

PROGRAM BILL # 216

S. _____
Senate

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.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

EXECLA

(Establishes the executive ethics
and compliance commission; repealer)

Pub Off. ethics compliance comms

AN ACT

to amend the public officers law and
the executive law, in relation to
establishing the executive ethics
and compliance commission; to amend
the legislative law, in relation to
the creation of the New York state
commission on lobbying ethics and
compliance; to amend the legislative
law, in relation to establishing the
legislative commission on ethics and
compliance and to repeal certain
provisions of such law relating to
ethics; and to amend the public
officers law, in relation to ethics

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s20 Adams	s03 Foley	s24 Lanza	s12 Onorato	s09 Skelos
s15 Addabbo	s08 Fuschillo	s39 Larkin	s37 Oppenheimer	s14 Smith
s55 Alesi	s22 Golden	s01 LaValle	s11 Padavan	s25 Squadron
s48 Aubertine	s47 Griffo	s40 Leibell	s21 Parker	s58 Stachowski
s42 Bonacic	s06 Hannon	s52 Libous	s30 Perkins	s16 Stavisky
s46 Breslin	s36 Hassell-	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	Thompson	s05 Marcellino	s56 Robach	Cousins
s32 Diaz	s10 Huntley	s62 Maziarz	s41 Saland	s60 Thompson
s17 Dilan	s07 Johnson, C.	s43 McDonald	s19 Sampson	s49 Valesky
s29 Duane	s04 Johnson, O.	s13 Monserrate	s23 Savino	s59 Volker
s33 Espada	s34 Klein	s18 Montgomery	s31 Schneiderman	s53 Winner
s44 Farley	s26 Krueger	s38 Morahan	s28 Serrano	s57 Young
s02 Flanagan	s27 Kruger	s54 Nozzolio	s51 Seward	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a032 Cook	a028 Hevesi	a102 Miller, J.	a012 Saladino
a001 Alessi	a142 Corwin	a048 Hikind	a038 Miller, M.	a113 Sayward
a021 Alfano	a085 Crespo	a018 Hooper	a052 Millman	a029 Scarborough
a105 Amedore	a107 Crouch	a144 Hoyt	a103 Molinaro	a016 Schimel
a084 Arroyo	a063 Cusick	a060 Hyer-Spencer	a132 Morelle	a140 Schimlinger
a035 Aubry	a045 Cymbrowitz	a042 Jacobs	a037 Nolan	a145 Schroeder
a136 Bacalles	a138 DelMonte	a095 Jaffee	a128 Oaks	a122 Scozzafava
a099 Ball	a034 DenDekker	a057 Jeffries	a069 O'Donnell	a064 Silver
a124 Barclay	a116 Destito	a131 John	a137 O'Mara	a100 Skartados
a014 Barra	a081 Dinowitz	a112 Jordan	a051 Ortiz	a093 Spano
a040 Barron	a114 Duprey	a074 Kavanagh	a150 Parment	a121 Stirpe
a082 Benedetto	a004 Englebright	a065 Kellner	a088 Paulin	a011 Sweeney
a079 Benjamin	a130 Errigo	a129 Kolb	a141 Peoples-	a110 Tedisco
a073 Bing	a072 Espallat	a135 Koon	Stokes	a002 Thiele
a055 Boyland	a071 Farrell	a025 Lancman	a039 Feralta	a061 Titone
a008 Boyle	a005 Fields	a091 Latimer	a058 Perry	a031 Titus
a044 Brennan	a123 Finch	a013 Lavine	a023 Pheffer	a062 Tobacco
a092 Brodsky	a007 Fitzpatrick	a050 Lentol	a068 Powell	a054 Towns
a046 Brook-Krasny	a143 Gabryszak	a125 Lifton	a087 Pretlow	a115 Townsend
a147 Burling	a090 Galef	a127 Lopez, P.	a146 Quinn	a041 Weinstein
a117 Butler	a133 Gantt	a053 Lopez, V.	a097 Rabbitt	a020 Weisenberg
a101 Cahill	a036 Gianaris	a126 Lupardo	a009 Raia	a070 Wright
a096 Calhoun	a077 Gibson	a111 Magee	a006 Ramos	a094 Zebrowski
a043 Camara	a149 Giglio	a120 Magnarelli	a134 Reilich	a003
a106 Canestrari	a066 Glick	a059 Maisel	a109 Reilly	a015
a026 Carrozza	a108 Gordon	a030 Markey	a078 Rivera, J.	a024
a086 Castro	a075 Gottfried	a027 Meyersohn	a080 Rivera, N.	a089
a119 Christensen	a098 Gunther	a019 McDonough	a076 Rivera, P.	
a033 Clark	a139 Hawley	a104 McEneny	a056 Robinson	
a047 Colton	a148 Hayes	a017 McKevitt	a067 Rosenthal	
a010 Conte	a083 Heastie	a022 Meng	a118 Russell	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

reports; to amend the legislative law and the public officers law, in relation to financial disclosure of public officers; to amend the election law, in relation to a state board of elections enforcement unit and counsel, personal use of campaign funds, filing requirements, political communication, independent expenditure reporting, enforcement proceeding and penalties for violations; to repeal certain provisions of the election law relating to filing of statements; to amend the civil service law, in relation to certain violations; to repeal certain provisions of the legislative law relating to prohibited activities of legislative employees; and providing for the repeal of certain provisions upon the expiration thereof

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

1 Section 1. The public officers law is amended by adding a new section
2 73-e to read as follows:

3 § 73-e. Designating commission for the legislative and executive
4 ethics and compliance commissions. 1. Definitions. For the purpose of
5 this article, the following terms shall have the following meanings:

6 a. "Designating commission" means the designating commission for the
7 executive and legislative ethics and compliance commissions.

8 b. "Designating members" means the members of the designating commis-
9 sion for the legislative and executive ethics and compliance commission.

10 c. "Commissioner" means a member of either the state government ethics
11 commission or the legislative and executive ethics and compliance
12 commission.

13 d. "Candidate" means any individual under consideration for commis-
14 sioner by the designating commission.

15 e. "Appointing officer" means the state elected official responsible
16 for appointing the designating members.

17 2. Organization of the designating commission. a. A designating
18 commission for the executive and legislative ethics and compliance
19 commissions is hereby established. The designating commission shall
20 consist of ten members of whom four shall be appointed by the governor,
21 and one each by the attorney general, the state comptroller, the speaker
22 of the assembly, the temporary president of the senate, the minority
23 leader of the senate, and the minority leader of the assembly. Of the
24 four members appointed by the governor, no more than two shall be
25 enrolled in the same political party. The governor shall appoint at
26 least one former judge or justice of the unified court system to such
27 designating commission. No member of the designating commission shall be
28 a member of the legislature, an employee of state government, hold any

1 office in any political party or be a registered lobbyist in this state
2 or in any other state. No member of the designating commission shall be
3 a partner, of counsel or otherwise employed by a lobbying firm or any
4 entity receiving a state contract that shares in any part of the profit
5 derived from lobbying. To the extent possible, the members of the desig-
6 nating commission shall be individuals with knowledge or experience in
7 the field of government ethics.

8 b. The members first appointed by the governor shall have respectively
9 one, two, three and four-year terms as he shall designate. The member
10 first appointed by the attorney general shall have a two-year term. The
11 member first appointed by the state comptroller shall have a two-year
12 term. The member first appointed by the temporary president of the
13 senate shall have a one-year term. The member first appointed by the
14 minority leader of the senate shall have a two-year term. The member
15 first appointed by the speaker of the assembly shall have a four-year
16 term. The member first appointed by the minority leader of the assembly
17 shall have a three-year term. Each subsequent appointment shall be for
18 a term of four years.

19 c. A vacancy shall be deemed to occur immediately upon the appointment
20 or election of any member to an office that would disqualify him for
21 appointment to, or membership on, the designating commission. A vacancy
22 occurring for any reason other than by expiration of term shall be
23 filled by the appointing officer for the remainder of the unexpired
24 term. No member of the designating commission shall hold office for
25 more than ninety days after the expiration of his or her term. If the
26 appointing officer fails to appoint a person to a vacant office, by a
27 majority vote without vacancy, the designating commission shall select a
28 person to fill the vacant office.

1 d. The members shall designate one of their number to serve as chair-
2 man for a period of two years or until his or her term of office
3 expires, whichever period is shorter.

4 e. Each member of the designating commission shall not receive compen-
5 sation but be entitled to receive his or her actual and necessary
6 expenses incurred in the discharge of his or her duties.

7 f. Eight members of the designating commission shall constitute a
8 quorum.

9 3. Functions of the designating commission. a. The designating commis-
10 sion shall consider and evaluate the qualifications of candidates for
11 appointment to the office of commissioner of both legislative and execu-
12 tive ethics and compliance commissions and, as a vacancy occurs in any
13 such office, shall appoint persons who by their character, temperament,
14 professional aptitude and experience are well qualified to hold such
15 office.

16 b. An appointment to commissioner of either the legislative or execu-
17 tive ethics and compliance commissions by the designating commission
18 shall require the concurrence of seven members of the designating
19 commission. The appointment shall be transmitted to the governor, the
20 temporary president of the senate, the speaker of the assembly, the
21 minority leader of the senate and the minority leader of the assembly in
22 a single written report, which shall be released to the public by the
23 designating commission at the time it is submitted. The report shall be
24 in writing, signed only by the chairman, and shall include the designat-
25 ing commission's findings relating to the character, temperament,
26 professional aptitude, experience, qualifications and fitness for office
27 of each candidate who is appointed commissioner.

