



Legislation Details (With Text)

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Title: A Local Law to amend the charter and the administrative code of the city of New York, in relation to the requirements of the campaign finance program for city elections, the requirements of transition and inauguration entities for candidates elected to the offices of mayor, public advocate, comptroller, borough president, and member of the city council, participation in the New York City Campaign Finance Program by self-funded candidates, the debate program, and limiting the use of government resources during an election year.

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Indexes:

Attachments: 1. Hearing Transcript 2/11, 2. Local Law, 3. Committee Report 2/11, 4. Committee Report 9/29, 5. Hearing Transcript 9/29, 6. Committee Report 10/26, 7. Committee Report 12/15, 8. Fiscal Impact Statement - A, 9. Hearing Transcript 10/26, 10. Hearing Transcript - Stated Meeting 12/15/04, 11. Mayor's Veto Message, 12. Hearing Transcript - Stated Meeting 10/27/04, 13. Hearing Transcript 12/15

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2/4/2004	*	City Council	Referred to Comm by Council	
2/11/2004	*	Committee on Governmental Operations	Hearing Held by Committee	
2/11/2004	*	Committee on Governmental Operations	Laid Over by Committee	
9/29/2004	*	Committee on Governmental Operations	Hearing Held by Committee	
9/29/2004	*	Committee on Governmental Operations	Laid Over by Committee	
10/26/2004	*	Committee on Governmental Operations	Hearing Held by Committee	
10/26/2004	*	Committee on Governmental Operations	Amendment Proposed by Comm	
10/26/2004	*	Committee on Governmental Operations	Amended by Committee	
10/26/2004	A	Committee on Governmental Operations	Approved by Committee	Pass
10/27/2004	A	City Council	Approved by Council	Pass
10/27/2004	A	City Council	Sent to Mayor by Council	
11/24/2004	A	Mayor	Vetoed by Mayor	
12/15/2004	A	Committee on Governmental Operations	Hearing Held by Committee	

12/15/2004	A	Committee on Governmental Operations	Approved by Committee	Pass
12/15/2004	A	City Council	Overridden by Council	Pass

Int. No. 124-A

By Council Members Perkins, James, Rivera, Gerson, Barron, Quinn, Gioia, Baez, Monserrate, Palma and Jackson

A Local Law to amend the charter and the administrative code of the city of New York, in relation to the requirements of the campaign finance program for city elections, the requirements of transition and inauguration entities for candidates elected to the offices of mayor, public advocate, comptroller, borough president, and member of the city council, participation in the New York City Campaign Finance Program by self-funded candidates, the debate program, and limiting the use of government resources during an election year.

Be it enacted by the Council as follows:

Section 1. Declaration of Legislative Intent and Findings.

The New York City Campaign Finance Act, adopted by the New York City Council in 1988, has succeeded in enhancing competition for elective municipal offices, limiting campaign contributions and expenditures to reasonable levels, and vastly increasing public information about the sources and uses of campaign funds.

The Council finds that amendments to the New York City Campaign Finance Act, section 3-801 of the administrative code of the City of New York, and the charter of the City of New York, will further the goals of this landmark legislation.

This local law will alter the formula for paying public funds to participating candidates facing high spending non-participating candidates, thus further reducing disparities between participating and non-participating candidates. Additionally, this local law includes new provisions aimed at reducing expenditures of public funds in non-competitive races.

Further, the Council seeks to permit those candidates for municipal office who fund their campaigns entirely through the use of their personal funds to participate in the Campaign Finance Program to a limited degree, without extending the public financing provisions to these candidates. In doing so, the Council seeks to strengthen the City's campaign finance program by enabling self-funded candidates to participate in the

program by limiting their expenditures, in return for which the bonus provisions of the law will not be triggered for participating candidates, thus reducing Program costs.

Further, the Council finds that matching individual vendor contributions with public funds may lead to abuses in the Program or the perception of abuses in the Program. Accordingly, the Council intends to disallow the matching of individual vendor contributions, but not contributions made from individuals working for a campaign or working for vendor companies.

Further, the Council intends to extend the prohibition on public servants sending mass mailings before an election from thirty to ninety days. Within such ninety-day period, public servants may send one such mass mailing following the adoption of the city budget to inform constituents of the details of such budget and other government matters.

Finally, the local law will improve key elements of the Debate Program. Since its inception in 1997, the Debate Program has provided voters with valuable public exposure to candidates for citywide office. The Council now seeks to amend the Debate Program based on its experience with two sets of debates - 1997 and 2001. These Debate Program changes will improve the functioning of debates, ease the process of selecting debate sponsors, and enhance the value of the Debate Program for City voters.

§2. Subdivisions 2, 3 and 12 of section 3-702 of the administrative code of the city of New York are amended and a new subdivision 13 is added to such section, to read as follows:

2. The term "principal committee" shall mean the authorized committee designated by a candidate pursuant to paragraph (e) of subdivision 1 of section 3-703 or paragraph (a) of subdivision one of section 3-718 of this chapter.

3. The term "matchable contribution" shall mean (i) a contribution, (ii) contributions or (iii) a portion of a contribution or contributions, not greater than the applicable contribution limitation set forth in paragraph (f) of subdivision one of section 3-703 for all covered elections held in the same calendar year, made by a natural

person resident in the city of New York to a participating candidate which has been reported in full to the campaign finance board in accordance with subdivision six of section 3-703 by the candidate's principal committee and has been contributed on or before December thirty-first in the year of such election that may be matched by public funds in accordance with the provisions of this chapter. [Matchable contributions comprised of up to one thousand dollars per contributor (or up to five hundred dollars per contributor in a special election to fill a vacancy) may be counted toward the threshold for eligibility of paragraph (a) of subdivision two of section 3-703.] Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the board may not be treated as a matchable contribution for any purpose. A loan may not be treated as a matchable contribution. The following contributions are not matchable:

- (a) in-kind contributions of property, goods, or services;
- (b) contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value;
- (c) contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;
- (d) money order contributions from any one contributor that are, in the aggregate, greater than \$100; [and]
- (e) contributions from individuals under the age of eighteen years; and
- (f) contributions from individual vendors to whom the participating candidate or his or her principal committee makes an expenditure, in furtherance of the nomination for election or election covered by the candidate's certification, unless such expenditure is reimbursing an advance.

12. The term "intermediary" shall mean an individual, corporation, partnership, political committee, employee organization or other entity which, other than in the regular course of business as a postal, delivery or messenger service, delivers any contribution from another person or entity to a candidate or authorized

committee. "Intermediary" shall not include spouses, domestic partners, parents, children or siblings of the person making such contribution, or any fundraising agent, as such term is defined in the rules of the board.

13. The term "limited participating candidate" shall mean a candidate who meets the requirements of paragraph (a) of subdivision one of section 3-718 of this chapter.

§3. Paragraphs (f), (l) and (m) of subdivision 1 of section 3-703 of the administrative code of the city of New York are amended, and a new paragraph (n) is added, to read as follows:

(f) not accept and his or her principal committee must not accept, either directly or by transfer, any contribution or contributions from any one individual, partnership, political committee, employee organization or other entity for all covered elections held in the same calendar year in which he or she is a participating candidate which in the aggregate: (i) for the office of mayor, public advocate or comptroller shall exceed four thousand five hundred dollars, or (ii) for borough president, shall exceed three thousand five hundred dollars, or (iii) for member of the city council, shall exceed two thousand five hundred dollars; provided that a participating candidate and his or her principal committee may accept additional contributions which do not exceed one half the amount of the applicable limitation for any run-off primary election, additional day for voting held pursuant to section 3-108 of the New York state election law, special election to fill a vacancy, run-off special election to fill a vacancy, delayed or otherwise postponed election, or election held pursuant to court order which is a covered election and in which the candidate seeks nomination for election or election; and provided further that if state law prescribes a contribution limitation of a lesser amount, this paragraph shall not be deemed to authorize acceptance of a contribution in excess of such lesser amount. The maximum contributions set forth in this paragraph shall be adjusted in accordance with subdivision seven of this section;

(l) not accept and his or her principal committee must not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for such loan from any corporation, other than a corporation that is a political committee as defined in subdivision eleven of section 3-702 of this chapter, for all covered

elections held in the same calendar year in which he or she is a participating candidate;

(m) fulfill the requirements of section 12-110 of the administrative code of the city of New York, including payment of any penalties as determined by the conflicts of interest board.

