other issuer seeking to carry forward an allocation for use in future years shall make a request for such a carry forward to the commissioner of commerce, whose approval shall be required before a carry forward election is filed by or on behalf of any
local or other agency. A later request may also be considered by the commissioner. The commissioner may authorize a carry forward for any local agency or other issuer.

§2220. Rules and regulations. 1. The director of the budget and commissioner of commerce shall establish such rules and regulations necessary to implement the provisions of this article.

2. For the purposes of the information reporting requirements of section 149(e) of the internal revenue code, the director of the budget or any deputy director of the budget designated in writing by the director is hereby designated as a state official who may make the certification required by subdivision (F) of such section, that a bond meets the requirements of section 146 of the internal revenue code (relating to the cap on private activity bonds).

Section 4. The general municipal law is amended by adding a new section eight hundred fifty-nine to read as follows:

§859. Information reporting. 1. Every agency shall submit to the department of commerce and to the municipality for whose benefit such agency was established, a copy of the forms and any reported information filed with the federal government in connection with the implementation of the Tax Equity and Fiscal Responsibility Act of 1982 (PL 97-248, 1982), the Tax Reform Act of 1986 (PL 99-514, 1986), Public Approval and Information Reporting Requirements Applicable to Private Activity Bonds (§ 215), not later than fourteen days prior to the day the forms and information are required to be submitted to the federal government.

2. Upon receipt of such information, the department of commerce shall tabulate that portion of the certification required pursuant to Section 149(e) of the internal revenue code as pertains to local agencies and other issuers and shall forward such information to the director of the budget for purposes of preparing the certification required by subdivision (F) of section 149(e).
1. The department of commerce shall analyze the foregoing information and annually on or before April first report its findings and any appropriate recommendations with respect to the contents of such information to the governor and the legislature.

Section 2. Effectiveness. This act shall take effect on the first day of January, nineteen hundred eighty-eight except for section 3, which shall become effective immediately. Nothing contained in this article shall be deemed to supersede, alter or impair any provision of (i) the executive order prescribing procedures to allocate the private activity bond volume ceiling under the deficit reduction act of 1984 or (ii) the tax reform act of 1986 (other than the provisions of section 146(b) and (c) of the code) or any regulations promulgated thereunder. If any provision of this article is adjudged or ruled invalid, such judgment or ruling shall not affect any other provisions of this article.
IN ASSEMBLY

March 12, 1987

Introduced by A. of A. BARNETT -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to the use of certain funds by the municipal assistance corporation for the city of New York

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

Section 1. Section three thousand thirty-three of the public authorities law is amended by adding a new subdivision six to read as follows:

6. Subject only to any contrary agreement with the holders of particular notes or bonds, on and after the date on which the provisions of this subdivision become effective the renewal or refunding of any outstanding note or bond shall be authorized except pursuant to a resolution concurred in, on or after such date by the unanimous affirmative vote of the members of the board of the corporation and expressly providing for such renewal or refunding and only in the event that such bond or note will bear interest at a rate or rates equal to or less than that of the note or bond being so renewed or refunded.

§ 2. Subdivision three of section three thousand thirty-six of such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is amended to read as follows:

3. The corporation shall create and establish a special fund (herein referred to as capital reserve fund) and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purpose of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issue thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.
fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity, if the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision three of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes, such excess moneys may be withdrawn from the capital reserve fund by the corporation upon the unanimous affirmative vote of the members of the board of directors and used solely for the purpose of redeeming the corporation's bonds not otherwise yet due, provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on the bonds of the corporation secured by such capital reserve fund than outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise due or becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may likewise be transferred withdrawn by the corporation to any other fund of the corporation upon the unanimous affirmative vote of the members of the board of directors and used solely for the purpose of redeeming the corporation's bonds not otherwise yet due to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds of the corporation secured by such capital reserve fund then outstanding.

§ 3. Subdivision two of section three thousand thirty-six of such law, as added by chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, is amended to read as follows:

2. The corporation shall create and establish a capital reserve fund as an additional special fund, and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale [or] of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity, if the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision three of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes secured by such capital reserve fund, such excess moneys may be withdrawn from the capital reserve fund by the corporation upon the unanimous affirmative vote of the members of the board of directors and used
Solely for the purpose of redeeming the corporation's bonds not otherwise due and provided, however, that money in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may likewise be transferred withdrawn by the corporation to any other fund of the corporation upon the unanimous affirmative vote of the members of the board of directors and used solely for the purpose of redeeming the corporation's bonds not otherwise due and due to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding.