1 c. No person shall be appointed commissioner by the designating
2 commission who has not consented to be a candidate, who has not been
3 personally interviewed by a quorum of the membership of the designating
4 commission, and who has not filed a financial statement with the desig-
5 nating commission, on a form to be prescribed by the designating commis-
6 sion. The financial statement shall consist of a sworn statement of the
7 person's assets, liabilities and sources of income, and any other rele-
8 vant financial information which the designating commission may require.
9 The designating commission shall transmit the financial statement filed
10 by each person who is appointed to the governor, the attorney general,
11 the state comptroller, the temporary president of the senate, the speak-
12 er of the assembly, the minority leader of the senate and the minority
13 leader of the assembly. The designating commission shall make available
14 to the public the financial statement filed by the person who is
15 appointed to fill a vacancy. The financial statements filed by all other
16 persons not appointed by the designating commission shall be confiden-
17 tial.

18 4. Additional functions of the designating commission. The designating
19 commission shall have the following functions, powers and duties:

20 a. Establish detailed communication procedures to assure that persons
21 who may be qualified for appointment to commissioner, other than those
22 who have requested consideration or who have been recommended for
23 consideration by others, are encouraged to agree to be considered by the
24 designating commission. The total number of requests for consideration
25 shall be documented for the public record.

26 b. Conduct investigations, administer oaths or affirmations, interview
27 witnesses and compel their attendance, examine them under oath or affir-
28 mation and require the production of any books, records, documents or

1 other evidence that it may deem relevant or material to its evaluation
2 of candidates for commissioner.

3 c. Require from any court, department, division, board, bureau,
4 commission, or other agency of the state or political subdivision there-
5 of or any public authority such assistance, information and data, as
6 will enable it properly to evaluate the qualifications of candidates,
7 subject to any absolute judicial or executive privilege, where one
8 exists.

9 Notwithstanding any other provision of law, the designating commis-
10 sion, with the consent of the applicant, shall be entitled to require
11 from any formal deliberative body any formal written complaint against a
12 candidate, in which the applicant's misconduct was established, any
13 pending complaint against a candidate, and the record to date of any
14 pending proceeding pursuant to a formal written complaint against such
15 candidate. The deliberative body that has jurisdiction over such
16 complaint shall have fifteen days within which to respond to a request
17 made pursuant to this subdivision.

18 d. Require the appearance of any candidate before it and interview any
19 person concerning the qualifications of any candidate.

20 e. Establish procedures to communicate with the governor, the attorney
21 general, the state comptroller, the temporary president of the senate,
22 the speaker of the assembly, the minority leader of the senate and the
23 minority leader of the assembly concerning the qualifications of any
24 person who it has appointed as commissioner.

25 f. Appoint, and at pleasure remove, a counsel and such other staff as
26 it may require from time to time, and prescribe their powers and duties.
27 The designating commission shall fix the compensation of its staff and

1 provide for reimbursement of their expenses within the amounts appropri-
2 ated by law.

3 g. Do all other things necessary and convenient to carry out its func-
4 tions pursuant to this article.

5 5. Rules of the designating commission. a. The designating commission
6 shall adopt, and may amend, written rules of procedure not inconsistent
7 with law.

8 b. Rules of the designating commission shall be filed with the secre-
9 tary of state and shall be published in the official compilation of
10 codes, rules and regulations of the state. Upon request of any person,
11 the secretary of state shall furnish a copy of the designating commis-
12 sion's rules without charge.

13 c. Rules of the designating commission may prescribe forms and ques-
14 tionnaires to be completed and, if required by the designating commis-
15 sion, verified by candidates.

16 d. Rules of the designating commission shall provide that upon the
17 completion by the designating commission of its consideration and evalu-
18 ation of the qualifications of a candidate, there shall be no reconsid-
19 eration of such candidate for the vacancy for which he was considered,
20 except with the concurrence of eight members of the designating commis-
21 sion.

22 6. Confidentiality of proceedings and records. a. All communications
23 to the designating commission, and its proceedings, and all applica-
24 tions, correspondence, interviews, transcripts, reports and all other
25 papers, files and records of the designating commission shall be confi-
26 dential and privileged and, except for the purposes of article two
27 hundred ten of the penal law, shall not be made available to any person
28 except as otherwise provided in this article.

1 b. Neither the commissioners of either the legislative or executive
2 ethics and compliance commissions, members of the designating commission
3 nor its staff shall publicly divulge the names of, or any information
4 concerning, any candidate except as otherwise provided in this article.
5 Any violation of this subdivision shall be a class A misdemeanor.

6 7. Procedures when vacancies occur. a. Whenever a vacancy will occur
7 in the office of commissioner of either ethics commission by expiration
8 of a term, the commissioners of either ethics commission shall notify
9 the designating commission of the anticipated vacancy no later than
10 seven months preceding the vacancy. The designating commission shall
11 make its appointment to either ethics commission on or before the date
12 of expiration, to take effect on the day following such expiration.

13 b. Whenever a vacancy occurs other than by expiration of term, the
14 commissioners of either ethics commission shall immediately notify the
15 designating commission of such vacancy. The designating commission shall
16 make its appointment no later than one hundred twenty days after receipt
17 of such notice.

18 § 2. Section 94 of the executive law, as added by chapter 813 of the
19 laws of 1987, the section heading and subdivisions 1, 2, 3, 4, 5, 6, 7
20 and 8 as amended by section 2, subdivisions 9, 10, 11, 12, 13, 14, 16
21 and 17 as amended and subdivisions 13-a, 16-a and 18 as added by section
22 2-a, paragraph (1) of subdivision 9 as amended by section 3, paragraph
23 (c) of subdivision 12 as amended by section 4, subdivision 15 as amended
24 by section 5, and paragraphs (a) and (b) of subdivision 17 as amended by
25 section 6 of chapter 14 of the laws of 2007, is amended to read as
26 follows:

27 § 94. [Commission on public integrity; functions, powers and duties;
28 review of financial disclosure statements; advisory opinions; investi-

1 gation and enforcement] Executive ethics and compliance commission. 1.
2 There is established within the department of state [a commission on
3 public integrity] an executive ethics and compliance commission which
4 shall consist of [thirteen] five members and shall have and exercise the
5 powers and duties set forth in this section only with respect to state-
6 wide elected officials [and], state officers and employees, as defined
7 in sections seventy-three and seventy-three-a of the public officers
8 law, candidates for statewide elected office, [and the] a political
9 party chairman as [that term is] defined in paragraph (k) of subdivision
10 one of section [seventy-three-a] seventy-three of the public officers
11 law, lobbyists and the clients of lobbyists as such terms are defined in
12 article one-A of the legislative law, and individuals who have formerly
13 held such positions, were lobbyists or clients of lobbyists, as such
14 terms are defined in article one-A of the legislative law, or who have
15 formerly been such candidates except as provided in paragraph (c) of
16 subdivision twelve of this section. This section shall not revoke or
17 rescind any regulations or advisory opinions issued by the state ethics
18 commission [and], the temporary lobbying commission and the commission
19 on public integrity in effect upon the effective date of [a] the chapter
20 of the laws of two thousand [seven] ten which amended this section to
21 the extent that such regulations or opinions are not inconsistent with
22 any law of the state of New York, but such regulations and opinions
23 shall apply only to matters over which such commissions had jurisdiction
24 at the time such regulations and opinions were promulgated or issued.
25 The commission shall undertake a comprehensive review of all such regu-
26 lations and opinions, which will address the consistency of such regu-
27 lations and opinions among each other and with the [new] statutory
28 language. The commission shall, before April first, two thousand [eight]

1 eleven, report to the governor and legislature regarding such review and
2 shall propose any regulatory changes and issue any advisory opinions
3 necessitated by such review.

4 2. The five members of the commission shall be appointed [by the
5 governor provided, however, that one member shall be appointed on the
6 nomination of the comptroller, one member shall be appointed on the
7 nomination of the attorney general, one member shall be appointed on the
8 nomination of the temporary president of the senate, one member shall be
9 appointed on the nomination of the speaker of the assembly, one member
10 shall be appointed on the nomination of the minority leader of the
11 senate, and one member shall be appointed on the nomination of the
12 minority leader of the assembly. Of the seven members appointed by the
13 governor without prior nomination, no more than four members shall
14 belong to the same political party and no members shall be public offi-
15 cers or employees or hold any public office, elected or appointed.] by
16 the designating commission of the legislative and executive ethics and
17 compliance commission as defined in section seventy-three-e of the
18 public officers law. No member shall be or shall have been within the
19 preceding five years a member of the legislature, a candidate for member
20 of the legislature, an employee of the legislature, a political party
21 chairman as defined in paragraph (k) of subdivision one of section
22 seventy-three of the public officers law, a state officer or employee as
23 defined by paragraph (i) of subdivision one of section seventy-three of
24 the public officers law, or a lobbyist as defined in subdivision (a) of
25 section one-c of the legislative law required to register in New York
26 state or any other jurisdiction.

