

7393

2013-2014 Regular Sessions

I N A S S E M B L Y

May 14, 2013

Introduced by M. of A. KOLB, BARCLAY, BLANKENBUSH, BORELLI, BUTLER, CERETTO, CORWIN, CROUCH, CURRAN, DIPIETRO, DUPREY, FINCH, FITZPATRICK, FRIEND, GARBARINO, GIGLIO, GOODELL, GRAF, HAWLEY, JOHNS, JORDAN, KATZ, LALOR, P. LOPEZ, LUPINACCI, MALLIOTAKIS, McDONOUGH, McKEVITT, McLAUGHLIN, MONTESANO, NOJAY, OAKS, PALMESANO, RA, RABBITT, RAIA, REILICH, SALADINO, STEC, TEDISCO, TENNEY, WALTER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to disqualifying certain individuals from holding office; and to amend the civil rights law, in relation to revoking the right to hold office by certain individuals (Part A); to amend the state finance law, in relation to the disqualification of certain bidders (Part B); to amend the legislative law, in relation to banning certain individuals from lobbying (Part C); and to amend the state finance law, in relation to requiring transparency, identification and disclosure of certain appropriations and intended recipients (Part D); to establish the commission on official conduct, providing for its powers, duties and functions, and providing for the transfer of the functions, powers and duties of the commission on public integrity, the office of the state inspector general and the former temporary state commission of investigation to the commission on official conduct; to amend the civil service law and the legislative law, in relation to the commission on public integrity; to amend the executive law and the public authorities law, in relation to the state inspector general; to amend the criminal procedure law, the executive law and the public officers law, in relation to the former temporary state commission of investigation; to repeal section 94 of the executive law relating to the joint commission on public ethics; to repeal article 4-A of the executive law and subdivision 68 of section 2.10 of the criminal procedure law relating to the office of the state inspector general; and to repeal chapter 989 of the laws of 1958, relating to creating a temporary state commission of investigation, relating thereto (Part E); to amend the election law, in relation to forfeiture of unspent campaign funds after criminal conviction and resignation of the elected official (Part F); to amend

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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the penal law, the criminal procedure law and the election law, in relation to abuse of public trust crime (Part G); to amend the election law, in relation to limitations on use of campaign contributions (Part H); to amend the election law, in relation to filing late campaign disclosure statements (Part I); and to amend the legislative law, in relation to limiting the amount of time a legislator may serve as a legislative leader (Part J)

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "public officers accountability act of 2013".

3 S 2. This act enacts into law major components of legislation which
4 address the impact of a felony conviction, on a public officer, when
5 such conviction is related to the officer's official duties or public
6 office, provides for member item reform, creates a new Commission on
7 Official Conduct, forfeiture of campaign funds upon felony convictions,
8 creation of new crimes against public trust, limiting use of campaign
9 funds, enhanced penalties for filing late campaign disclosure state-
10 ments, limiting terms of leaders and committee chairs. Each component
11 is wholly contained within a Part identified as Parts A through J. The
12 effective date for each particular provision contained within such Part
13 is set forth in the last section of such Part. Any provision in any
14 section contained within a Part, including the effective date of the
15 Part, which makes a reference to a section "of this act", when used in
16 connection with that particular component, shall be deemed to mean and
17 refer to the corresponding section of the Part in which it is found.
18 Section four of this act sets forth the general effective date of this
19 act. The "public officers accountability act of 2013" provided in this
20 act, includes the support of constitutional amendments that are consist-
21 ent with the intent of this act. The legislature supports constitutional
22 proposals that remove pension benefits from public officials who are
23 convicted of a felony related to such individual's official duties and
24 to provide that no person who is convicted of a felony, related to such
25 official duties, shall be eligible to serve in the legislature.