(i) The conflicts of interest board shall provide a participating candidate with a receipt indicating proof of compliance with section 12-110 of the administrative code of the city of New York in such form as the conflicts of interest board shall determine. Such receipt as provided by the conflicts of interest board shall indicate the time and date of filing of the financial disclosure report.

(ii) A participating candidate shall provide the campaign finance board with the [original] receipt provided by the conflicts of interest board pursuant to subparagraph (i) of this paragraph, in such form and manner as the campaign finance board shall require, [and in conformance with the first disclosure statement filing date of chapter three of title fifty-two of the rules of the city of New York] by the last business day of July in the year of the covered election, or such other later date as the campaign finance board shall provide by rule, except that in a special election to fill a vacancy the deadline for filing such receipt shall be established by campaign finance board rule.

(iii) A participating candidate who fails to adhere to the requirements of subparagraph (ii) of this paragraph may thereafter satisfy the requirements of this paragraph by submitting a receipt in accordance with subparagraph (i) of this paragraph at such times and in such manner as provided [in chapter three of title fifty-two of the rules of the city of New York for filing campaign finance disclosure statements] by campaign finance board rule. The campaign finance board shall thereafter allow the participating candidate to make a claim for public funds upon satisfying the requirements of this paragraph and all other applicable law, rules and regulations; provided, however that a receipt that is not filed timely pursuant to subparagraph (ii) of this paragraph may result in a delay of any payment of public funds by the board; and

(n) satisfy any claim made by the board for the payment of civil penalties or repayment of public funds

that remains outstanding against such candidate or his or her principal committee or an authorized committee of such candidate from a prior covered election, if (i) the candidate had written notice of such potential claim and ineligibility to receive public funds prior to filing a written certification for the current covered election pursuant to paragraph (c) of this subdivision, or (ii) in the event no such timely notice has been given pursuant to subparagraph (i), the candidate has been given an opportunity to present to the board reasons he or she should be eligible to receive public funds.

§4. Subdivisions 2, 5, 6, 7, 8, 9, 10, 11, and 12 of section 3-703 of the administrative code of the city of New York are amended and new subdivisions 13 and 14 are added to read as follows:

2. (a) The threshold for eligibility for public funding for participating candidates in a primary or general election, or special election to fill a vacancy, shall be in the case of:

(i) mayor, not less than two hundred fifty thousand dollars in matchable contributions comprised of sums of up to two hundred fifty dollars per contributor including at least one thousand matchable contributions of ten dollars or more;

(ii) public advocate and comptroller, not less than one hundred twenty-five thousand dollars in matchable contributions comprised of sums of up to two hundred fifty dollars per contributor including at least five hundred matchable contributions of ten dollars or more;

(iii) borough president, an amount equal to the number of persons living in such borough as determined by the last census multiplied by two cents in matchable contributions comprised of sums of up to two hundred fifty dollars per contributor including at least one hundred matchable contributions of ten dollars or more from residents of the borough, or ten thousand dollars comprised of sums of up to two hundred fifty dollars per contributor, whichever is greater;

(iv) member of the city council, not less than five thousand dollars in matchable contributions comprised of sums of up to two hundred fifty dollars per contributor including at least [fifty]

seventy-five matchable contributions of ten dollars or more from residents of the district in which the seat is to be filled[, except that in regularly scheduled city council elections held in the year two thousand three at least seventy-five matchable contributions of ten dollars or more shall be required from residents of the borough or boroughs in which such council district is located].

(b) Any participating candidate meeting the threshold for eligibility in a primary election for one of the foregoing offices shall be deemed to have met the threshold for eligibility for such office in any other election, other than a special election to fill a vacancy, held in the same calendar year.

5. Participating candidates who are seeking nomination or election exclusively as write-in candidates, who are unopposed in a covered election, or who are opposed in a covered election only by candidates seeking nomination or election exclusively as write-in candidates, shall not be eligible to receive public funds for such election.

6. (a) Each principal committee shall report to the board every contribution, loan, guarantee, or other security for such loan received by the candidate and such principal committee, the full name, residential address, occupation, employer, and business address of each [individual, corporation, partnership, political committee, employee organization or other entity making] contributor, lender, guarantor, or provider of security [, or] and of each person or entity which is the intermediary for[,.] such contribution, loan, guarantee, or other security for such loan, and every expenditure made by the candidate and such principal committee, including expenditures not subject to section 3-706. Disclosure reports shall be submitted at such times and in such form as the board shall require and shall be clearly legible.

(b) Notwithstanding paragraph (a) above:

(i) [An] an intermediary need not be reported for any contribution that was collected from a contributor in connection with a party or other candidate-related event held at the residence of the person delivering the contribution, unless the expenses of such events at such residence for such candidate exceed five hundred dollars for a covered election or the aggregate contributions received

from that contributor at such events exceed five hundred dollars[.];

(ii) [Contributions] contributions aggregating not more than ninety-nine dollars from any one contributor for all covered elections held in a single calendar year or for a special election need not be separately itemized in disclosure reports submitted to the board on behalf of a participating or limited participating candidate, provided, however, that contributions which are not itemized shall not be matchable[.];

(iii) [The] the treasurer of the principal committee need not collect or disclose the occupation, employer, and business address of any contributor making contributions aggregating not more than ninety-nine dollars for all covered elections held in a single calendar year or for a special election; provided, however, such occupation, employer, and business address shall be disclosed if such contributors are employees of a participating or limited participating candidate or the spouse or domestic partner of such candidate or an entity in which such candidate, spouse or domestic partner has an ownership interest of ten percent or more or a management position, including, but not limited to, being an officer, director or trustee[.]; and

(iv) [Disclosure] disclosure reports, other than reports required to be filed every six months in accordance with the schedule specified by the New York state board of elections, need not be submitted on behalf of a participating or limited participating candidate if the cumulative amount of contributions and loans accepted by such candidate and his or her principal committee following the period covered in the last disclosure report submitted to the campaign finance board on behalf of such candidate is less than two thousand dollars or such higher amount as may be determined by the campaign finance board, provided, however, that disclosure reports shall be submitted on behalf of a participating or limited participating candidate if that candidate and his or her principal committee have made expenditures in excess of eighty-five percent of the expenditure limitation applicable to participating and limited participating candidates under section 3-706. The campaign finance board shall make available to the

public a copy of disclosure reports within two business days after they are accepted by the board.

7. Not later than the first day of March in the year [nineteen hundred ninety] two thousand eighteen and every fourth year thereafter the campaign finance board shall (i) determine the percentage difference between the average over a calendar year of the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics for the twelve months preceding the beginning of such calendar year and the average over the calendar year [nineteen hundred eighty-seven] two thousand fifteen of such consumer price index; (ii) adjust each maximum contribution applicable pursuant to paragraph (f) of subdivision one of this section by the amount of such percentage difference to the nearest fifty dollars; and (iii) publish such adjusted maximum contribution in the City Record. Such adjusted maximum contribution shall be in effect for any election held before the next such adjustment.

8. If a participating or limited participating candidate demonstrates to the board that a political committee has not accepted contributions, loans, or other receipts or made expenditures or transfers in a covered election, and represents that such committee will not accept contributions, loans, or other receipts or make expenditures or transfers in a covered election, the participating or limited participating candidate may submit to the board legible copies of financial disclosure reports, required to be filed with the city or state board of elections, for such committees in lieu of the disclosure report form designated by the board for purposes of subdivision six of this section.