27 3. Members of the commission shall [serve] begin by randomly serving
28 for staggered terms of [five] four years[; provided, however, that of

1 the members first appointed without prior nomination, one shall serve
2 for one year, one shall serve for two years, one shall serve for three
3 years, and one shall serve for four years, as designated by the gover-
4 nor; the members first appointed on the nominations of the comptroller
5 and the temporary president of the senate shall serve for four years and
6 the members first appointed on the nominations of the attorney general
7 and the speaker of the assembly shall serve for two years].

8 4. The [governor shall designate the chairman of the commission from
9 among the members thereof, who shall serve as chairman at the pleasure
10 of the governor] chairperson of the commission shall be elected by the
11 members of the commission by a majority vote of the total number of
12 members of the commission. The [chairman] chairperson or any [seven]
13 three members of the commission may call a meeting.

14 5. Any vacancy occurring on the commission shall be filled within
15 sixty days of its occurrence, [by the governor,] in the same manner as
16 the member whose vacancy is being filled was appointed. A person
17 appointed to fill a vacancy occurring other than by expiration of a term
18 of office shall be appointed for the unexpired term of the member he
19 succeeds. In the event of a vacancy, the appointing authority must
20 appoint a member of the commission from a political party other than
21 that of the appointing authority's already seated member of the commis-
22 sion.

23 6. [Seven] Three members of the commission shall constitute a quorum,
24 and the commission shall have power to act by majority vote of the total
25 number of members of the commission without vacancy.

26 7. Members of the commission may be removed by the [governor] appoint-
27 ing authority for substantial neglect of duty, gross misconduct in
28 office, inability to discharge the powers or duties of office or

1 violation of this section, after written notice and opportunity for a
2 reply.

3 8. The members of the commission shall [not] receive [compensation
4 but] a per diem allowance in the sum of one hundred dollars for each day
5 actually spent in the performance of his or her duties under this arti-
6 cle, not exceeding, however, the sum of five thousand dollars in any
7 calendar year and in addition thereto shall be reimbursed for all
8 reasonable expenses actually and necessarily incurred in the performance
9 of their official duties.

10 9. The commission shall:

11 (a) Appoint an executive director who shall act in accordance with the
12 policies of the commission. The commission may delegate authority to the
13 executive director to act in the name of the commission between meetings
14 of the commission provided such delegation is in writing and the specif-
15 ic powers to be delegated are enumerated. The executive director shall
16 be appointed for a term of three years and shall be dismissed only for
17 cause by a majority vote of the commission;

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

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

1 (d) Adopt, amend, and rescind rules and regulations to assist appoint-
2 ing authorities in determining which persons hold policy-making posi-
3 tions for purposes of section seventy-three-a of the public officers
4 law;

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

8 (f) Review financial disclosure statements in accordance with the
9 provisions of this section, provided however, that the commission may
10 delegate all or part of this review function to the executive director
11 who shall be responsible for completing staff review of such statements
12 in a manner consistent with the terms of the commission's delegation.
13 Such review shall require that all statements of financial disclosure
14 filed with the commission be examined to ensure that each statement is
15 facially complete and signed by the reporting individual;

16 (g) [Receive] In addition to any other powers and duties provided by
17 section seventy-three-e of the public officers law, the commission
18 shall, with respect to its lobbying-related functions only, have the
19 power and duty to:

20 (i) administer and enforce all the provisions of this article;

21 (ii) conduct any investigation necessary to carry out the provisions
22 of this article at any place within the state. Pursuant to this power
23 and duty, the commission may administer oaths or affirmations, subpoena
24 witnesses, compel their attendance and require the production of any
25 books or records which it may deem relevant or material;

26 (iii) conduct a program of regular as well as random audits subject to
27 the terms and conditions of this subdivision. Any such program shall be
28 carried out in the following manner:

1 (A) The commission may regularly and randomly select reports or regis-
2 tration statements required to be filed by lobbyists or clients pursuant
3 to this section for audit. Any such selection shall be done in a manner
4 pursuant to which the identity of any particular lobbyist or client
5 whose statement or report is selected for audit is unknown to the
6 commission, its staff or any of their agents prior to selection.

7 (B) The commission shall develop protocols for the conduct of such
8 regular and random audits. Such regular and random audits may require
9 the production of books, papers, records or memoranda relevant and mate-
10 rial to the preparation of the selected statements or reports, for exam-
11 ination by the commission. Any such protocols shall ensure that similar-
12 ly situated statements or reports are audited in a uniform manner.

13 (C) The commission may contract with an outside accounting entity,
14 which shall monitor the process pursuant to which the commission selects
15 statements or reports for audit and carries out the provisions of claus-
16 es (A) and (B) of this subparagraph and certifies that such process
17 complies with the provisions of such clauses.

18 (D) Upon completion of a regular or random audit conducted in accord-
19 ance with the provisions of clauses (A), (B) and (C) of this subpara-
20 graph, the commission shall determine whether there is reasonable cause
21 to believe that any such statement or report is inaccurate or incom-
22 plete. Upon a determination that such reasonable cause exists, the
23 commission may require the production of further books, records or memo-
24 randa, subpoena witnesses, compel their attendance and testimony and
25 administer oaths or affirmations, to the extent the commission deter-
26 mines such actions are necessary to obtain information relevant and
27 material to investigating such inaccuracies or omissions;

1 (iv) conduct hearings pursuant to article seven of the public officers
2 law. Any hearing may be conducted as a video conference in accordance
3 with the provisions of subdivision four of section one hundred four of
4 the public officers law;

5 (v) prepare uniform forms for the lobbying-related statements and
6 reports required by this subdivision;

7 (vi) meet at least once during each bi-monthly reporting period of the
8 year as established by paragraph (a) of subdivision seven of this
9 section and may meet at such other times as the commission, or the chair
10 and vice-chair jointly, shall determine; and

11 (vii) submit by the first day of March next following the year for
12 which such report is made to the governor and the members of the legis-
13 lature an annual report summarizing the commission's work, listing the
14 lobbyists and clients required to register pursuant to this section and
15 the expenses and compensation reported pursuant to this section and
16 making recommendations with respect to this section. The commission
17 shall make this report available free of charge to the public.

18 (h) Initiate or receive complaints and referrals alleging violations
19 of section seventy-three, seventy-three-a or seventy-four of the public
20 officers law, article one-A of the legislative law or section one
21 hundred seven of the civil service law;

22 [(h)] (i) Permit any person subject to the jurisdiction of the commis-
23 sion who is required to file a financial disclosure statement to request
24 the commission to delete from the copy thereof made available for public
25 inspection and copying one or more items of information which may be
26 deleted by the commission upon a finding by the commission that the
27 information which would otherwise be required to be made available for
28 public inspection and copying will have no material bearing on the

1 discharge of the reporting person's official duties. If such request for
2 deletion is denied, the commission, in its notification of denial, shall
3 inform the person of his or her right to appeal the commission's deter-
4 mination pursuant to its rules governing adjudicatory proceedings and
5 appeals adopted pursuant to subdivision thirteen of this section;

6 ~~[(i)]~~ (j) Permit any person subject to the jurisdiction of the commis-
7 sion who is required to file a financial disclosure statement to request
8 an exemption from any requirement to report one or more items of infor-
9 mation which pertain to such person's spouse or unemancipated children
10 which item or items may be exempted by the commission upon a finding by
11 the commission that the reporting individual's spouse, on his or her own
12 behalf or on behalf of an unemancipated child, objects to providing the
13 information necessary to make such disclosure and that the information
14 which would otherwise be required to be reported will have no material
15 bearing on the discharge of the reporting person's official duties. If
16 such request for exemption is denied, the commission, in its notifica-
17 tion of denial, shall inform the person of his or her right to appeal
18 the commission's determination pursuant to its rules governing adjudica-
19 tory proceedings and appeals adopted pursuant to subdivision thirteen of
20 this section;

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

25 ~~[(k)]~~ (l) Permit any person who has not been determined by his or her
26 appointing authority to hold a policy-making position but who is other-
27 wise required to file a financial disclosure statement to request an
28 exemption from such requirement in accordance with rules and regulations

1 governing such exemptions. Such rules and regulations shall provide for
2 exemptions to be granted either on the application of an individual or
3 on behalf of persons who share the same job title or employment classi-
4 fication which the commission deems to be comparable for purposes of
5 this section. Such rules and regulations may permit the granting of an
6 exemption where, in the discretion of the commission, the public inter-
7 est does not require disclosure and the applicant's duties do not
8 involve the negotiation, authorization or approval of:

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

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

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

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

17 [(1)] (m) Prepare an annual report to the governor and legislature
18 summarizing the activities of the commission during the previous year
19 and recommending any changes in the laws governing the conduct of
20 persons subject to the jurisdiction of the commission, or the rules,
21 regulations and procedures governing the commission's conduct. Such
22 report shall be posted on the commission's website and shall include:

23 (i) the number of reporting individuals whose files were reviewed pursu-
24 ant to subdivision (p) of this section during the previous year and
25 which, if any, classes of reporting individuals were selected for class
26 review rather than random review; (ii) a listing by assigned number of
27 each complaint and referral received which alleged a possible violation
28 within its jurisdiction, including the current status of each