26 PART A

27 Section 1. Subdivision 1 of section 3 of the public officers law, as
28 amended by chapter 44 of the laws of 1982, is amended to read as
29 follows:

30 1. No person shall be capable of holding a civil office who shall not,
31 at the time he shall be chosen thereto, have attained the age of eigh-
32 teen years, except that in the case of youth boards, youth commissions
33 or recreation commissions only, members of such boards or commissions
34 may be under the age of eighteen years, but must have attained the age
35 of sixteen years on or before appointment to such youth board, youth
36 commission or recreation commission, be a citizen of the United States,
37 a resident of the state, and if it be a local office, a resident of the
38 political subdivision or municipal corporation of the state for which he
39 shall be chosen, or within which the electors electing him reside, or
40 within which his official functions are required to be exercised, OR
41 WHO, HAS BEEN CONVICTED OF ANY FELONY OFFENSES AS DEFINED BY STATE OR
42 FEDERAL LAW AND WHEN SUCH OFFENSE WAS DIRECTLY RELATED TO HIS OR HER

SERVICE AS AN ELECTED OFFICIAL, OR OFFICER OF THE STATE OR OF A CIVIL DIVISION THEREOF; or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.

S 2. Subdivision 1 of section 79 of the civil rights law, as amended by chapter 687 of the laws of 1973, is amended to read as follows:

1. Except as provided in subdivision two a sentence of imprisonment in a state correctional institution for any term less than for life or a sentence of imprisonment in a state correctional institution for an indeterminate term, having a minimum of one day and a maximum of natural life, forfeits all the public offices, and suspends, during the term of the sentence, all the civil rights, and all private trusts, authority, or powers of, or held by, the person sentenced, AND FORFEITS THE RIGHT TO HOLD PUBLIC OFFICE FOR LIFE WHEN SUCH PERSON HAS BEEN CONVICTED OF ANY FELONY OFFENSE, AS DEFINED BY STATE OR FEDERAL LAW, WHEN SUCH OFFENSE WAS DIRECTLY RELATED TO HIS OR HER SERVICE AS AN ELECTED OFFICIAL, OR OFFICER OF THE STATE OR OF A CIVIL DIVISION THEREOF.

S 3. This act shall take effect immediately.

PART B

Section 1. The state finance law is amended by adding a new section 169 to read as follows:

S 169. DISQUALIFICATION OF CERTAIN BIDDERS. 1. SUBSEQUENT TO RECEIVING BIDS AND PRIOR TO ENTERING INTO A CONTRACT WITH A BIDDER, WHERE THAT BIDDER HAS OR WILL CONDUCT BUSINESS IN NEW YORK STATE, OR PRIOR TO FORMALLY APPROVING A CONTRACT BETWEEN A BIDDER AND A SUBCONTRACTOR, EACH AGENCY, AS DEFINED IN SECTION NINETY-TWO OF THE PUBLIC OFFICERS LAW, SHALL CONDUCT A CRIMINAL BACKGROUND CHECK TO DETERMINE IF SUCH BIDDER OR SUBCONTRACTOR HAS A FELONY CONVICTION. ANY BIDDER WHO HAS BEEN CONVICTED OF ANY FELONY OFFENSES AS DEFINED BY STATE OR FEDERAL LAW AND WHEN SUCH OFFENSE WAS DIRECTLY RELATED TO HIS OR HER SERVICE AS AN ELECTED OFFICIAL, OR OFFICER OF THE STATE OR OF A CIVIL DIVISION THEREOF, SHALL BE DISQUALIFIED. NO AGENCY, AS DEFINED IN SECTION NINETY-TWO OF THE PUBLIC OFFICERS LAW, SHALL BE PERMITTED TO ENTER INTO A CONTRACT WITH, OR FORMALLY APPROVE A SUBCONTRACT TO, A BIDDER OR SUBCONTRACTOR WHO HAS A FELONY CONVICTION WHERE SUCH CONVICTION WAS DIRECTLY RELATED TO HIS OR HER SERVICE AS AN ELECTED OFFICIAL, OR OFFICER OF THE STATE OR OF A CIVIL DIVISION THEREOF.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, A CONTRACT MAY BE ENTERED INTO WITH A BIDDER WHO HAS SUCH A FELONY CONVICTION IF:

A. THE AGENCY DETERMINES THAT AN EMERGENCY CONDITION EXISTS INVOLVING DANGER TO THE LIFE, HEALTH, OR SAFETY OF ANY PERSON OR THE SAFETY OF ANY STRUCTURE THAT REQUIRES IMMEDIATE ACTION TO MITIGATE THE HARM OR AVERT DANGER AND THE NATURE OF THE WORK IS SUCH THAT IT WOULD BE IMPRACTICAL AND AGAINST THE PUBLIC INTEREST TO HAVE PUBLIC LETTING OF THE CONTRACT, OR THE ITEM TO BE PURCHASED IS ESSENTIAL TO THE EFFICIENT OPERATION OR THE ADEQUATE PROVISION OF SERVICE AND AS A CONSEQUENCE OF AN EMERGENCY CONDITION SUCH ITEM OR SERVICE IS NOT AVAILABLE FROM A NON-DISQUALIFIED INDIVIDUAL OR ENTITY; OR