9. No political committee authorized by a participating or limited participating candidate for a covered election may be authorized to aid or take part in the elections of more than one candidate.

10. All receipts accepted by a principal committee shall be deposited in an account of the principal committee. The treasurer of the principal committee shall be responsible for making such deposits. All deposits shall be made within ten business days of receipt; provided, however, that deposits of contributions made in the form of checks received by participating or limited participating candidates for the office of city council more than one year before the first covered election for which such candidate is seeking nomination or

election may be made within twenty business days of receipt. Each disclosure report filed pursuant to subdivision six of this section shall include the date of receipt of each contribution accepted.

11. Regardless whether a participating candidate demonstrates eligibility for optional public financing under this chapter, a participating candidate and his or her principal committee are nonetheless required to abide by the requirements of paragraphs (d), (e), (f), (g), (h), (i), (k) and (l) of subdivision one of this section.

12. (a) Each participating candidate or limited participating candidate for nomination for election, or election, or the principal committee of such candidate, shall submit, in a contemporaneous manner, the disclosure reports required pursuant to this chapter, filed in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements, and such other disclosure reports as the rules of the board may require, in order for any contributions received during the periods covered by such reports and prior to the last date upon which such candidate may file a certification pursuant to paragraph (c) of subdivision one of this section to qualify as matchable contributions.

(b) The board shall review each disclosure report timely submitted by a candidate prior to the last date upon which such candidate may file a certification pursuant to paragraph (c) of subdivision one of this section, or subdivision one of section 3-718, and issue to the candidate a review before the next disclosure report is due. Such review shall inform the candidate of relevant questions the board has concerning the candidate's: (i) compliance with requirements of this chapter and of the rules issued by the board; and (ii) qualification for receiving public funds pursuant to this chapter. In the course of this review, the board shall give candidates an opportunity to respond to and correct potential violations, before the deadline for filing a certification pursuant to paragraph (c) of subdivision one of this section, or subdivision one of section 3-718, and give candidates an opportunity to address questions the board has concerning their matchable contribution claims or other issues concerning eligibility for receiving public funds pursuant to this chapter; provided, however, this paragraph shall not apply to the last required disclosure report before the deadline for filing a certification pursuant to paragraph (c) of subdivision one of this section or subdivision one of section 3-718. Nothing in this paragraph

shall preclude the board from subsequently reviewing such disclosure reports and taking any action otherwise authorized under this chapter.

13. Candidates who file a certification pursuant to subdivision one of this section shall not be eligible to file a certification pursuant to section 3-718, and candidates who file a certification pursuant to section 3-718 shall not be eligible to file a certification pursuant to subdivision one of this section.

14. (a) Transfers that a principal committee receives from a political committee (other than another principal committee) at any time during an election cycle shall:

(i) be attributed to previous contributions in accordance with the duly promulgated rules of the campaign finance board applicable to such transfer or use;

(ii) exclude an amount equal to the total of:

(A) such previous contributions, or portions thereof, that violate the limitations, restrictions, or prohibitions of the charter and this chapter applicable in the covered election for which the principal committee is designated; and

(B) such previous contributions, or portions thereof, for which the principal committee has not obtained and submitted to the board, prior to receipt of the transfer, evidence of the contributor's intent to designate the contribution for such covered election, and any other record, as determined by the rules of the board; and

(iii) not be matchable.

(b) Each transfer, the contributions to which the transfer is attributed, and all expenditures made in connection with such contributions shall be reported to the board in the next disclosure report due pursuant to this section 3-703 after the transfer is received. These expenditures shall, at a minimum, include all expenditures made by the political committee making the transfer during the election cycle of the covered election. The board shall issue instructions defining the circumstances in which such disclosure reports shall also include additional expenditures made by other political committees authorized by the participating candidate that originally received such contributions and additional expenditures made prior to such election

cycle. Such expenditures shall be applied to the expenditure limit applicable under 3-706.

(c) Participating candidates shall have the burden of demonstrating that expenditures reported pursuant to paragraph (b) of this subdivision are not subject to the expenditure limit applicable under section 3-706 and are not a basis for reducing public funds payments pursuant to subdivision eight of section 3-705 of this chapter.

(d) Nothing in this subdivision is intended to modify or supersede any federal law that prohibits or otherwise restricts the use of campaign or donated funds by political committees, candidates or federal officeholders.

§5. Subdivisions 2 and 4 of section 3-705 of the administrative code of the city of New York are amended to read as follows:

2. (a) If the threshold for eligibility is met, the participating candidate's principal committee shall receive payment for qualified campaign expenditures of four dollars for each one dollar of matchable contributions, up to one thousand dollars in public funds per contributor (or up to five hundred dollars in public funds per contributor in the case of a special election), obtained and reported to the campaign finance board in accordance with the provisions of this chapter[.].

(b) [but in] Except as otherwise provided in subdivision three of section 3-706, in no case shall [such] the principal committee of a participating candidate receive [in] public funds pursuant to paragraph (a) above in excess of an amount [exceeding] equal to fifty-five percent of the expenditure limitation provided in subdivision one of section 3-706 for the office for which such candidate seeks nomination for election or election[, except as otherwise provided in subdivision three of section 3-706].

(c) No funds shall be provided pursuant to this subdivision with respect to any covered election specified in subdivision five of this section.

4. The campaign finance board shall make possible payment within four business days after receipt of

reports of matchable contributions, or as soon thereafter as is practicable, but not earlier than the earliest dates for making such payments as provided in subdivisions five and six of section 3-709; provided, however, that the board shall withhold up to five percent of all public funds payments to participating candidates until the final pre-election payment for any given election.

§6. Section 3-706 of the administrative code of the city of New York is amended to read as follows:

§3-706 Expenditures limitations; additional financing and limits.

1. The following limitations apply to all expenditures made by a candidate and his or her principal committee on or after the first day of January preceding the election for which such candidate chooses to participate in the public funding provisions of this chapter and to expenditures made at any time prior to such date for services, materials, facilities, advertising or other things of value received, rendered, published, distributed or broadcast on or after such date:

(a) Except as provided in paragraph (b) of this subdivision, in each primary election, in each special election to fill a vacancy, and in each general election, expenditures by a participating candidate or a limited participating candidate and his or her principal committee for one of the following offices shall not exceed the following amounts:

mayor:	\$4,000,000
public advocate or comptroller:	\$2,500,000
borough president:	\$ 900,000
member of the city council:	\$ 105,000

(b) (i) The expenditure limitation in a run-off primary election held pursuant to section 6-162 of the New York state election law or a run-off special election held to fill a vacancy shall be one half the amount of the applicable limitation provided for an election for such office pursuant to the provisions of paragraph (a) of this subdivision.

(ii) The board shall promulgate rules to provide for a separate expenditure limit applicable to campaign expenditures for an additional day for voting held pursuant to section 3-108 of the New York state election law, an election held pursuant to court order, or a delayed or otherwise postponed election.

(c) Expenditures by participating or limited participating candidates in a primary election made prior to or on the date of such primary election shall be deemed to have been made for such primary election.

(d) The campaign finance board shall, pursuant to section 3-713, submit a report to the mayor and the council on or before September first, nineteen hundred ninety, containing its recommendations whether the expenditure limitations provided by this subdivision should be modified. Such report shall set forth the amount of, and reasons for, any modifications it recommends.

(e) Not later than the first day of March in the year [nineteen hundred ninety] two thousand eighteen and every fourth year thereafter the campaign finance board shall (i) determine the percentage difference between the average over a calendar year of the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics for the twelve months preceding the beginning of such calendar year and the average over the calendar year [nineteen hundred eighty-seven] two thousand fifteen of such consumer price index; (ii) adjust each expenditure limitation applicable pursuant to this subdivision by the amount of such percentage difference to the nearest thousand dollars and (iii) publish such adjusted expenditure limitation in the City Record. Such adjusted expenditure limitation shall be in effect for any election held before the next such adjustment.