1 complaint[,]; and [(ii)] (iii) where a matter has been resolved, the
2 date and nature of the disposition and any sanction imposed, subject to
3 the confidentiality requirements of this section, provided, however,
4 that such annual report shall not contain any information for which
5 disclosure is not permitted pursuant to subdivision seventeen of this
6 section; [and]

7 [(m)] (n) Determine a question common to a class or defined category
8 of persons or items of information required to be disclosed, where
9 determination of the question will prevent undue repetition of requests
10 for exemption or deletion or prevent undue complication in complying
11 with the requirements of such section[.];

12 (o) Prepare and issue a report by December first, two thousand eleven
13 to the governor and the legislature recommending any changes to the law
14 governing the filing of annual statements of financial disclosure, which
15 shall include an analysis of the statutes which require individuals to
16 file financial disclosure statements, the scope of disclosure required,
17 and alternative approaches to the current system, and recommendations as
18 to the appropriate scope of disclosure for different classes of individ-
19 uals, including those who serve in uncompensated positions; and

20 (p) Promulgate guidelines for the commission to conduct a program of
21 regular, real time audits, as well as full, random reviews. The reviews
22 are to be carried out in the following manner: (i) annual statements of
23 financial disclosure shall be selected for review in a manner pursuant
24 to which the identity of any particular person whose statement is
25 selected is unknown to the commission and its staff prior to its
26 selection; (ii) such review shall include a preliminary examination of
27 the selected statement for internal consistency, a comparison with other
28 records maintained by the commission, including previously filed state-

1 ments and requests for advisory opinions, and an examination of relevant
2 public information, including, but not limited to, records filed with
3 the legislative ethics and compliance commission and the department of
4 state; (iii) upon completion of the preliminary examination, the commis-
5 sion shall determine whether further inquiry is warranted, whereupon it
6 shall notify the reporting individual in writing that the statement is
7 under review, advise the reporting individual of the specific areas of
8 inquiry, and provide the reporting individual with the opportunity to
9 provide the commission with any relevant information related to the
10 specific areas of inquiry, and the opportunity to file amendments to the
11 selected statement on forms provided by the commission; and (iv) if
12 thereafter sufficient cause exists, the commission shall initiate an
13 investigation to determine whether the reporting individual has filed a
14 deficient statement; provided, however if the commission conducts a
15 review of all statements of financial disclosure filed by a class of
16 reporting individuals in the manner set forth in this paragraph with
17 respect to a given calendar year, the individuals within such class
18 shall not be subject to random review. For the purposes of this para-
19 graph, the classes of reporting individuals are (A) statewide elected
20 officials, (B) candidates for statewide office, (C) heads of state
21 departments and their deputies and assistants pursuant to subparagraph
22 (i) of paragraph (i) of subdivision one of section seventy-three of the
23 public officers law, and (D) other state officers and employees.

24 10. The commission, or the executive director and staff of the
25 commission if responsibility therefor has been delegated, shall inspect
26 all financial disclosure statements filed with the commission to ascer-
27 tain whether any person subject to the reporting requirements of section
28 seventy-three-a of the public officers law has failed to file such a

1 statement, has filed a deficient statement or has filed a statement
2 which reveals a possible violation of section seventy-three, seventy-
3 three-a or seventy-four of the public officers law.

4 11. If a person required to file a financial disclosure statement
5 with the commission has failed to file a disclosure statement or has
6 filed a deficient statement, the commission shall notify the reporting
7 person in writing, state the failure to file or detail the deficiency,
8 provide the person with a fifteen day period to cure the deficiency, and
9 advise the person of the penalties for failure to comply with the
10 reporting requirements. Such notice shall be confidential. If the person
11 fails to make such filing or fails to cure the deficiency within the
12 specified time period, the commission shall send a notice of delinquen-
13 cy: (a) to the reporting person; (b) in the case of a statewide elected
14 official, to the temporary president of the senate and the speaker of
15 the assembly; and (c) in the case of a state officer or employee, to the
16 appointing authority for such person. Such notice of delinquency may be
17 sent at any time during the reporting person's service as a statewide
18 elected official, state officer or employee, political party chair or
19 while a candidate for statewide office, or within one year after termi-
20 nation of such service or candidacy. The jurisdiction of the commission,
21 when acting pursuant to subdivision thirteen of this section with
22 respect to financial disclosure, shall continue notwithstanding that the
23 reporting person separates from state service, or ceases to hold office
24 as a statewide elected official or political party chair, or ceases to
25 be a candidate, provided the commission notifies such person of the
26 alleged failure to file or deficient filing pursuant to this subdivi-
27 sion.

1 12. (a) If the commission receives a sworn complaint alleging a
2 violation of section seventy-three, seventy-three-a or seventy-four of
3 the public officers law[,] or section one hundred seven of the civil
4 service law or article one-A of the legislative law by a person or enti-
5 ty subject to the jurisdiction of the commission, or if a reporting
6 individual has filed a statement which reveals a possible violation of
7 these provisions, or if the commission determines on its own initiative
8 to investigate a possible violation, the commission shall notify the
9 individual in writing, describe the possible or alleged violation of
10 such laws and provide the person with a fifteen day period in which to
11 submit a written response setting forth information relating to the
12 activities cited as a possible or alleged violation of law. The commis-
13 sion shall also, at the time of providing notice, inform the individual
14 of its rules regarding the conduct of adjudicatory proceedings and
15 appeals and the due process procedural mechanisms available to such
16 individual. If the commission thereafter makes a determination that
17 further inquiry is justified, it shall give the individual an opportu-
18 nity to be heard. [The commission shall also inform the individual of
19 its rules regarding the conduct of adjudicatory proceedings and appeals
20 and the due process procedural mechanisms available to such individual.]
21 If the commission determines at any stage of the proceeding, that there
22 is no violation or that any potential conflict of interest violation has
23 been rectified, it shall [so advise the individual and the complainant,
24 if any] issue written notice to the individual and the complainant, if
25 any, stating the circumstances under which the matter has been rectified
26 and the complaint dismissed. All of the foregoing proceedings shall be
27 confidential.

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

8 (c) The jurisdiction of the commission when acting pursuant to this
9 section shall continue notwithstanding that a statewide elected official
10 or a state officer or employee separates from state service, or a poli-
11 tical party chair ceases to hold such office, or a candidate ceases to
12 be a candidate, or a lobbyist or client of a lobbyist ceases to act as
13 such, provided that the commission notifies such individual or entity of
14 the alleged violation of law pursuant to paragraph (a) of this subdivi-
15 sion within one year from his or her separation from state service or
16 his or her termination of party service or candidacy, or from his, her
17 or its last report filed pursuant to article one-A of the legislative
18 law. Nothing in this section shall serve to limit the jurisdiction of
19 the commission in enforcement of subdivision eight of section seventy-
20 three of the public officers law.

21 13. An individual subject to the jurisdiction of the commission who
22 knowingly and intentionally violates the provisions of subdivisions two
23 through [five,] five-a, seven, eight, twelve [or], fourteen through
24 [seventeen] sixteen or eighteen of section seventy-three of the public
25 officers law, section one hundred seven of the civil service law, or a
26 reporting individual who knowingly and wilfully fails to file an annual
27 statement of financial disclosure or who knowingly and wilfully with
28 intent to deceive makes a false statement or fraudulent omission or

1 gives information which such individual knows to be false on such state-
2 ment of financial disclosure filed pursuant to section seventy-three-a
3 of the public officers law shall be subject to a civil penalty in an
4 amount not to exceed forty thousand dollars and the value of any gift,
5 compensation or benefit received as a result of such violation. An indi-
6 vidual who knowingly and intentionally violates the provisions of para-
7 graph b, c, d or i of subdivision three of section seventy-four of the
8 public officers law shall be subject to a civil penalty in an amount not
9 to exceed [ten] forty thousand dollars and the value of any gift,
10 compensation or benefit received as a result of such violation. An indi-
11 vidual who knowingly and intentionally violates the provisions of para-
12 graph a, e or g of subdivision three of section seventy-four of the
13 public officers law shall be subject to a civil penalty in an amount not
14 to exceed the value of any gift, compensation or benefit received as a
15 result of such violation. An individual subject to the jurisdiction of
16 the commission who knowingly and willfully violates article one-A of the
17 legislative law shall be subject to civil penalty as provided for in
18 that article. Assessment of a civil penalty hereunder shall be made by
19 the commission with respect to persons subject to its jurisdiction. In
20 assessing the amount of the civil penalties to be imposed, the commis-
21 sion shall consider the seriousness of the violation, the amount of gain
22 to the individual and whether the individual previously had any civil or
23 criminal penalties imposed pursuant to this section, and any other
24 factors the commission deems appropriate. For a violation of this subdivi-
25 sion, other than for conduct which constitutes a violation of section
26 one hundred seven of the civil service law, subdivisions twelve or four-
27 teen through [seventeen] sixteen or eighteen of section seventy-three or
28 section seventy-four of the public officers law or article one-A of the