B. THE ITEM TO BE PURCHASED IS AVAILABLE ONLY FROM A SINGLE SOURCE AND THAT SOURCE IS THE BIDDER WITH A DISQUALIFYING FELONY CONVICTION.

1 3. FOR THE PURPOSES OF PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION,
2 THE TERM "EMERGENCY CONDITION" SHALL MEAN A CONDITION CAUSED BY A
3 NATURAL DISASTER, FIRE, OR OTHER CASUALTY, OR ANOTHER UNANTICIPATED,
4 SUDDEN, AND UNEXPECTED OCCURRENCE THAT REQUIRES THE IMMEDIATE ATTENTION
5 AND ACTION OF THE AGENCY.

6 4. PRIOR TO AWARDED A CONTRACT UNDER THE PROVISIONS OF PARAGRAPH A OF
7 SUBDIVISION TWO OF THIS SECTION, THE AGENCY SHALL NOTIFY THE COMPTROLLER
8 OF ITS INTENT TO AWARD THE CONTRACT AND SHALL SPECIFY THE REASONS USED
9 BY THE AGENCY TO MAKE THE REQUIRED DETERMINATIONS. THE COMPTROLLER SHALL
10 REVIEW THE DETERMINATIONS OF THE AGENCY AND IF, IN THE DETERMINATION OF
11 THE COMPTROLLER, THE REASONS SPECIFIED BY THE AGENCY DO NOT SATISFY THE
12 REQUIREMENTS OF PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION, THE
13 COMPTROLLER SHALL HAVE THE AUTHORITY TO DEEM THE AWARDED CONTRACT NULL
14 AND VOID AND UNENFORCEABLE AND TO REQUIRE THE AGENCY TO USE THE COMPET-
15 ITIVE BIDDING PROCESS FOR THE CONTRACT.

16 S 2. This act shall take effect on the one hundred twentieth day after
17 it shall have become a law; provided that all state agencies, as defined
18 in paragraph (g) of subdivision 1 of section 73 of the public officers
19 law, are authorized to promulgate any and all rules and regulations and
20 take any other measures necessary to implement this act on its effective
21 date on or before such date.

22 PART C

23 Section 1. Section 1-d of the legislative law is amended by adding a
24 new subdivision (i) to read as follows:

25 (I) IMPOSE A PERMANENT BAN UPON ANY LOBBYING ACTIVITIES AS DEFINED IN
26 THIS ARTICLE AGAINST ANY PERSON WHO HAS BEEN CONVICTED OF ANY FELONY
27 OFFENSES AS DEFINED BY STATE OR FEDERAL LAW AND WHEN SUCH OFFENSE WAS
28 DIRECTLY RELATED TO HIS OR HER SERVICE AS AN ELECTED OFFICIAL, OR OFFI-
29 CER OF THE STATE OR OF A CIVIL DIVISION THEREOF.

30 S 2. Subdivision (b) of section 1-o of the legislative law is amended
31 by adding a new paragraph (vii) to read as follows:

32 (VII) ANY PERSON WHO ENGAGES IN LOBBYING ACTIVITIES WHILE SUBJECT TO A
33 PERMANENT BAN ON SUCH ACTIVITIES PURSUANT TO THE PROVISIONS OF SUBDIVI-
34 SION (I) OF SECTION ONE-D OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL
35 PENALTY NOT TO EXCEED FIFTY THOUSAND DOLLARS, PLUS A CIVIL PENALTY IN AN
36 AMOUNT EQUAL TO FIVE TIMES THE VALUE OF ANY GIFT, COMPENSATION OR BENE-
37 FIT RECEIVED AS A RESULT OF THE VIOLATION.