2. The following limitations apply to all expenditures made by a participating or limited participating candidate and his or her principal committee in the three calendar years [year] preceding the year of the election for which such candidate chooses to file a certification as a participating or limited participating candidate pursuant to this chapter [participate in the public funding provisions of this chapter] and to expenditures made at any time prior to such date for services, materials, facilities, advertising or other things of value received, rendered, published, distributed or broadcast in such calendar [year] years. Such expenditures by a participating

or limited participating candidate for one of the following offices and his or her principal committee shall not exceed the following amounts:

mayor, public advocate or comptroller:	[\$180,000] <u>\$270,000</u>
borough president:	\$120,000
member of the city council:	\$ 40,000

2-a. (a) If the expenditures made by a candidate and his or her principal committee subject to the expenditure limitation of subdivision two of this section exceed the amount of the expenditure limitation applicable under such subdivision, such candidate or his or her principal committee shall not be ineligible to receive public funding for qualified campaign expenditures or be in violation of this chapter by reason of exceeding such limitation unless the amount by which such expenditures exceed such limitation is in excess of the expenditure limitation which next applies to such candidate or his or her principal committee pursuant to subdivision one of this section; and further provided that the amount of the expenditure limitation which next applies to such candidate or his or her principal committee, pursuant to subdivision one of this section, shall be reduced by the amount by which the expenditure limitation applicable under subdivision two of this section is exceeded.

(b) Nothing contained in paragraph (a) of this subdivision shall:

- (i) operate to increase or decrease the amount of public funds that may be received pursuant to section 3-705 by the principal committee;
- (ii) affect the expenditure limitation set forth in paragraph (b) of subdivision one of this section; or
- (iii) affect the expenditure limitation set forth in paragraph (a) of subdivision one of this section for purposes of the application of subdivision three of this section [or of paragraph (b) of subdivision 7 of section 3-705 of this chapter].

3. (a) If any candidate in any covered election [for an office for which public funds are available

pursuant to the provisions of this chapter] chooses not to [participate in the public financing provisions of this chapter] file a certification as a participating or limited participating candidate pursuant to this chapter, and where the campaign finance board has determined that such candidate and his or her authorized committees have spent or contracted or have obligated to spend, or received in loans or contributions, or both, an amount which, in the aggregate, exceeds half the applicable expenditure limit for such office fixed by subdivision one of this section [for participating candidates], then:

[(a)] (i) such expenditure limit applicable to [shall no longer apply to] participating candidates and limited participating candidates in such election for such office shall be increased to one hundred fifty percent of such limit; and

[(b)] (ii) the principal committees of such participating candidates shall receive payment for qualified campaign expenditures of five dollars for each one dollar of matchable contributions, up to one thousand two hundred fifty dollars in public funds per contributor (or up to six hundred twenty five dollars in public funds per contributor in the case of a special election); provided, however, that [(i)] (A) participating candidates in a run-off election shall receive public funds for such election pursuant to subdivision five of section 3-705 and shall not receive any additional public funds pursuant to this section, and [(ii)] (B) in no case shall a principal committee receive in public funds an amount exceeding two-thirds of the expenditure limitation provided for such office in subdivision one of this section.

(b) If any candidate in any covered election chooses not to file a certification as a participating or limited participating candidate pursuant to this chapter, and where the campaign finance board has determined that such candidate and his or her authorized committees have spent or contracted or have obligated to spend, or received in loans or contributions, or both, an amount which, in the aggregate, exceeds three times the applicable expenditure limit for such office fixed by subdivision one of this section, then:

(i) such expenditure limit shall no longer apply to participating candidates and limited participating candidates in such election for such office; and

(ii) the principal committees of such participating candidates shall receive payment for qualified campaign expenditures of six dollars for each one dollar of matchable contributions, up to one thousand five hundred dollars in public funds per contributor (or up to seven hundred fifty dollars in public funds per contributor in the case of a special election); provided, however, that (A) participating candidates in a run-off election shall receive public funds for such election pursuant to subdivision five of section 3-705 and shall not receive any additional public funds pursuant to this section, and (B) in no case shall a principal committee receive in public funds an amount exceeding one hundred twenty-five percent of the expenditure limitation provided for such office in subdivision one of this section.

4. (a) Expenditures made for the purpose of complying with the provisions of this chapter or the election law, including legal fees, accounting fees, the cost of record creation and retention, and other necessary compliance expenditures, and expenses to challenge or defend the validity of petitions of designation or nomination or certificates of nomination, acceptance, authorization, declination or substitution, and expenses related to the canvassing of election results, shall not be limited by the expenditure limitations of this section.

(b) In reviewing claims that expenditures are exempt from expenditure limitations by reason of paragraph (a) of this subdivision, the board shall not require the participating candidate or principal committee to provide detailed documentation substantiating such exempt expenditure claims unless the board has reason to believe that expenditures have been erroneously or falsely claimed to be exempt in disclosure reports.

(c) Notwithstanding paragraph (b) above, a participating candidate shall be required to provide detailed documentation substantiating all exempt expenditure claims made pursuant to this subdivision if the aggregate exempt expenditure claims made by the participating candidate exceed an amount equal to seven and one-half percent of the participating candidate's applicable expenditure limitation.

[5. The campaign finance board may adopt a regulation providing for expenditure limitations for expenditures made in the two calendar years preceding the calendar year specified in subdivision two of this section, in accordance with section eleven hundred five of the charter, provided, however, that notwithstanding

any inconsistent provision of section eleven hundred five of the charter, the city council may within forty-five days after the first stated meeting of the city council following the receipt of a copy of such regulation, as provided in subdivision c of section eleven hundred five of the charter, approve or disapprove such regulation by adoption of an appropriate resolution. Upon approval by the city council such regulation shall take effect as provided therein. If the city council disapproves such regulation, the board shall not be precluded from adopting and transmitting to the city council for its approval or disapproval any other such regulation providing for such expenditure limitations in accordance with this subdivision. If the city council does not approve or disapprove such regulation within such forty-five day period, such regulation shall be deemed to be approved on the forty-sixth day after such first stated meeting.]

§7. Subdivisions 3, 7, and 8 of section 3-708 of the administrative code of the city of New York are amended to read as follows:

3. The board may employ necessary staff, including an executive director and a counsel, and make necessary expenditures subject to appropriation. The board may employ such staff, including legal and accounting staff, as are necessary for providing technical assistance to candidates and prospective [and participating] candidates in covered elections, for the purpose of promoting understanding of, participation in, and compliance with the requirements of the [campaign finance program created by] provisions of this chapter.

7. (a) The board shall render advisory opinions with respect to questions arising under this chapter upon the written request of a candidate, an officer of a political committee or member of the public, or upon its own initiative. The board shall promulgate rules regarding reasonable times to respond to such requests. The board shall make public the questions of interpretation for which advisory opinions will be considered by the board and its advisory opinions, including by publication on its internet website.

(b) The board shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of this chapter. The board shall prepare and make available educational materials,

including compliance manuals and summaries and explanations of the purposes and provisions of this chapter. These materials shall be prepared in plain language. The board shall prepare and make available materials, including, to the extent feasible, computer software, to facilitate the task of compliance with the disclosure and record-keeping requirements of this chapter. When disclosure reports are generated by use of the board's disclosure software, the board shall provide an opportunity for [participating] candidates to test their electronic filings on any of the three business days prior to the deadline for the filing of such disclosure reports.