1 legislative law, the commission may, in lieu of a civil penalty, refer a
2 violation to the appropriate prosecutor or to the Attorney General and
3 upon such conviction, such violation shall be punishable as a class A
4 misdemeanor. A civil penalty for false filing may not be imposed here-
5 under in the event a category of "value" or "amount" reported hereunder
6 is incorrect unless such reported information is falsely understated.
7 Notwithstanding any other provision of law to the contrary, no other
8 penalty, civil or criminal may be imposed for a failure to file, or for
9 a false filing, of such statement, or a violation of section seventy-
10 three of the public officers law, except that the appointing authority
11 may impose disciplinary action as otherwise provided by law. The commis-
12 sion may refer violations of this subdivision to the appointing authori-
13 ty for disciplinary action as otherwise provided by law. The commission
14 shall be deemed to be an agency within the meaning of article three of
15 the state administrative procedure act and shall adopt rules governing
16 the conduct of adjudicatory proceedings and appeals taken pursuant to a
17 proceeding commenced under article seventy-eight of the civil practice
18 law and rules relating to the assessment of the civil penalties herein
19 authorized and commission denials of requests for certain deletions or
20 exemptions to be made from a financial disclosure statement as author-
21 ized in paragraph (h) or paragraph (i) of subdivision nine of this
22 section. Such rules, which shall not be subject to the approval require-
23 ments of the state administrative procedure act, shall provide for due
24 process procedural mechanisms substantially similar to those set forth
25 in article three of the state administrative procedure act but such
26 mechanisms need not be identical in terms or scope. Assessment of a
27 civil penalty or commission denial of such a request shall be final
28 unless modified, suspended or vacated within thirty days of imposition,

1 with respect to the assessment of such penalty, or unless such denial of
2 request is reversed within such time period, and upon becoming final
3 shall be subject to review at the instance of the affected reporting
4 individuals in a proceeding commenced against the commission, pursuant
5 to article seventy-eight of the civil practice law and rules.

6 13-a. [If] Notwithstanding any other provision of law, if either the
7 [commission has] legislative or executive ethics and compliance commis-
8 sions have a reasonable basis to believe that any person subject to the
9 jurisdiction of [the legislative ethics] either the legislative or exec-
10 utive ethics and compliance commission on ethics and compliance may have
11 violated any provisions of section seventy-three or seventy-four of the
12 public officers law, article one-a of the [public officers] legislative
13 law or that any person subject to the jurisdiction of the state board of
14 elections may have violated article fourteen of the election law, it
15 shall refer such violation to the [legislative ethics commission]
16 commission responsible for oversight or to the board of elections, as
17 appropriate, unless the commission determines that such a referral would
18 compromise the prosecution or confidentiality of its investigations and,
19 if so, shall make such a referral as soon as practicable. The referral
20 by the commission responsible for oversight to the [legislative ethics
21 commission] board of elections, as appropriate, shall include any infor-
22 mation relating thereto coming into the custody or under the control of
23 the commission responsible for over-sight at any time prior or subse-
24 quent to the time of the referral.

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

1 15. Upon written request from any person who is subject to the juris-
2 diction of the commission and the requirements of sections seventy-
3 three, seventy-three-a or seventy-four of the public officers law, the
4 commission shall render advisory opinions on the requirements of said
5 provisions. An opinion rendered by the commission, until and unless
6 amended or revoked, shall be binding on the commission in any subsequent
7 proceeding concerning the person who requested the opinion and who acted
8 in good faith, unless material facts were omitted or misstated by the
9 person in the request for an opinion. Such opinion may also be relied
10 upon by such person, and may be introduced and shall be a defense, in
11 any criminal or civil action. Such requests shall be confidential but
12 the commission may publish such opinions provided that the name of the
13 requesting person and other identifying details shall not be included in
14 the publication.

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

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

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

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

27 (d) Conduct any investigation necessary to carry out the provisions of
28 this section. Pursuant to this power and duty, the commission may admin-

1 ister oaths or affirmations, subpoena witnesses, compel their attendance
2 and require the production of any books or records which it may deem
3 relevant or material[;].

4 16-a. Within one hundred twenty days of the effective date of this
5 subdivision, the commission shall create and thereafter maintain a
6 publicly accessible website which shall set forth the procedure for
7 filing a complaint with the commission, and which shall contain the
8 documents identified in subdivision seventeen of this section, other
9 than financial disclosure statements of state officers and employees,
10 and any other records or information which the commission determines to
11 be appropriate.

12 16-b. (a) When an individual becomes a member of the commission or
13 staff of the commission, that individual shall be required to sign a
14 non-disclosure statement.

15 (b) No testimony received or any other information obtained by a
16 member of the commission or staff of the commission shall be disclosed
17 by any such individual to any person or entity outside the commission.
18 Any confidential communication to any person or entity outside the
19 commission related to the matters before the commission may occur only
20 as authorized by the commission as necessary to conduct official busi-
21 ness or pursuant to commission rules or as required by law.

22 (c) The commission shall establish procedures necessary to prevent the
23 unauthorized disclosure of any information received by any member of the
24 commission or staff of the commission. Any breaches of confidentiality
25 shall be investigated by the commission and appropriate action shall be
26 taken in accordance with subdivision thirteen of this section.

1 17. (a) Notwithstanding the provisions of article six of the public
2 officers law, the only records of the commission which shall be avail-
3 able for public inspection and copying are:

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

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

11 (3) notices of reasonable cause sent under paragraph (b) of subdivi-
12 sion twelve of this section;

13 (4) notices of civil assessments imposed under this section which
14 shall include a description of the nature of the alleged wrongdoing, the
15 procedural history of the complaint, the findings and determinations
16 made by the commission, and any sanction imposed; and

17 (5) the terms of any settlement or compromise of a complaint or refer-
18 ral which includes a fine, penalty or other remedy; and

19 (6) those required to be held or maintained publicly available pursu-
20 ant to article one-A of the legislative law.

21 (b) Notwithstanding the provisions of article seven of the public
22 officers law, no meeting or proceeding, including any such proceeding
23 contemplated under paragraph (h) or (i) of subdivision nine of this
24 section, of the commission shall be open to the public, except if
25 expressly provided otherwise by the [commission] commissions or as is
26 required by article one-A of the legislative law, provided however that
27 the commissions shall meet publicly whenever it adopts, amends or

1 rescinds its policies, rules or regulations, promulgates its guidelines,
2 approves educational material, or adopts its annual report.

3 (c) Pending any application for deletion or exemption to the commis-
4 sion, all information which is the subject or a part of the application
5 shall remain confidential. Upon an adverse determination by the commis-
6 sion, the reporting individual may request, and upon such request the
7 commission shall provide, that any information which is the subject or
8 part of the application remain confidential for a period of thirty days
9 following notice of such determination. In the event that the reporting
10 individual resigns his office and holds no other office subject to the
11 jurisdiction of the commission, the information shall not be made public
12 and shall be expunged in its entirety.

13 18. If the commission becomes aware or is aware that alleged criminal
14 conduct that might also violate section seventy-three, seventy-three-a
15 or seventy-four of the public officers law is under investigation by a
16 federal, state or local law enforcement agency, or is being prosecuted
17 in local, state or federal court, the commission shall hold the matter
18 in abeyance until the criminal matter is resolved.

19 19. If any part or provision of this section or the application there-
20 of to any person or organization is adjudged by a court of competent
21 jurisdiction to be unconstitutional or otherwise invalid, such judgment
22 shall not affect or impair any other part or provision or the applica-
23 tion thereof to any other person or organization, but shall be confined
24 in its operation to such part or provision.

25 § 3. Section 1-b of the legislative law, as added by chapter 2 of the
26 laws of 1999, is amended to read as follows:

27 § 1-b. Short title. This article shall be known and may be cited as
28 the "Ethical Standards in Lobbying act of 2010".

1 § 4. Paragraph (i) of subdivision (c) and subdivision (j) of section
2 1-c of the legislative law, paragraph (i) of subdivision (c) as added by
3 chapter 1 of the laws of 2005 and subdivision (j) as added by chapter 14
4 of the laws of 2007, are amended and a new subdivision (w) is added to
5 read as follows:

6 (i) the passage or defeat of any legislation or resolution by either
7 house of the state legislature or approval or disapproval of any legis-
8 lation by the governor;

9 (j) The term "gift" shall mean anything of more than nominal value
10 given to a public official in any form including, but not limited to
11 money, service, loan, travel, lodging, meals, refreshments, enter-
12 tainment, discount, forbearance, or promise, having a monetary value.