38 S 3. This act shall take effect immediately.

39 PART D

40 Section 1. Subdivisions 4 and 5 of section 24 of the state finance
41 law, as added by chapter 1 of the laws of 2007, are amended to read as
42 follows:

43 4. Any appropriation SUBMITTED BY THE GOVERNOR OR added to such budget
44 bills, pursuant to section four of article seven of the constitution,
45 shall only contain itemized appropriations which shall not be in the
46 form of lump sum appropriations, and provided further that for all non-
47 federal state operations appropriations, such bill or bills shall only
48 contain itemized appropriations and shall be made, where practicable, by
49 agency, and within each agency by program and within each program at the
50 following level of detail and in the following order:

1 (a) by fund type, which at a minimum shall include general fund,
2 special revenue-other funds, capital projects funds and debt service
3 funds;

4 (b) for personal service appropriations, separate appropriations shall
5 be made for regular personal service, temporary personal service, and
6 holiday and overtime pay;

7 (c) for nonpersonal service appropriations, separate appropriations
8 shall be made for supplies and materials, travel, contractual services,
9 equipment and fringe benefits, as appropriate; AND

10 (D) AT THE REQUEST OR DISCRETION OF THE GOVERNOR OR A MEMBER OF THE
11 LEGISLATURE, SUCH APPROPRIATION SHALL INCLUDE THE NAME OF THE GOVERNOR
12 OR MEMBER OF THE LEGISLATURE.

13 5. [Any appropriation added pursuant to section four of article seven
14 of the constitution without designating a grantee shall be allocated
15 only pursuant to a plan setting forth an itemized list of grantees with
16 the amount to be received by each, or the methodology for allocating
17 such appropriation. Such plan shall be subject to the approval of the
18 chair of the senate finance committee, the chair of the assembly ways
19 and means committee, and the director of the budget, and thereafter
20 shall be included in a concurrent resolution calling for the expenditure
21 of such monies, which resolution must be approved by a majority vote of
22 all members elected to each house upon a roll call vote.] ANY APPROPRI-
23 ATION SUBMITTED BY THE GOVERNOR OR ADDED TO SUCH BUDGET BILLS, PURSUANT
24 TO SECTION FOUR OF ARTICLE SEVEN OF THE CONSTITUTION, SHALL BE SUBJECT
25 TO THE FOLLOWING:

26 (A) THE GOVERNOR OR MEMBER OF THE LEGISLATURE REQUESTING SUCH APPRO-
27 PRIATION SHALL BE REQUIRED TO SUBMIT A SIGNED CONFLICT OF INTEREST FORM
28 AND SUBMIT SUCH FORM TO THE ATTORNEY GENERAL TO ENSURE THAT NO CONFLICT
29 OF INTEREST EXISTS; THE ATTORNEY GENERAL SHALL DESIGNATE THE FORM AND
30 CONTENT OF THE CONFLICT OF INTEREST FORM. THE GOVERNOR OR MEMBER OF THE
31 LEGISLATURE SHALL DISCLOSE ON THE CONFLICT OF INTEREST FORM ALL POLI-
32 TICAL DONATIONS HE OR SHE IS RECEIVING OR HAS RECEIVED IN THE PAST FROM
33 THE INTENDED RECIPIENT OF THE APPROPRIATION FUNDING. SUCH A CONFLICT OF
34 INTEREST FORM SHALL BE SIGNED BY THE GOVERNOR OR MEMBER OF THE LEGISLA-
35 TURE UNDER PENALTY OF PERJURY; AND