8. The board shall have the authority to promulgate such rules and regulations and provide such forms as it deems necessary for the administration of this chapter. The board shall promulgate regulations concerning the form in which contributions and expenditures are to be reported, the periods during which such reports must be filed and the verification required. The board shall require the filing of reports of contributions and expenditures for purposes of determining compliance with paragraph (f) of subdivision one of section 3-703 [and], section 3-706 and section 3-718 in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements.

§8. Section 3-709.5 of the administrative code of the city of New York is amended read as follows:

§3-709.5 Mandatory debates. 1. (a) In any year in which a primary, [runoff primary,] general or special election is to be held, any participating candidate and any limited participating candidate for nomination or election to a city-wide office shall participate in either of the two pre-election debates, or both, held pursuant to this section for which he or she is eligible and is required to debate pursuant to this section. A participating candidate or limited participating candidate for nomination or election to a city-wide office is eligible to participate in a debate for each election in which he or she is on the ballot [except that in the second general election debate the candidate shall] if he or she has [meet] met such criteria for participation as [may] shall be specified in [the application submitted by] any agreement between the debate sponsor [pursuant to paragraph (b) of subdivision five of this section] and the board.

(b) In any year in which a run-off primary or run-off special election to fill a vacancy for a city-wide office is held, any participating candidate and any limited participating candidate for nomination or election to such city-wide office who is on the ballot shall participate in one run-off election debate.

(c) In the case of a primary, the debate shall be among participating candidates and limited participating candidates seeking nomination of the same political party who meet the requirements provided in paragraph (a) of this subdivision. If there is no contested primary for an office in a political party then no debate for that party's nomination shall be held pursuant to this section.

(d) Each debate held pursuant to this section shall be at least one hour's duration.

2. For purposes of this section, a "debate" shall mean the moderated reciprocal discussion of issues among candidates on the ballot for the same office.

3. The campaign finance board shall select [sponsors for two debates for each election in which debates among participating candidates are] one or more sponsors for each debate required pursuant to this section. For [a] primary, general [election] and special elections, the second debate shall be a debate among the leading contenders for the office, as described in paragraph (b) of subdivision five of this section.

4. Organizations which are not affiliated with any political party or with any holder of or candidate for public office, which have not endorsed any candidate in the pending primary, special, general, or [runoff] run-off election for the city-wide office shall be eligible to sponsor one or more of the required debates. The rules for conducting such debates shall be solely the responsibility of the organizations selected but shall not be made final without consultation with the campaign finance board. The organizations selected shall be responsible for choosing the date, time and location of the debates.

5. Written applications by organizations to sponsor [an election] a debate shall be submitted to the campaign finance board on a form provided by the board not later than a date chosen by the board in any year in which an election is held for city-wide offices.

(a) The written application shall:

(i) demonstrate that the organization and any proposed co-sponsor meet the criteria of subdivision four of this section;

(ii) specify the election and office for which the organization seeks to sponsor the debate;

(iii) set forth the date, time, duration, and location of the debate and the specific and exclusive circumstances under which the date or time may be changed, together with a provision for when the rescheduled debate would be held;

(iv) provide a detailed description of the format and ground rules for the debate;

(v) verify that the staging, promotion, and coverage of the debate shall be in conformance with all applicable laws;

(vi) include an agreement to indemnify the city for any liability arising from the acts or omissions of the sponsor; and

(vii) set forth plans for publicity and for broadcast and other media coverage for the debate[.]; and

(viii) set forth the criteria for determining which candidates are eligible to participate in each debate the organization seeks to sponsor, in accordance with paragraph (b) of this subdivision.

(b) (i) Except as otherwise provided in subparagraph (ii) below, each debate for a primary, general or special election shall include only those participating candidates or limited participating candidates the sponsor of each such debate has determined meet the non-partisan, objective, and non-discriminatory criteria set forth in any agreement between the sponsor and the board; provided, however, that the criteria for the first debate for a primary, general, or special election shall provide, among other criteria, (A) that a participating candidate shall be eligible to participate in such debate if he or she has, by the last filing date prior to such debate, either (I) spent, contracted, or obligated to spend, or (II) received in contributions, an amount equal to or more than twenty percent of the threshold for eligibility for public funding applicable to participating candidates contained in subdivision two of section 3-703, and (B) that a limited participating candidate shall be eligible to participate in such debate if he or she has, by the last filing date prior to such debate, spent, contracted, or obligated to

spend, an amount equal to or more than twenty percent of the threshold for eligibility for public funding applicable to participating candidates seeking the office for which such debate is being held contained in subdivision two of section 3-703; provided, further, that the second debate for a primary, general, or special election shall include only those participating candidates or limited participating candidates who the sponsor has also determined are leading contenders on the basis of additional non-partisan, objective, and non-discriminatory criteria set forth in any agreement between the sponsor and the board. Nothing in this provision is intended to limit the debates to the two major political parties.

[The second debate for a general election shall include only those candidates who the sponsor has determined are the leading contenders for the office on the basis of the objective, non-partisan, and non-discriminatory criteria. These criteria must be set forth in the sponsor's written application.]

(ii) If [the] a debate sponsor [of the second general election debate] has determined that a non-participating candidate [who is not a participating candidate is a leading contender for the office on the basis of such criteria] has met all the non-partisan, objective, and non-discriminatory criteria applicable to participating candidates or limited participating candidates for access to any of the primary, general, or special election debates, the sponsor may invite that candidate to participate in [the] such debate. In the case of a [runoff] run-off primary election or a run-off special election, the sponsor may invite a non-participating candidate to participate in [the debate(s)] such debate. However, if a non-participating candidate [non-participant leading contender] does not accept such invitation to debate or does not appear at such debate, the debate shall go forward as scheduled [with the other previously selected leading contender or contenders in the case of a second general election debate or participating candidate on the ballot in the case of a runoff election debate]; provided, however, if there is only one participating candidate or limited participating candidate participating in any such debate, upon agreement by the debate sponsor, the board and the potential debater, such debate may be canceled.

[(c) In the case of the second general election debate, the application shall also provide for an

alternative non-partisan voter education program that the sponsor shall provide for any participating candidates not deemed leading contenders.]

6. Prior to choosing a sponsor, the board shall provide for the receipt of comments from interested persons regarding the qualifications of potential sponsors. The [Board] board shall consider and give substantial weight to such comments submitted by candidates.

7. Based upon the criteria in subdivision [4] four above and any comments received pursuant to subdivision [6] six above, the board shall select the organization or organizations to sponsor the [election] debates and shall provide written notification to the organization or organizations so selected. In addition to the sufficiency of the application, the board shall consider the applicant's ability to reach a wide audience and present a fair and impartial debate. The board may accept an application subject to modifications as it deems appropriate and as are acceptable to the sponsor.

8. For [the two primary] all debates [and the first general election debate], the board shall provide each debate sponsor it has selected with a list of [candidates] participating candidates and limited participating candidates who are [required] eligible to be considered to participate in such debates.

9. If a candidate fails to participate in any debate required under this section before an election, the candidate shall be liable for return of [moneys] any public matching funds previously received [for use by the candidate to pay election campaign expenses and] pursuant to the certification filed by the candidate in connection with the election for which such debate is held, shall be ineligible to receive any further matching funds for that election, and may be subject to a civil penalty pursuant to section 3-711. For purposes of this subdivision, each primary, general, special or [run off] run-off election shall be considered a separate election.

10. Following the submission of a petition on behalf of the candidate and a hearing before the board, the [penalty] sanction or sanctions provided in subdivision nine of this section applicable to a [participating] candidate for failure to participate in any debate as required under this section [shall] may be waived upon a determination by the board that the failure to participate in the debate occurred under circumstances beyond the

control of the candidate and of such nature that a reasonable person would find the failure justifiable or excusable.

11. Nothing contained in this section shall preclude any candidate from agreeing to participate in any number of additional debates between any and all candidates for a city-wide office, including [those candidates not participating in the campaign finance program] non-participating candidates or limited participating candidates. These debates need not be held under guidelines or the purview of the campaign finance board.