13 The following are excluded from the definition of a gift:

14 (i) complimentary attendance, including food and beverage, at bona
15 fide charitable or political events[, and food and beverage of a nominal
16 value offered other than as part of a meal];

17 (ii) complimentary attendance, food and beverage offered by the spon-
18 sor of [an event that is] a widely attended [or was in good faith
19 intended to be widely attended, when attendance at the event is related
20 to the attendee's duties or responsibilities as a public official or
21 allows the public official to perform a ceremonial function appropriate
22 to his or her position] event. The term "widely attended event" shall
23 mean an event: (A) which at least twenty-five individuals other than
24 members, officers, or employees from the governmental entity in which
25 the public official serves attend or were, in good faith, intended to
26 attend, and (B) which is related to the attendee's duties or responsi-
27 bilities as determined in accordance with standards and guidance issued
28 by the ethics oversight body that has jurisdiction over the attendee or

1 which allows the public official to perform a ceremonial function appro-
2 priate to his or her position;

3 (iii) awards, plaques, and other ceremonial items which are publicly
4 presented, or intended to be publicly presented, in recognition of
5 public service, provided that the item or items are of the type custom-
6 arily bestowed at such or similar ceremonies and are otherwise reason-
7 able under the circumstances, and further provided that the functionali-
8 ty of such items shall not determine whether such items are permitted
9 under this paragraph;

10 (iv) an honorary degree bestowed upon a public official by a public or
11 private college or university;

12 (v) promotional items having no substantial resale value such as pens,
13 mugs, calendars, hats, and t-shirts which bear an organization's name,
14 logo, or message in a manner which promotes the organization's cause;

15 (vi) goods and services, or discounts for goods and services, offered
16 to the general public or a segment of the general public defined on a
17 basis other than status as a public official and offered on the same
18 terms and conditions as the goods or services are offered to the general
19 public or segment thereof;

20 (vii) gifts from a family member, member of the same household, or
21 person with a personal relationship with the public official, including
22 invitations to attend personal or family social events, when the circum-
23 stances establish that it is the family, household, or personal
24 relationship that is the primary motivating factor; in determining moti-
25 vation, the following factors shall be among those considered: (A) the
26 history and nature of the relationship between the donor and the recipi-
27 ent, including whether or not items have previously been exchanged; (B)
28 whether the item was purchased by the donor; and (C) whether or not the

1 donor at the same time gave similar items to other public officials; the
2 transfer shall not be considered to be motivated by a family, household,
3 or personal relationship if the donor seeks to charge or deduct the
4 value of such item as a business expense or seeks reimbursement from a
5 client;

6 (viii) contributions reportable under article fourteen of the election
7 law;

8 (ix) travel reimbursement or payment for transportation, meals and
9 accommodations for an attendee, panelist or speaker at an informational
10 event when such reimbursement or payment is made by a governmental enti-
11 ty or by an in-state accredited public or private institution of higher
12 education that hosts the event on its campus, provided, however, that
13 the public official may only accept lodging from an institution of high-
14 er education: (A) at a location on or within close proximity to the host
15 campus; and (B) for the night preceding and the nights of the days on
16 which the attendee, panelist or speaker actually attends the event;

17 (x) provision of local transportation to inspect or tour facilities,
18 operations or property [owned or operated by the entity providing such
19 transportation] located in New York state, provided, however, that such
20 inspection or tour is related to the individual's official duties or
21 responsibilities as determined in accordance with standards and guidance
22 issued by the ethics oversight board that has jurisdiction over the
23 individual and that payment or reimbursement of lodging, meals or travel
24 expenses to and from the locality where such facilities, operations or
25 property are located shall be considered to be gifts unless otherwise
26 permitted under this subdivision; [and]

1 (xi) meals or refreshments when participating in a professional or
2 educational program and the meals or refreshments are provided to all
3 participants; and

4 (xii) food or beverage valued at ten dollars or less offered other
5 than as part of a meal.

6 (w) The term "reportable business relationship" shall mean a relation-
7 ship in which compensation is paid by a lobbyist or by a client of a
8 lobbyist, in exchange for any goods, services, referrals for services or
9 anything of value including but not limited to any bonus, success fee or
10 other inducement to any individual that increases his or her personal
11 net wealth, the total value of which is in excess of one thousand
12 dollars annually, to be performed or provided by or intended to be
13 performed or provided by (i) any statewide elected official, state offi-
14 cer, state employee, member of the legislature or legislative employee
15 or (ii) any entity in which the lobbyist or the client of a lobbyist
16 knows or has reason to know the statewide elected official, state offi-
17 cer, state employee, member of the legislature or legislative employee
18 is a proprietor, partner, director, officer or manager, or owns or
19 controls ten percent or more of the stock of such entity (or one percent
20 in the case of a corporation whose stock is regularly traded on an
21 established securities exchange).

22 § 5. Subdivision (f) of section 1-c of the legislative law, as amended
23 by chapter 14 of the laws of 2007, is amended to read as follows:

24 (f) The term "commission" shall mean the [commission on public integ-
25 rity created by section ninety-four of the executive law] legislative
26 commission on ethics and compliance created by section one-d of this
27 article.

1 § 6. Section 1-d of the legislative law, as amended by chapter 14 of
2 the laws of 2007, is amended to read as follows:

3 § 1-d. [Lobby-related powers of the commission] The legislative
4 commission on ethics and compliance. (a) There shall be established a
5 commission to be known as the legislative commission on ethics and
6 compliance which shall consist of five members. The members of the
7 commission shall be appointed by the designating commission as defined
8 in section seventy-three-e of the public officers law.

9 (b) The staggered term of office of the members shall be for four
10 years commencing with the first day of August, two thousand ten. The
11 staggering of the initial term shall be chosen at random. No member of
12 the commission shall hold or shall have held within the preceding five
13 years any state or local elected office; and no member of the commission
14 shall be or have been within the preceding five years employed by the
15 state or by any local political subdivision subject to this article. No
16 person subject to the jurisdiction of the commission and the provisions
17 of this article or registered as a lobbyist in any other jurisdiction
18 within the preceding five years may serve on the commission.

19 (c) The chair and the vice-chair of the commission shall be elected by
20 a majority of the members of the commission to serve a one year term.
21 The chair shall be a member of a different political party than the
22 chair of the commission during the preceding term. The chair and vice-
23 chair shall each be a member of a different major political party as
24 such term is defined in the election law.

25 (d) Any matter upon which the commission must act by a vote of the
26 membership must be by an affirmative vote of a majority of the members
27 of the commission without vacancy. Each member shall continue to serve
28 until a successor is appointed in the manner provided in this section.

1 (e) Each of the members of the commission shall receive, as compen-
2 sation for his or her services under this article, a per diem allowance
3 in the sum of one hundred dollars for each day actually spent in the
4 performance of his or her duties under this article, not exceeding,
5 however, the sum of five thousand dollars in any calendar year, and, in
6 addition thereto, shall be reimbursed for all reasonable expenses actu-
7 ally and necessarily incurred by him or her in the performance of his or
8 her duties under this article.

9 (f) Vacancies in the membership of the commission occurring for any
10 cause shall be filled for the balance of the unexpired term in the same
11 manner as the original appointment of the member whose office becomes
12 vacant.

13 (g) Members of the commission may be removed by the appointing author-
14 ity for substantial neglect of duty, gross misconduct in office, inabil-
15 ity to discharge the powers or duties of office or violation of this
16 section, after written notice and opportunity for a reply.

17 (h) Structure of the commission:

18 (i) The chief administrative officer of the commission shall be the
19 executive director, who shall be appointed by a majority vote of the
20 commission and shall serve at the pleasure of the commission.

21 (ii) In addition to any other powers and duties provided by section
22 ninety-four of the executive law, the commission shall, with respect to
23 its lobbying-related functions only, have the power and duty to:

24 [(a)] (1) administer and enforce all the provisions of this article;

25 [(b)] conduct any investigation necessary to carry out the provisions
26 of this article upon its own initiative, upon referral from another
27 oversight body or upon receipt of a sworn complaint. Pursuant to this
28 power and duty, the commission may administer oaths or affirmations,

1 subpoena witnesses, compel their attendance and require the production
2 of any books or records which it may deem relevant or material;

3 (3) conduct a program of regular, real-time and random audits subject
4 to the terms and conditions of this section. Any such program shall be
5 carried out in the following manner:

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

12 [(ii)] B. The commission shall develop protocols for the conduct of
13 such random audits. Such random audits may require the production of
14 books, papers, records or memoranda relevant and material to the prepa-
15 ration of the selected statements or reports, for examination by the
16 commission. Any such protocols shall ensure that similarly situated
17 statements or reports are audited in a uniform manner.

18 [(iii)] C. The commission shall contract with an outside accounting
19 entity, which shall monitor the process pursuant to which the commission
20 selects statements or reports for audit and carries out the provisions
21 of [paragraphs (i) and (ii) of this subdivision] clauses A and B of this
22 subparagraph and [certifies] certify that such process complies with the
23 provisions of such [paragraphs] clauses.

24 [(iv)] D. Upon completion of a regular, real-time and random audit
25 conducted in accordance with the provisions of [paragraphs (i), (ii) and
26 (iii) of this subdivision] clauses A, B and C of this subparagraph, the
27 commission shall determine whether there is reasonable cause to believe
28 that any such statement or report is inaccurate or incomplete. Upon a

1 determination that such reasonable cause exists, the commission may
2 require the production of further books, records or memoranda, subpoena
3 witnesses, compel their attendance and testimony and administer oaths or
4 affirmations, to the extent the commission determines such actions are
5 necessary to obtain information relevant and material to investigating
6 such inaccuracies or omissions;

7 [(c)] (4) conduct hearings pursuant to article seven of the public
8 officers law. Any hearing may be conducted as a video conference in
9 accordance with the provisions of subdivision four of section one
10 hundred four of the public officers law;

11 [(d)] (5) prepare uniform forms for the statements and reports
12 required by this article;

13 [(e)] (6) meet at least once during each bi-monthly reporting period
14 of the year as established by subdivision (a) of section one-h of this
15 article and may meet at such other times as the commission, or the chair
16 and vice-chair jointly, shall determine;

17 [(f)] (7) issue advisory opinions to those under its jurisdiction.
18 Such advisory opinions, which shall be published and made available to
19 the public, shall not be binding upon such commission except with
20 respect to the person to whom such opinion is rendered, provided, howev-
21 er, that a subsequent modification by such commission of such an advi-
22 sory opinion shall operate prospectively only; and

23 [(g)] (8) submit by the first day of March next following the year for
24 which such report is made to the governor and the members of the legis-
25 lature an annual report summarizing the commission's work, listing the
26 lobbyists and clients required to register pursuant to this article and
27 the expenses and compensation reported pursuant to this article and

1 making recommendations with respect to this article. The commission
2 shall make this report available free of charge to the public.