36 (B) AN APPROPRIATION PROVIDED AT THE DISCRETION OF THE GOVERNOR OR
37 MEMBER OF THE LEGISLATURE SHALL NOT BE PROVIDED IF A CONFLICT OF INTER-
38 EST EXISTS BETWEEN THE GOVERNOR OR A MEMBER OF THE LEGISLATURE DESIGNAT-
39 ING THE APPROPRIATION AND THE POTENTIAL RECIPIENT. THESE APPROPRIATIONS
40 CANNOT FUND ORGANIZATIONS THAT EMPLOY OR OTHERWISE COMPENSATE THE GOVER-
41 NOR OR MEMBER OF THE LEGISLATURE, GOVERNOR'S FAMILY OR MEMBER OF THE
42 LEGISLATOR'S FAMILY, ANY PERSON SHARING THE HOME OF THE GOVERNOR OR
43 MEMBER OF THE LEGISLATURE OR THE GOVERNOR'S OR A MEMBER OF THE LEGISLA-
44 TOR'S STAFF FOR SERVICES OR LABOR RENDERED. FURTHERMORE, THE GOVERNOR OR
45 MEMBERS OF THE LEGISLATURE SHALL NOT DESIGNATE APPROPRIATIONS IF THE
46 GOVERNOR OR MEMBER OF THE LEGISLATURE, A MEMBER OF THE GOVERNOR'S OR
47 MEMBER OF THE LEGISLATOR'S FAMILY, ANY PERSON SHARING THE HOME OF THE
48 GOVERNOR OR MEMBER OF THE LEGISLATURE OR A MEMBER OF THE GOVERNOR'S OR
49 MEMBER OF THE LEGISLATOR'S STAFF IS INVOLVED WITH THE OPERATIONS OF THE
50 ORGANIZATION IN A DECISION-MAKING CAPACITY INCLUDING BUT NOT LIMITED TO
51 WORKING ON AN UNPAID, VOLUNTEER BASIS OR AS A MEMBER OF THE DIRECTING
52 BOARD OF AN ORGANIZATION.

53 S 2. This act shall take effect immediately.

1 Section 1. Short title. This act shall be known and may be cited as
2 the "commission on official conduct act".

3 S 2. Definitions. As used in this act, the following terms shall have
4 the following meanings:

5 (a) "Commission" means the commission on official conduct established
6 by section three of this act.

7 (b) "Executive director" means the executive director of the commis-
8 sion, appointed pursuant to section four of this act.

9 (c) "Covered agency" means all executive branch agencies, departments,
10 divisions, officers, boards and commissions, public authorities (other
11 than multi-state or multi-national authorities) and public benefit
12 corporations, the heads of which are appointed by the governor, and
13 which do not have their own inspector general by statute.

14 S 3. Commission on official conduct; established. (a) There is hereby
15 established, as an independent state agency, the commission on official
16 conduct. The commission shall consist of five members appointed as
17 follows:

18 (1) one member appointed by the chief judge of the court of appeals,
19 who shall serve as the chair of the commission;

20 (2) one member appointed by the presiding justice of the appellate
21 division in the first department;

22 (3) one member appointed by the presiding justice of the appellate
23 division in the second department;

24 (4) one member appointed by the presiding justice of the appellate
25 division in the third department; and

26 (5) one member appointed by the presiding justice of the appellate
27 division in the fourth department.

28 (b) Each member of the commission shall serve a term of five years
29 commencing on the first of January of the calendar year in which the
30 vacancy in such office occurs; provided, however, that for the members
31 initially appointed as members, the member appointed by the presiding
32 justice in the fourth department shall serve a term of one year, the
33 member appointed by the presiding justice in the second department shall
34 serve a term of two years, the member appointed by the presiding justice
35 in the third department shall serve a term of three years, the member
36 appointed by the presiding justice in the first department shall serve a
37 term of four years and the member appointed by the chief judge of the
38 court of appeals shall serve a term of five years.

39 Any vacancy occurring in the membership of the commission shall be
40 filled within sixty days of its occurrence in the same manner as the
41 member whose vacancy is being filled was appointed. A person appointed
42 to fill a vacancy occurring other than by expiration of a term of office
43 shall be appointed to the unexpired term of the member he or she
44 replaces.

45 (c) Four members of the commission shall constitute a quorum, and the
46 commission shall have power to act by majority vote of the total number
47 of members of the commission without vacancy.

48 (d) The members of the commission shall receive no compensation for
49 their services, but shall be allowed their actual and necessary expenses
50 incurred in the performance of their duties pursuant to this act.

51 (e) Members of the commission may be removed by the chief judge of the
52 court of appeals for substantial neglect of duty, gross misconduct in
53 office, inability to discharge the powers and duties of office or
54 violation of the provisions of this act, after written notice and oppor-
55 tunity to be heard by the court of appeals.

1 S 4. Executive director and staff. (a) The commission shall appoint
2 and employ an executive director who shall serve a term of six years.
3 Any vacancy in the office of executive director shall be filled within
4 ten days of its occurrence. A person appointed to fill a vacancy in the
5 office of executive director occurring other than by expiration of a
6 term of office shall be appointed to the unexpired term of the executive
7 director he or she replaces.