§9. Subdivision 1 of section 3-710 of the administrative code of the city of New York is amended to read as follows:

1. The campaign finance board is hereby empowered to audit and examine all matters relating to the performance of its functions and any other matter relating to the proper administration of this chapter and of chapter 8 of title 3 of this code. These audit and examination powers extend to all participating candidates and limited participating candidates.

§10. Section 3-710.5 of the administrative code of the city of New York is amended to read as follows:

§3-710.5 Findings of violation or infraction. The board shall determine whether a participating or limited participating candidate, his or her principal committee, principal committee treasurer or any other agent of [a participating] such candidate has committed a violation or infraction of any provision of this chapter or the rules promulgated hereunder, for which the board may assess a civil penalty pursuant to section 3-711 of this chapter. The board shall promulgate rules defining infractions, and such definitions shall include, but not be limited to, failures to comply with the provisions of this chapter or the rules promulgated hereunder that are limited and non-repetitive. The board shall give written notice and the opportunity to appear before the board to any participating or limited participating candidate, his or her principal committee, principal committee treasurer or any other agent of [a participating] such candidate, if the board has reason to believe that such has

committed a violation or infraction, before assessing any penalty for such action.

§11. Subdivisions one, two and three of section 3-711 of the administrative code of the city of New York are amended to read as follows:

§3-711 Penalties. 1. Any participating or limited participating candidate whose principal committee fails to file in a timely manner a statement or record required to be filed by this chapter or the rules [] of the board in implementation thereof or who [violates] commits a violation or infraction of any other provision of this chapter or rule promulgated thereunder, including any provision of section 3-709.5, and any principal committee treasurer or any other agent of a participating or limited participating candidate who commits such a violation or infraction, shall be subject to a civil penalty in an amount not in excess of ten thousand dollars.

The board shall publish a schedule of civil penalties for common infractions and violations, including examples of aggravating and mitigating circumstances that may be taken into account by the board in assessing such penalties. This schedule shall reflect that infractions are less serious failures to comply with the provisions of this chapter.

2. (a) In addition to the penalties provided in subdivision one of this section, if the aggregate amount of expenditures by a participating or limited participating candidate and such candidate's principal committee exceed the expenditure limitations contained in this chapter, such candidate and principal committee shall be subject to a civil penalty in an amount not to exceed three times the sum by which such expenditures exceed the applicable expenditure limitation;

(b) In addition to the penalties provided in subdivision one of this section, a participating candidate or his or her principal committee, that have been found by the board to have violated a provision of this chapter by failing to provide any response to a draft audit report sent to the candidate after the election by the board pursuant to section 3-710 of this chapter, shall be subject to a civil penalty for such violation of up to ten percent of the total public funds received by such candidate.

3. The intentional or knowing furnishing of any false or fictitious evidence, books or information to the board under this chapter, or the inclusion in any evidence, books, or information so furnished of a misrepresentation of a material fact, or the falsifying or concealment of any evidence, books, or information relevant to any audit by the board or the intentional or knowing violation of any other provision of this chapter shall be punishable as a class A misdemeanor in addition to any other penalty as may be provided under law, including subdivision one of this section. The board shall assess penalties for such conduct and seek to recover any public funds obtained [as a result of such conduct].

§13. Section 3-712 of the administrative code of the city of New York is amended to read as follows:

§3-712. Campaigns for office not subject to this chapter. Contributions, loans, guarantees and other security for such loans used and expenditures made toward the payment of liabilities incurred by a candidate in an election held prior to the effective date of this section [or in which he or she did not choose to participate in the public funding provisions of this chapter,] or in a campaign for public office other than one covered by this chapter, shall not be subject to the requirements and limitations of this chapter.

§14. Subdivision 1 of section 3-713 of the administrative code of the city of New York is amended to read as follows:

1. The campaign finance board shall review and evaluate the effect of this chapter upon the conduct of election campaigns in the city and shall submit a report to the mayor and the city council on or before September first, nineteen hundred ninety, and every fourth year thereafter, and at any other time upon the request of the mayor or the city council and at such other times as the board deems appropriate, containing:

(a) the number and names of candidates qualifying for and choosing to receive public funds pursuant to this chapter, and of candidates failing to qualify or otherwise not choosing to receive such funds, in each election during the four preceding calendar years;

(b) the amount of public funds provided to the principal committee of each candidate pursuant to this chapter and the contributions received and expenditures made by each such candidate and the principal committee of such candidate, in each election during the four preceding calendar years;

(c) the number and names of candidates filing a certification pursuant to section 3-718 of this chapter in each election during the four preceding calendar years, together with the expenditures made by each such candidate and the principal committee of such candidate in each such election;

[(c)](d) recommendations as to whether the provisions of this chapter governing maximum contribution amounts, thresholds for eligibility and expenditure limitations should be amended and setting forth the amount of, and reasons for, any amendments it recommends;

[(d)](e) analysis of the effect of this chapter on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates and the candidates' ability to campaign effectively for public office;

[(e)](f) a review of the procedures utilized in providing public funds to candidates; and

[(f)](g) such recommendations for changes in this chapter as it deems appropriate.

§15. Paragraphs 2 and 3 of section 3-716 of the administrative code of the city of New York are amended to read as follows:

2. The following activities in support of other candidates by a participating or limited participating candidate or his or her principal committee shall not be considered contributions to or expenditures by such participating or limited participating candidate or his or her principal committee, except to the extent such activities are paid for by such [the participating] candidate or his or her principal committee for a covered election:

(a) The act alone of endorsing or appearing with another candidate for public office, party nomination or party position.

(b) The insubstantial communication of such endorsement or appearance described in paragraph (a), such as where the participating or limited participating candidate's name is one of several names appearing on the communication and is of equivalent prominence as the other names.

(c) Fundraising assistance to another candidate in the form of written communications that do not promote the participating or limited participating candidate, such as the appearance of the participating or limited participating candidate's name or signature on a letter soliciting funds for another candidate or the appearance of such [the] participating or limited participating candidate's name on fundraising material where such [the] participating or limited participating candidate's name appears alone or with other names and is of equivalent prominence as the other names.

(d) A typical communication by a political club to its members, which includes the name of a participating or limited participating candidate, provided that such [the participating] candidate is already a member of the political club, the political club has fewer than 500 members, and the communication does not solicit funds on behalf of or otherwise promote [the participating] such candidate's campaign for a covered election.

3. The communication of an endorsement or appearance which is not insubstantial under paragraph (b) of subdivision two, fundraising assistance which is promotional under paragraph (c) of subdivision two and a political club communication which does not meet the requirements of paragraph (d) of subdivision two, shall be contributions to and expenditures by the participating or limited participating candidate. Among the factors the board shall consider in determining the value of the contribution to and expenditure by the participating or limited participating candidate are the following factors:

- (a) the focus of the communication;
- (b) the geographical distribution or location of the communication;
- (c) the subject matter of the communication;
- (d) the references to the participating or limited participating candidate or the participating or limited

participating candidate's appearances in the communication;

(e) the relative prominence of a participating or limited participating candidate's references or appearances in the communication, including the size and location of such references and any photographs of the participating or limited participating candidate; and

(f) the timing of the communication.

§16. Chapter 3 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-718, to read as follows:

§3-718. Limited Participation.