3 (i) The commission shall undertake a comprehensive review of all
4 applicable regulations and opinions issued by the temporary lobbying
5 commission and the commission on public integrity, which reviews will
6 address the consistency of such regulations and opinions among each
7 other and with the statutory language. The commission shall, before
8 December first, two thousand eleven, report to the governor and legisla-
9 ture regarding such review and shall propose any regulatory changes and
10 issue any advisory opinions necessitated by such review.

11 (j) The commission also shall make available all lobby-related filing
12 statements to the legislative ethics and compliance commission so that
13 it may carry out its duties.

14 § 7. Subdivision (b) and paragraph 3 of subdivision (c) of section 1-e
15 of the legislative law, subdivision (b) as amended by section 1 of part
16 S of chapter 62 of the laws of 2003 and paragraph 3 of subdivision (c)
17 as amended by chapter 1 of the laws of 2005, are amended to read as
18 follows:

19 (b) (i) Such statements of registration shall be kept on file for a
20 period of [three] four years for those filing periods where annual
21 statements are required, and shall be open to public inspection during
22 such period; (ii) Biennial statements of registration shall be kept on
23 file for a period of [three] two biennial filing periods where biennial
24 statements are required, and shall be open to public inspection during
25 such period.

26 (3) if such lobbyist is retained or employed pursuant to a written
27 agreement of retainer or employment, a copy of such shall also be
28 attached and if such retainer or employment is oral, a statement of the

1 substance thereof; such written retainer, or if it is oral, a statement
2 of the substance thereof, and any amendment thereto, shall be retained
3 for a period of [three] four years;

4 § 8. Subdivision (c) of section 1-e of the legislative law is amended
5 by adding a new paragraph 8 to read as follows:

6 (8) (i) the name and public office address of any statewide elected
7 official, state officer or employee, member of the legislature or legis-
8 lative employee and entity with whom the lobbyist has a reportable busi-
9 ness relationship;

10 (ii) a description of the general subject or subjects of the trans-
11 actions between the lobbyist or lobbyists and the statewide elected
12 official, state officer or employee, member of the legislature or legis-
13 lative employee and entity; and

14 (iii) the compensation, including expenses, to be paid by virtue of
15 the business relationship.

16 § 9. Subdivision (b) of section 1-j of the legislative law is amended
17 by adding a new paragraph 6 to read as follows:

18 (6) (i) the name and public office address of any statewide elected
19 official, state officer or employee, member of the legislature or legis-
20 lative employee and entity with whom the client of a lobbyist has a
21 reportable business relationship;

22 (ii) a description of the general subject or subjects of the trans-
23 actions between the client of the lobbyist or lobbyists and the state-
24 wide elected official, state officer or employee, member of the legisla-
25 ture or legislative employee and entity;

26 (iii) the compensation, including expenses, to be paid by virtue of
27 the business relationship.

1 § 10. Subparagraph (v) of paragraph 5 of subdivision (b) and paragraph
2 2 of subdivision (c) of section 1-h of the legislative law, as added by
3 chapter 2 of the laws of 1999, are amended to read as follows:

4 (v) expenses of more than fifty dollars shall be paid by check or
5 substantiated by receipts and such checks and receipts shall be kept on
6 file by the lobbyist for a period of [three] four years.

7 (2) Such bi-monthly reports shall be kept on file for [three] four
8 years and shall be open to public inspection during such time.

9 § 11. Subparagraph (v) of paragraph 6 of subdivision (b) and paragraph
10 2 of subdivision (c) of section 1-i of the legislative law, as added by
11 chapter 2 of the laws of 1999, are amended to read as follows:

12 (v) expenses of more than fifty dollars must be paid by check or
13 substantiated by receipts and such checks and receipts shall be kept on
14 file by such public corporation for a period of [three] four years.

15 (2) Such bi-monthly reports shall be kept on file for a period of
16 [three] four years and shall be open to public inspection during such
17 period.

18 § 12. Subparagraph (v) of paragraph 5 of subdivision (b) and paragraph
19 2 of subdivision (c) of section 1-j of the legislative law, as amended
20 by chapter 1 of the laws of 2005, are amended to read as follows:

21 (v) expenses of more than fifty dollars must be paid by check or
22 substantiated by receipts and such checks and receipts shall be kept on
23 file by such client for a period of [three] four years.

24 (2) Such semi-annual reports shall be kept on file for a period of
25 [three] four years and shall be open to public inspection during such
26 period.

27 § 13. Subdivision (a) of section 1-o of the legislative law, as added
28 by chapter 14 of the laws of 2007, is amended to read as follows:

1 (a) (i) Any lobbyist, public corporation, or client who knowingly and
2 wilfully fails to file timely a report or statement required by this
3 [section] article or knowingly and wilfully files false information or
4 knowingly and wilfully violates section one-m of this article shall be
5 guilty of a class A misdemeanor; and

6 (ii) any lobbyist, public corporation, or client who knowingly and
7 wilfully fails to file timely a report or statement required by this
8 [section] article or knowingly and wilfully files false information or
9 knowingly and wilfully violates section one-m of this article, after
10 having previously been convicted in the preceding five years of the
11 crime described in paragraph (i) of this subdivision, shall be guilty of
12 a class E felony. Any lobbyist convicted of or pleading guilty to a
13 felony under the provisions of this section may be barred from acting as
14 a lobbyist for a period of one year from the date of the conviction. For
15 the purposes of this subdivision, the chief administrative officer of
16 any organization required to file a statement or report shall be the
17 person responsible for making and filing such statement or report unless
18 some other person prior to the due date thereof has been duly designated
19 to make and file such statement or report.

20 § 14. Section 1-p of the legislative law is amended by adding a new
21 subdivision (d) to read as follows:

22 (d) Notwithstanding any other provision of law, if either the legisla-
23 tive or executive commissions on ethics and compliance have a reasonable
24 basis to believe that any person subject to the jurisdiction of the
25 executive ethics and compliance commission or the legislative ethics and
26 compliance commission may have violated any provision of section seven-
27 ty-three or seventy-four of the public officers law or that any person
28 may have violated provisions of this article or that any person subject

1 to the jurisdiction of the state board of elections may have violated
2 article fourteen of the election law, it shall refer such violation to
3 the executive ethics and compliance commission or the legislative ethics
4 and compliance commission, or the state board of elections, as appropri-
5 ate, unless the commission determines that such a referral would compro-
6 mise the prosecution or confidentiality of its investigations and, if
7 so, shall make a referral as soon as practicable. The referral by the
8 commission to such entities shall include any information relating ther-
9 eto coming into the custody or control of the commission at any time
10 prior or subsequent to the referral.

11 § 15. Section 80 of the legislative law is REPEALED and two new
12 sections 80 and 81 are added to read as follows:

13 § 80. Legislative ethics and compliance commission investigators. 1.
14 The legislative ethics and compliance commission shall assist the legis-
15 lature in carrying out its investigatory and enforcement responsibil-
16 ities with regard to its ethical standards and receiving referrals of
17 complaints for investigation from the executive ethics and compliance
18 commission or from the standing committees on ethics of the senate and
19 assembly, and receiving complaints from the public.

20 2. Powers and duties of the commission. The commission is authorized
21 and directed to:

22 (a) conduct real-time reviews of financial disclosure statements and
23 receive and act on sworn complaints regarding persons subject to its
24 jurisdiction alleging a possible violation of section seventy-three,
25 seventy-three-a, or seventy-four of the public officers law, and conduct
26 such investigations and proceedings as are authorized and necessary to
27 carry out the provisions of this section. In connection with such inves-
28 tigations, the commission may administer oaths or affirmations, subpoena

1 witnesses, compel their attendance and require the production of any
2 books or records which it may deem relevant or material;

3 (b) receive and act on, as if it were a sworn complaint, any referrals
4 from the executive ethics and compliance commission or the standing
5 committees on ethics of the senate and assembly;

6 (c) receive and act on, as if it were a sworn complaint, any referral
7 from another oversight body indicating that a violation of section
8 seventy-three or seventy-four of the public officers law may have
9 occurred involving persons subject to the jurisdiction of the legisla-
10 tive office of ethics investigations;

11 (d) deliver to the governing legislature, attorney general and comp-
12 troller a report on the board's findings and determinations regarding
13 any alleged violations of sections seventy-three, seventy-three-a, and
14 seventy-four of the public officers law and deliver to the standing
15 committees on ethics of the senate or assembly, as appropriate, a report
16 on the commission's findings and determinations regarding any complaint
17 referred to it by the committees; and

18 (e) adopt rules to carry out its duties consistent with the provisions
19 of subdivision three of this section.