8 (b) The executive director shall act in accordance with the policies,
9 rules and regulations of the commission. He or she shall act in the name
10 of the commission pursuant to the specific powers delegated by the
11 commission to the office of executive director.

12 (c) The commission shall appoint and employ such other staff and
13 investigators as shall be necessary to carry out its powers and duties
14 pursuant to this act.

15 (d) The executive director, staff members and investigators may be
16 removed by the commission for substantial neglect of duty, gross miscon-
17 duct in office, inability to perform their duties or violation of the
18 provisions of this act, after written notice and opportunity to be
19 heard.

20 S 5. Powers and duties. The commission shall have the power and duty
21 to:

22 (a) fix the compensation of the executive director, staff members and
23 investigators;

24 (b) request and receive, and shall utilize and be provided with such
25 facilities, resources and data of any court, department, division,
26 board, bureau, commission or agency of the state or any political subdi-
27 vision thereof, or of any public authority or public benefit corpo-
28 ration, as it may reasonably request to properly carry out its powers
29 and duties pursuant to this act;

30 (c) adopt, amend and rescind rules and regulations to govern the
31 procedures of the commission and to implement the provisions of this
32 act;

33 (d) adopt, amend and rescind rules and regulations to assist appoint-
34 ing authorities in determining which persons hold policy-making posi-
35 tions for the purposes of section 73-a of the public officers law;

36 (e) make available forms for annual statements of financial disclosure
37 required to be filed pursuant to section 73-a of the public officers
38 law;

39 (f) review financial disclosure statements filed pursuant to section
40 73-a of the public officers law;

41 (g) receive and investigate complaints and referrals alleging
42 violations of section 73, 73-a or 74 of the public officers law, article
43 1-A of the legislative law, or section 107 of the civil service law;

44 (h) permit any person required to file a financial disclosure state-
45 ment pursuant to section 73-a of the public officers law to delete from
46 the copy thereof made available for public inspection such information
47 as shall be determined by the commission will have no material bearing
48 on the discharge of the reporting person's official duties;

49 (i) grant any person required to file a financial disclosure statement
50 pursuant to section 73-a of the public officers law, an additional peri-
51 od of time within which to file such statement due to justifiable cause
52 or undue hardship;

53 (j) permit any person required to file a financial disclosure state-
54 ment pursuant to section 73-a of the public officers law to delete such
55 information pertaining to such person's spouse or unemancipated children

1 as shall be found by the commission will have no material bearing on the
2 discharge of the reporting person's official duties;

3 (k) advise and assist any state agency in establishing rules and regu-
4 lations relating to possible conflicts between private interests and
5 official duties of present and former state officers and employees;

6 (l) permit any person who has not been determined by his or her
7 appointing authority to hold a policy-making position, but who is other-
8 wise required to file a financial disclosure statement, to be granted an
9 exemption from such filing requirement. The commission may grant such an
10 exemption where the public interest does not require disclosure and the
11 applicant's duties do not involve negotiation, authorization or approval
12 of:

13 (1) contracts, leases, franchises, revocable consents, concessions,
14 variances, special permits or licenses as defined in section 73 of the
15 public officers law,

16 (2) the purchase, sale, rental or lease of real property, goods or
17 services, or a contract therefor,

18 (3) the obtaining of grants of money or loans, or

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

21 (m) determine questions common to a class or defined category of
22 persons or items of information required to be disclosed, where determi-
23 nation of the question will prevent undue repetition of requests for
24 exemption or deletion, or prevent undue complication in complying with
25 the provisions of this act;

26 (n) upon written request from a person subject to the requirements of
27 section 73, 73-a or 74 of the public officers law, render an advisory
28 opinion on the requirements of such provisions;

29 (o) promulgate rules concerning restrictions on outside activities and
30 limitations or the receipt of gifts and honoraria;

31 (p) conduct training programs, in cooperation with the governor's
32 office of employee relations, to provide instruction to persons subject
33 to its jurisdiction;

34 (q) administer and enforce all provisions of this act;

35 (r) conduct any investigation necessary to carry out the provisions of
36 this act;