1. Requirements. (a) To be a limited participating candidate, a candidate for nomination for election or election must:

(i) be a candidate for mayor, public advocate, comptroller, borough president or member of the city council in a primary, special, or general election;

(ii) not have filed a certification pursuant to section 3-703 for the election or elections for which he or she seeks to file a certification pursuant hereto; and

(iii) (A) file a written certification in such form as may be prescribed by the campaign finance board, which sets forth his or her acceptance of and agreement to comply with the terms and conditions of this section and the rules promulgated hereby, which includes an affirmation that the candidate has a sufficient amount of personal funds to fund his or her campaign; and

(B) the deadline for filing such certification for a primary, general, or special election shall be the deadline date for filing written certifications pursuant to section 3-703(1)(c) by candidates seeking nomination for election or election to the same office in the same calendar year as candidates seeking to file a certification pursuant to this subparagraph, and the provisions of such section 3-703(1)(c) relating to the occurrence of an "extraordinary circumstance" shall apply to limited participating candidates; and

(iv) notify the board in the candidate's written certification as to: (1) the existence of each authorized committee authorized by such candidate that has not been terminated, (2) whether any such committee also has been authorized by any other candidate, and (3) if the candidate has authorized more than one authorized committee, which authorized committee has been designated by the candidate as the candidate's principal committee for the election(s) covered by the candidate's certification; provided, that such principal committee (a) shall be the only committee authorized by such candidate to aid or otherwise take part in the election(s) covered by the candidate's certification, (b) shall not be an authorized committee of any other candidate, and (c) shall not have been authorized or otherwise active for any election prior to the election(s) covered by the candidate's certification. The use of an entity other than the designated principal committee to aid or otherwise take part in the election(s) covered by the candidate's certification shall be a violation of this section and shall trigger the application to such entity of all provisions of this chapter governing principal committees.

(b) A limited participating candidate and his or her principal committee shall comply with the provisions of paragraphs (d), (e), (g), and (i) of subdivision one, and subdivisions six, six-a, eight, nine, ten, and twelve of section 3-703 of this chapter.

(c) A limited participating candidate and his or her principal committee shall not accept, at any time before or after the filing of a certification pursuant to paragraph (a) of this subdivision, either directly or by transfer, any monetary or in-kind contribution, or any loan, guarantee, or other security for such loan made in connection with such candidate's nomination for election or election, except for monetary contributions from the candidate to his or her principal committee made out of the candidate's personal funds, in-kind contributions made by the candidate to his or her principal committee, and advances received pursuant to subparagraph (d) of this paragraph.

(d) A limited participating candidate and his or her principal committee shall make expenditures in furtherance of the election(s) for which the candidate has filed a certification pursuant to paragraph (a) of this subdivision, whether before or after the filing of such certification, only with contributions received pursuant to

subparagraph (c) of this paragraph and, to the extent permitted by rule promulgated by the board pursuant hereto, advances by the limited participating candidate.

(e) A limited participating candidate, together with his or her principal committee, shall not make expenditures which in the aggregate exceed the applicable expenditure limitations set forth in section 3-706.

(f) Neither a limited participating candidate nor an authorized committee of a limited participating candidate shall be eligible to receive public funds pursuant to section 3-705.

(g) If a limited participating candidate is a candidate for the same office for which he or she filed a certification pursuant to paragraph (a) of this subdivision in any other election held in the same calendar year as the election for which such candidate filed such certification, other than a special election to fill a vacancy, he or she shall be bound in each such other election by the provisions of this section.

(h) A candidate who files a certification pursuant to paragraph (a) of this subsection shall not be eligible to file a certification pursuant to section 3-703.

(i) Notwithstanding any limitations in this chapter, a limited participating candidate may contribute to his or her own nomination for election or election with his or her personal funds or property, in-kind contributions made by the candidate to his or her authorized committees with the candidate's personal funds or property, and advances made by the limited participating candidate with the candidate's personal funds or property. A candidate's personal funds or property shall include his or her funds or property jointly held with his or her spouse, domestic partner, or unemancipated children.

§17. Subdivisions 2, 5 and 6 of section 3-801 of chapter 8 of the administrative code of the city of New York are amended to read as follows, and a new subdivision 10 is added as follows:

2. Candidates elected to the office of mayor, public advocate, comptroller, borough president, or member of the city council, and the entities they authorize pursuant to subdivision one of this section, shall:

(a) not use funds accepted by a political committee authorized by the candidate for any election to

make expenditures for transition or inauguration into office, and shall not transfer funds from a political committee to an entity the candidate is required to register pursuant to subdivision one of this section;

(b) not accept any donation or donations of money, goods, or services from any [one] individual, corporation, partnership, political committee, employee organization, or entity which in the[] aggregate exceeds:

(i) four thousand five hundred dollars, in the case of a candidate elected to the office of mayor, public advocate, or comptroller;

(ii) three thousand five hundred dollars, in the case of a candidate elected to the office of borough president; or

(iii) two thousand five hundred dollars, in the case of a candidate elected to the office of member of the city council[.]; and

(c) not incur any liabilities after January thirty-first in the year following the election, nor accept any donations after all liabilities are paid.

5. (a) Each transition and inauguration entity authorized pursuant to subdivision one of this section shall report to the [best of the candidate's, treasurer's, and entity's knowledge, to the] campaign finance board every donation of money, goods, or services, and every loan, it receives, the full name, residential address, occupation, employer, and business address of each individual, corporation, partnership, political committee, employee organization or other entity making[,], or serving as [which is] the intermediary for[,], such donation or loan, and every expenditure it makes.

(b) Donations aggregating not more than ninety-nine dollars from any one donor need not be separately itemized in disclosure reports submitted to the campaign finance board. The treasurer of such entity need not collect or disclose the occupation, employer, or business address of any donor making donations aggregating not more than ninety-nine dollars. [Such]

(c) Disclosure reports shall be submitted at such times and in such form as the campaign finance board

shall require and shall be clearly legible. The campaign finance board shall make available to the public a copy of these disclosure reports within two business days after they are accepted by the campaign finance board.

6. The final disclosure report submitted by such entity shall set forth the disposition of any funds remaining after all liabilities are paid, after which the entity shall be terminated. If an entity has funds remaining after all liabilities have been paid, it shall return those funds to one or more of the entity's donors, or if that is impracticable, to the New York city election campaign finance fund.

10. Notwithstanding any restriction in this section, a candidate may self-fund his or her own entity.

§18. Paragraphs 11 and 12 of subdivision a of section 1052 of the charter of the city of New York are amended, and new subdivision d is added, to read as follows:

11. The board shall have the authority to implement any system established for the regulation of inauguration and transition donations and expenditures including the promulgation of rules and regulations and the imposition of any penalties related thereto, as required by local law.

[11. a.] 12. (a) The board shall require that candidates participating in the voluntary system of campaign finance reform or candidates who otherwise file disclosure reports with the board shall disclose to the board the acceptance of campaign contributions from individuals and entities doing business with the city. The board shall promulgate such rules as it deems necessary to implement and administer this provision and provide that information regarding such contributions shall be accessible to the public. The board shall also promulgate such rules as it deems necessary to regulate the acceptance by candidates participating in the voluntary system of campaign finance reform of campaign contributions from individuals and entities doing business with the city, including rules that determine which business dealings shall be covered by such rules. Elected officials, city agencies, boards and commissions, including the mayor, comptroller, public advocate, borough presidents, the city council and members of the city council shall cooperate with the board to provide to the board such information about such individuals and entities as the board shall require.

[b.] (b) The board shall promulgate such rules as it deems necessary to attribute expenditures that indirectly assist or benefit a candidate participating in the voluntary system of campaign finance reform as in-kind contributions to such candidate.

[c.] (c) In promulgating rules pursuant to this paragraph, the board shall consider the following criteria: (1) the effectiveness of the voluntary system of campaign finance reform, (2) the costs of such system, (3) the maintenance of a reasonable balance between the burdens of such system and the incentives to candidates to participate in such system.

[d.] (d) Any rules promulgated pursuant to this paragraph shall apply only with respect to nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president, or member of the city council.