20 3. Procedure. (a) Preliminary review. (i) Upon receipt of a written
21 complaint referral, or on its own initiative, the commission shall,
22 within ten calendar days:

23 (A) initiate a preliminary review of any alleged violation by a member
24 of the legislature, officer, or legislative employee of section seven-
25 ty-three, seventy-three-a or seventy-four of the public officers law,
26 and any other matter referred to it by the assembly or senate standing
27 committee on ethics or the legislative ethics and compliance commission;

1 (B) notify in writing the executive ethics and compliance commission
2 or the appropriate standing committee on ethics and the complainant, if
3 there is one, that the preliminary review has commenced; and

4 (C) notify in writing any individual who is the subject of such
5 preliminary review and provide such individual with a description of the
6 possible or alleged violation and a copy of its rules and procedures,
7 which shall include the due process procedural mechanisms available to
8 such individual and the opportunity for such individual to submit a
9 written response in accordance with subparagraph (ii) of this paragraph.

10 (ii) The individual who is the subject of the preliminary review shall
11 have the opportunity to submit within fifteen calendar days of receipt
12 of notice pursuant to clause (C) of subparagraph (i) of this paragraph,
13 a written response setting forth information relating to the activities
14 cited as a possible or alleged violation of law.

15 (iii) The commission shall, within forty-five calendar days after
16 receipt of a written complaint or referral under subparagraph (i) of
17 this paragraph, complete its preliminary review and shall vote on wheth-
18 er to commence a second phase review of the matter under consideration.

19 (iv) Notwithstanding the provisions of subparagraphs (i), (ii) and
20 (iii) of this paragraph, the commission may terminate a preliminary
21 review by an affirmative vote of not less than three members at any time
22 within the applicable forty-five calendar days upon its determination
23 that the alleged violation under review is de minimis in nature or
24 cured. Upon the termination of a preliminary review pursuant to this
25 subparagraph or subparagraph (iii) of this paragraph, the commission
26 shall notify, in writing, the executive ethics and compliance commission
27 or the appropriate standing committee on ethics, the complainant, if
28 there is one, and the individual who was the subject of such preliminary

1 review, of such termination. Upon such termination, the commission shall
2 not disclose any materials or information related to such preliminary
3 review.

4 (b) Second-phase review. (i) Upon the affirmative vote of not less
5 than three commission members to commence a second-phase review, written
6 notice of the commission's decision shall be provided to the executive
7 ethics and compliance commission or the appropriate standing committee
8 on ethics, and to the individual who is the subject of such second-phase
9 review. Such written notice shall include a copy of the commission's
10 rules and procedures and shall also include notification of such indi-
11 vidual's right to be heard within thirty calendar days of the date of
12 the commission's written notice.

13 (ii) The commission may hold such hearings as may be necessary and sit
14 and act only in executive session at such times and places and solicit
15 such testimony and receive such relevant evidence as may be necessary to
16 carry out its duties. The commission shall provide the individual who
17 is the subject of the review the opportunity to be heard on the matter
18 within thirty calendar days of such written notice.

19 (iii) Not later than forty-five calendar days after the commission's
20 decision to commence a second-phase review, the commission shall present
21 a written report to the executive ethics and compliance commission or
22 the appropriate standing committee on ethics and deliver a copy of the
23 report to the individual who is the subject of the review. Such written
24 report shall include:

25 (A) a statement that the matter requires further review by such
26 committee or commission, as appropriate; or

1 (B) a recommendation that the matter under review be dismissed by such
2 committee or commission in accordance with paragraph (c) of this subdi-
3 vision; or

4 (C) a statement that the commission is unable to recommend action
5 because of a tie vote. Such statement shall include the number of
6 members voting in the affirmative and negative and a statement of the
7 nature of the review; and

8 (D) a summary of the commission's findings of fact. Where the commis-
9 sion is unable to recommend action because of a tie vote pursuant to
10 clause (C) of this subparagraph, it shall include, in addition to any
11 findings of fact upon which a majority of the members agree, a statement
12 indicating any findings of fact agreed upon by any four members of the
13 commission.

14 (iv) The commission shall also transmit to the executive ethics and
15 compliance commission or the appropriate standing committee on ethics;
16 citations to any relevant law, rule, regulation or standard of conduct;
17 the names of all witnesses; copies of any documents submitted; any
18 conclusions regarding the validity of the allegations upon which the
19 complaint or referral is based; and a description of any relevant infor-
20 mation that the commission was unable to obtain and witnesses it was
21 unable to interview, and the reasons therefor.

22 (v) The commission may, by an affirmative vote of a majority of its
23 members, extend the period to present a written report pursuant to
24 subparagraph (iii) of this paragraph for one additional period of not
25 more than fourteen calendar days.

26 (c) Recommendation to dismiss. Pursuant to clause (B) of subparagraph
27 (iii) of paragraph (b) of this subdivision, the commission may, by an
28 affirmative vote of not less than three members, recommend to the execu-

1 tive ethics and compliance commission or the appropriate standing
2 committee on ethics that the matter under second-phase review be
3 dismissed. Such recommendation to such committee or commission may be
4 based on any ground including, but not limited to, its determination
5 that the alleged violation:

6 (i) was de minimis in nature;

7 (ii) was cured; or

8 (iii) should be resolved pursuant to a settlement agreement.

9 Any matter so dismissed by such committee or commission shall be deemed
10 a preliminary review termination pursuant to subparagraph (iv) of para-
11 graph (a) of this subdivision, provided that such committee or commis-
12 sion shall make public the terms of any settlement or compromise which
13 includes a fine, penalty or other remedy.

14 (d) Adoption of rules. The commission shall adopt rules to carry out
15 its duties, which shall include, but not be limited to, the following:

16 (i) A rule requiring that all witnesses sign a statement acknowledging
17 the understanding that false testimony and the submission of false docu-
18 ments constitutes perjury and is punishable by law.

19 (ii) A rule requiring that there be no ex parte communications between
20 any member of the commission or staff of the office and any individual
21 who is the subject of any review by the commission or between any member
22 or staff and any interested party, and that no member or officer of the
23 legislature, or legislative employee may communicate with any member of
24 the commission or staff of the office regarding any matter under review
25 by the commission except as authorized by the board.

26 (iii) A rule that establishes a code of conduct to govern the behavior
27 of its members and staff, which shall include the avoidance of conflicts
28 of interest.

1 4. Requests from the assembly or senate standing committee on ethics.
2 In addition to referrals of possible violations of section seventy-
3 three, seventy-three-a or seventy-four of the public officers law, the
4 assembly or senate standing committee on ethics may request that the
5 commission review and conduct an investigation of any matter or aspect
6 of any matter before the committee. Notwithstanding any other
7 provisions of this section, upon receipt of a written request from the
8 appropriate committee that the commission cease its review of any matter
9 other than a referral of an alleged violation of sections seventy-three,
10 seventy-three-a, and seventy-four of the public officers law and refer
11 such matter to the committee because of the ongoing investigation of
12 such matter by the committee, the commission shall refer such matter
13 back to the committee and cease its preliminary or second-phase review,
14 as applicable, of that matter and so notify any individual who is the
15 subject of the review. In any such case, the commission shall send a
16 written report to the committee containing a statement that, upon the
17 request of that committee, the matter is referred to it for its consid-
18 eration, but not any findings. Such report shall be subject to the
19 provisions of subparagraph (iv) of paragraph (a) of subdivision six of
20 this section.

21 5. Limitations on review. (a) No review shall be undertaken by the
22 commission of any alleged violation of law, rule, regulation or standard
23 of conduct not in effect at the time of the alleged violation.

24 (b) If the commission is aware or becomes aware that alleged criminal
25 conduct which might also violate section seventy-three, seventy-three-a
26 or seventy-four of the public officers law is under investigation by a
27 federal, state, or local law enforcement agency or is being prosecuted

1 in state or federal court, it shall hold the matter in abeyance until
2 the criminal matter is resolved.

3 6. Prohibition on public disclosure. (a) (i) When an individual
4 becomes a member of the commission or staff of the office, that individ-
5 ual shall be required to sign a non-disclosure statement.

6 (ii) No testimony received or any other information obtained by a
7 member of the commission or staff of the office shall be disclosed by
8 any such individual to any person or entity outside the office. Any
9 confidential communication to any person or entity outside the office
10 related to the matters before the commission may occur only as author-
11 ized by the commission as necessary to conduct official business or
12 pursuant to commission rules.

13 (iii) The office shall establish procedures necessary to prevent the
14 unauthorized disclosure of any information received by any member of the
15 commission or staff of the office. Any breaches of confidentiality
16 shall be investigated by the commission and appropriate action shall be
17 taken by either the legislative or executive commission on ethics and
18 compliance, as applicable, in accordance with subdivision eleven of
19 section eighty-one of this article.

20 (iv) Notwithstanding the provisions of article six of the public offi-
21 cers law, the records of the commission are confidential and shall be
22 disclosed only as expressly provided otherwise by this section or the
23 commission.

24 (v) Notwithstanding the provisions of article seven of the public
25 officers law, no meeting of the commission shall be open to the public
26 except if expressly provided otherwise by this section or commission.

27 (b) Paragraph (a) of this subdivision shall not preclude commission
28 members or the staff from presenting a report or findings or testifying