37 (s) receive and investigate complaints from any source, or upon its
38 own initiative, concerning allegations of corruption, fraud, criminal
39 activity, conflicts of interest or abuse in any covered agency;

40 (t) inform the heads of covered agencies of such allegations and the
41 progress of investigations related thereto, unless special circumstances
42 require confidentiality;

43 (u) determine with respect to such allegations whether disciplinary
44 action, civil or criminal prosecution, or further investigation by an
45 appropriate federal, state or local agency is warranted, and to assist
46 in such investigations;

47 (v) prepare and release to the public written reports of such investi-
48 gations, as appropriate and to the extent permitted by law, subject to
49 redaction to protect the confidentiality of witnesses. The release of
50 all or portions of such reports may be deferred to protect the confiden-
51 tiality of ongoing investigations;

52 (w) review and examine periodically the policies and procedures of
53 covered agencies with regard to the prevention and detection of
54 corruption, fraud, criminal activity, conflicts of interest or abuse;

55 (x) recommend remedial acts to prevent or eliminate corruption, fraud,
56 criminal activity, conflicts of interest or abuse in covered agencies;

1 (y) establish programs for training state officers and employees
2 regarding the prevention and elimination of corruption, fraud, criminal
3 activity, conflicts of interest or abuse in covered agencies;
4 (z) subpoena and enforce the attendance of witnesses;
5 (aa) administer oaths or affirmations and examine witnesses under
6 oath;
7 (bb) require the production of any books and papers deemed relevant or
8 material to any investigation, examination or review;
9 (cc) examine and copy or remove documents or records of any kind
10 prepared, maintained or held by any covered agency;
11 (dd) require any officer or employee in a covered agency to answer
12 questions concerning any matter related to the performance of his or her
13 official duties. No statement or other evidence derived therefrom may be
14 used against such officer or employee in any subsequent criminal prose-
15 cution other than for perjury or contempt arising from such testimony.
16 The refusal of any officer or employee to answer questions shall be
17 cause for removal from office or employment, or other appropriate penal-
18 ty;
19 (ee) monitor the implementation by covered agencies of any recommenda-
20 tions made by the commission;
21 (ff) perform any other functions that are necessary or appropriate to
22 fulfill the provisions of this act;
23 (gg) conduct investigations in connection with:
24 (1) the faithful execution and enforcement of the laws of the state,
25 with particular reference but not limited to organized crime and racke-
26 teering,
27 (2) the conduct of public officers and public employees, and of offi-
28 cers and employees of public benefit corporations and public authori-
29 ties, and
30 (3) any matter concerning the public peace, public safety and public
31 justice;
32 (hh) at the direction of the governor, conduct investigations and
33 otherwise assist the governor in connection with:
34 (1) the removal of public officers by the governor,
35 (2) the making of recommendations by the governor to any other person
36 or body, with respect to the removal of public officers, and
37 (3) the making of recommendations by the governor to the legislature
38 with respect to changes in or additions to existing provisions of law
39 required for the more effective enforcement of the law;
40 (ii) at the direction or request of the governor or the head of any
41 department, board, bureau, commission or other agency of the state,
42 investigate the management or affairs of any such department, board,
43 bureau, commission or other agency;
44 (jj) upon the request of district attorneys and other law enforcement
45 officers, cooperate with, advise and assist them in the performance of
46 their official powers and duties;
47 (kk) cooperate with departments and officers of the United States
48 government in the investigation of violations of the federal laws within
49 this state;
50 (ll) examine into matters relating to law enforcement extending across
51 the boundaries of the state into other states, and may consult and
52 exchange information with officers and agencies of other states with
53 respect to law enforcement problems of mutual concern to this and other
54 states;
55 (mm) whenever it shall appear to the commission that there is cause
56 for the prosecution of a crime or for the removal of a public officer

1 for misconduct, refer the evidence of such crime or misconduct to the
2 officials authorized to conduct the prosecution or to remove the public
3 officer;

4 (nn) keep the public informed as to the operations of organized crime
5 and problems of law enforcement in the state; and

6 (oo) exercise any and all powers of the former commission on public
7 integrity and the former office of the state inspector general as they
8 existed immediately prior to the effective date of this act, and exer-
9 cise any and all powers of the former temporary state commission of
10 investigation as they existed on March 30, 2011.