[e.] (e) Proposed rules promulgated pursuant to this paragraph shall be published in accordance with subdivision b of section one thousand forty-three of this charter no later than December thirty-first, nineteen hundred ninety-nine. Final rules promulgated pursuant to this paragraph shall be adopted in accordance with such section as soon as practicable thereafter. Final rules adopted in the initial promulgation of rules pursuant to this paragraph shall supersede any inconsistent provisions of the administrative code that are in effect on the effective date of such final rules.

[12] 13. Notwithstanding any other provision of law, the board shall prohibit candidates participating in the voluntary system of campaign finance reform from accepting, either directly or indirectly, a campaign contribution, loan, guarantee or other security for such loan, from any corporation. The board shall promulgate such rules as it deems necessary to implement and administer this provision.

d. The board may take such other actions as are necessary and proper to carry out any other authority the city council shall give to the board in any local law, including the promulgation of any rules and the provision of any forms.

§19. Section 1136.1 of the charter of the city of New York is amended to read as follows:

§ 1136.1. **Prohibitions on the use of government funds and resources.** 1. Definitions. As used in this section:

(a) "Appear" means to communicate by live and/or recorded, visual and/or audio images of the candidate, or to use the name of the candidate, or both, or in a manner which makes the identity of the candidate otherwise apparent by unambiguous reference.

(b) "Candidate" means an individual who seeks nomination for election, or election, to any elective office to be voted for at a primary, general or special election whether or not the office has been specifically identified at such time and whether or not such individual is nominated or elected; an individual shall be deemed to seek nomination for election, or election, to an elective office, if he or she has (1) taken the action necessary to qualify himself or herself for nomination for election, or election, or (2) received contributions or made expenditures, given his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination for election, or election, to any elective office at any time whether in the year in which such contributions or expenditures are made or at any other time.

(c) "Electioneering message" means a statement designed to urge the public to elect or defeat a certain candidate for elective office, or support or oppose a particular political party, or support or oppose a particular referendum question.

(d) "Elective office" means any elective office, including federal, state, and local offices.

(e) "Mass mailing" means identical or nearly identical pieces of literature or other mass communication totaling more than one hundred items, including but not limited to newsletters, pamphlets and informational materials, which are mailed to residents or voters, or any group or classification thereof, other than in response to specific inquiries or requests made by members of the public.

(f) "Participate" means to authorize, request, suggest, foster, cooperate, and encompasses actions and omissions of both the candidate for elective office and any agent acting on behalf of the candidate, including a

political committee authorized by the candidate.

(g) “Public servant” means all officials, officers and employees of the city, including members of community boards and members of advisory committees, except unpaid members of advisory committees shall not be public servants.

2. (a) [It shall be a violation of this section for an] No [officer or employee] public servant [of the city or of any city agency] who is a candidate for nomination or election to any elective [city] office or the spouse of such [officer or employee] public servant shall [: (i) to] appear or otherwise participate in any advertisement or commercial on television, radio, in print [or printed advertisement or commercial] or by electronic means on the Internet, which is funded, in whole or part, by governmental funds or resources from January first in the year an election for such elective [city] office shall be held through the day of the last election that year for that office, in which the candidate seeks nomination or election[; (ii) to].

(b) No public servant who is a candidate for nomination or election to any elective office or the spouse of such public servant shall use, cause another person to use, or participate in the use of governmental funds or resources for a mass mailing that is [placed in the mail] postmarked, if mailed, or delivered, if by other means, less than [thirty] ninety days prior to any primary or general election for any elective [city] office for which office such person is a candidate for nomination or election; [and (iii)] provided, however, that a candidate may send one mass mailing, which shall be postmarked, if mailed, or delivered, if by other means, no later than twenty-one days after the adoption of the executive budget pursuant to section two hundred fifty-four. No such mass mailing shall be intentionally sent to individuals outside the particular council district, borough, or other geographic area represented by such candidate.

(c) No public servant shall [to] use governmental funds or resources for a public communication that contains an electioneering message [urging the public to elect or defeat a certain candidate for an elective city office, or support or oppose a particular political party, or support or oppose a particular referendum question], including but not limited to information placed by electronic means on the Internet.

(d). In the case of a candidate in a special election to fill a vacancy in an elective [city] office, the prohibitions set forth in [subparagraphs] paragraphs (a) and (b) [(i) and (ii)] of this [paragraph] subdivision shall apply from the day the special election is declared through the day of the special election.

3. [2.] (a) Nothing in this section shall prohibit appearances or participation by [officers and employees of the city or of any city agency] public servants in or the use of governmental funds or resources for:

- (i) advertisements and other communications required by law;
- (ii) communications necessary to safeguard public health and safety;
- (iii) standard communications in response to inquiries or requests;
- (iv) ordinary communications between [officers and employees of the city or any city agency] public servants and members of the public;
- (v) ordinary communications between elected officials and their constituents;
- (vi) bona fide news coverage in print and electronic media; or
- (vii) debates among opposing candidates or other public education forums.

(b) Nothing in this section shall be construed to prohibit the public funding of candidates pursuant to any voluntary system of campaign finance reform established by local law or the lawful use of such public funds by such candidates.

(c) Nothing in this section shall be deemed to permit any interest or conduct prohibited by chapter sixty-eight of this charter or by any rule, regulation, opinion, or determination of the conflicts of interest board issued pursuant thereto or to restrict in any way the powers and obligations of the conflicts of interest board.

[3. For purposes of this subdivision:

(i) "appear" means to communicate by live and/or recorded, visual and/or audio images of the candidate, or to use the name of the candidate, or both, or in a manner which makes the identity of the candidate otherwise apparent by unambiguous reference;

(ii) "candidate" means an individual who seeks nomination for election, or election, to any elective city

office to be voted for at a primary, general or special election whether or not the office has been specifically identified at such time and whether or not such individual is nominated or elected; an individual shall be deemed to seek nomination for election, or election, to an elective office, if he or she has (1) taken the action necessary to qualify himself or herself for nomination for election, or election, or (2) received contributions or made expenditures, given his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination for election, or election, to any elective city office at any time whether in the year in which such contributions or expenditures are made or at any other time;

(iii) "electioneering message" means a statement designed to urge the public to elect or defeat a certain candidate for elective city office, or support or oppose a particular political party, or support or oppose a particular referendum question;

(iv) "mass mailing" means the identical or nearly identical pieces of mail totaling more than one hundred pieces, including but not limited to newsletters, pamphlets, and informational materials, which are mailed to residents or voters, or any group or classification thereof, other than in response to inquiries or requests previously made by the recipients of the mailing;

(v) "participate" means to authorize, request, suggest, foster, or cooperate in, and encompasses actions and omissions of both the candidate for elective city office and any agent acting on behalf of the candidate, including a political committee authorized by the candidate.]

4. [Any officer or employee of the city or of any city agency or the spouse of such officer or employee who knowingly violates this section shall be guilty of a misdemeanor.] The intentional or knowing violation of this section shall be punishable as a misdemeanor in addition to any other penalty as may be provided under law. Additionally, the campaign finance board shall have the power to investigate and determine whether any use of governmental funds or resources pursuant to paragraph (b) of subdivision two of this section is a violation of such paragraph and, if such violation is found, whether such use of government resources also violates or constitutes a contribution and/or expenditure under chapter seven of title three of the administrative

code of the city of New York or any rule promulgated thereunder. The campaign finance board may assess civil penalties, upon giving written notice and the opportunity to appear before the board, against candidates for offices covered by the system of campaign finance reform, in an amount not in excess of ten thousand dollars for each such violation.

§20. **Severability.** If any provision of this bill or any other provision of this local law, or any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate any portion of or the remainder of this local law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§21. Sections 3 and 6 of this local law shall not have any effect on any adjustments made prior to the effective date of this law pursuant to subdivision 7 of section 3-703 or paragraph (e) of subdivision 1 of section 3-706 of the administrative code.

§22. This local law shall become effective immediately except amendments made to subdivisions two and five of section six of this local law, which shall become effective on January 1, 2006.