§ 4. Such law is amended by adding a new section three thousand thirty-six to read as follows:

§ 1036-p. Limitation on withdrawal or transfer of funds. 1. No moneys of any fund created, required or authorized by this title or authorized pursuant to title one of this article and under the control of the corporation shall be used for any purposes other than the express purposes of the fund or for redeeming the bonds of the corporation not otherwise due, except:

2. No moneys of any such fund which are determined by the board of directors of the corporation to be in excess of the needs of the fund shall be withdrawn or transferred to any other fund or for or to any other purpose except to the capital reserve fund and to be used solely for the purposes of such fund specified by this title, or for redeeming the bonds of the corporation not otherwise due.

§ 5. This act shall take effect immediately.
11 March 1987

Senator John J. Marchi
Chairman, Finance Committee
NEW YORK STATE SENATE
The Capitol
Albany, N.Y. 12247

Re: S-2259

Dear Senator Marchi:

This letter is in response to a request from the Senate Finance Committee Staff for the views of the Municipal Assistance Corporation regarding Senate Bill 2259. I would like to express strong concern over the provisions of the bill, which was reported by the Senate Committee on Corporations, Authorities and Commissions on March 10, 1987.

This bill was brought to our attention on the eve of its consideration by the Corporations Committee. In that time frame, we were unable either to speak to its sponsor, Senator Mary Goodhue, or to submit any correspondence.

The terms of the proposed legislation are specific to the Municipal Assistance Corporation. They appear to seek to impose both procedural and substantive restrictions upon future refunding transactions of the Corporation, and to impose new conditions upon the disposition of its moneys.

At present, the Corporation has outstanding over $8 billion of bonds issued pursuant to two general resolutions adopted in accordance with the provisions of our enabling act. Proposals which could potentially alter the flow of funds of the Corporation as prescribed in present statute and bond covenant could pose significant questions of law.

In addition, based upon existing funding mechanisms provided by statute and resolution, the Corporation has entered into two agreements with the Governor of the State of New York and the Mayor of the City of New York to make available a total of $2.675 billion of the Corporation's resources for important public purposes. Among these commitments is $925 million for capital projects of the New York City Transit Authority, which constitutes a critical component of the
overall financing program for the New York State Metropolitan Transportation Authority. These resources are to come from refunding savings, capital reserve releases and investment income. It would be unfortunate if new legislation were to jeopardize the ongoing refunding program or the availability of any of these funds.

For all of the reasons summarized above, I respectfully request that Senate Bill 2259 be recommitted to the Finance Committee for further deliberation, or other appropriate parliamentary procedures invoked.

I very much appreciate the opportunity to express our views on this matter so important to the Corporation and the State. Thank you for your consideration.

Sincerely,

[Signature]

Stephen J. Weinstein
Executive Director

cc: Senator Richard E. Schermerhorn
Chairman
Committee on Corporations, Authorities and Commissions

Mr. Eugene K. Tyksinski
Secretary
Senate Finance Committee

aa: 201
Introduced by Sen. GOODHUE—read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions.

AN ACT to amend the public authorities law, in relation to the use of certain funds by the municipal assistance corporation for the city of New York.

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

1. Section three thousand thirty-three of the public authorities law is amended by adding a new subdivision six to read as follows:

   6. Subject to any contrary agreement with the holders of particular notes or bonds, on and after the date on which the provisions of this subdivision become effective no renewal or refunding of any outstanding note or bond shall be authorized except pursuant to a resolution concurred in, on or after such date by the unanimous affirmative vote of the members of the board of the corporation and expressly providing for such renewal or refunding and only in the event that such bond or note will bear interest at a rate or rates equal to or less than that of the note or bond being so refunded or refunded.

2. Subdivision three of section three thousand thirty-six of such law, as amended by chapter two hundred one of the laws of nineteen hundred seventy-eight, is amended to read as follows:

   3. The corporation shall create and establish a special fund (herein referred to as capital reserve fund), and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from other sources.

EXPLANATION—Matter in italics (underscored) is new matter. In brackets [ ] is old law to be omitted.
any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporation, the payment of interest of such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision three of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes, such excess moneys may be withdrawn from the capital reserve fund by the corporation upon the unanimous affirmative vote of the members of the board of directors and used solely for the purpose of redeeming the corporation's bonds not otherwise yet due provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise due or becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may (likewise be) withdrawn by the corporation upon the unanimous affirmative vote of the members of the board of directors and used solely for the purpose of redeeming the corporation's bonds not otherwise yet due to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding.

§ 3. Subdivision two of section three thousand thirty-six of the laws of nineteen hundred thirty-five, is amended to read as follows:

... 2. The corporation shall create and establish a capital reserve fund, as an additional special fund, and shall pay into such capital reserve fund (I) any moneys appropriated and made available by the state for the purposes of such fund, (II) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation or the issuance thereof, and (III) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or source. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes secured by such capital reserve fund, such excess moneys may be withdrawn from the capital reserve fund by the corporation upon the unanimous