11 S 6. Financial disclosure. (a) The commission shall inspect all finan-
12 cial disclosure statements filed with the commission to ascertain wheth-
13 er any person subject to the reporting requirements of section 73-a of
14 the public officers law has failed to file such a statement, has filed a
15 deficient statement or has filed a statement which reveals a possible
16 violation of section 73, 73-a or 74 of the public officers law.

17 (b) If a person required to file a financial disclosure statement with
18 the commission has failed to file a disclosure statement or has filed a
19 deficient statement, the commission shall notify the reporting person in
20 writing, state the failure to file or detail the deficiency, provide the
21 person with a fifteen day period to cure the deficiency, and advise the
22 person of the penalties for failure to comply with the reporting
23 requirements. Such notice shall be confidential. If the person fails to
24 make such filing or fails to cure the deficiency within the specified
25 time period, the commission shall send a notice of delinquency: (1) to
26 the reporting person; (2) in the case of a statewide elected official,
27 to the temporary president of the senate and the speaker of the assem-
28 bly; and (3) in the case of a state officer or employee, to the appoint-
29 ing authority for such person. Such notice of delinquency may be sent at
30 any time during the reporting person's service as a statewide elected
31 official, state officer or employee, political party chair or while a
32 candidate for statewide office, or within one year after termination of
33 such service or candidacy. The jurisdiction of the commission, when
34 acting pursuant to subdivision (d) of this section with respect to
35 financial disclosure, shall continue notwithstanding that the reporting
36 person separates from state service, or ceases to hold office as a
37 statewide elected official or political party chair, or ceases to be a
38 candidate, provided the commission notifies such person of the alleged
39 failure to file or deficient filing pursuant to this subdivision.

40 (c)(1) If the commission receives a sworn complaint alleging a
41 violation of section 73, 73-a or 74 of the public officers law, section
42 107 of the civil service law or article 1-A of the legislative law by a
43 person or entity subject to the jurisdiction of the commission, or if a
44 reporting individual has filed a statement which reveals a possible
45 violation of these provisions, or if the commission determines on its
46 own initiative to investigate a possible violation, the commission shall
47 notify the individual in writing, describe the possible or alleged
48 violation of such laws and provide the person with a fifteen day period
49 in which to submit a written response setting forth information relating
50 to the activities cited as a possible or alleged violation of law. If
51 the commission thereafter makes a determination that further inquiry is
52 justified, it shall give the individual an opportunity to be heard. The
53 commission shall also inform the individual of its rules regarding the
54 conduct of adjudicatory proceedings and appeals and the due process
55 procedural mechanisms available to such individual. If the commission
56 determines at any stage of the proceeding that there is no violation or

1 that any potential conflict of interest violation has been rectified, it
2 shall so advise the individual and the complainant, if any. All of the
3 foregoing proceedings shall be confidential.

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

11 (3) The jurisdiction of the commission when acting pursuant to this
12 act shall continue notwithstanding that a statewide elected official or
13 a state officer or employee separates from state service, or a political
14 party chair ceases to hold such office, or a candidate ceases to be a
15 candidate, or a lobbyist or client of a lobbyist ceases to act as such,
16 provided that the commission notifies such individual or entity of the
17 alleged violation of law pursuant to paragraph one of this subdivision
18 within one year from his or her separation from state service or his or
19 her termination of party service or candidacy, or from his, her or its
20 last report filed pursuant to article 1-A of the legislative law. Noth-
21 ing in this section shall serve to limit the jurisdiction of the commis-
22 sion in enforcement of subdivision 8 of section 73 of the public offi-
23 cers law.

24 (d) An individual subject to the jurisdiction of the commission who
25 knowingly and intentionally violates the provisions of subdivisions 2
26 through 5, 7, 8, 12 or 14 through 17 of section 73 of the public offi-
27 cers law, section 107 of the civil service law, or a reporting individ-
28 ual who knowingly and wilfully fails to file an annual statement of
29 financial disclosure or who knowingly and wilfully with intent to
30 deceive makes a false statement or fraudulent omission or gives informa-
31 tion which such individual knows to be false on such statement of finan-
32 cial disclosure filed pursuant to section 73-a of the public officers
33 law shall be subject to a civil penalty in an amount not to exceed
34 \$40,000 and the value of any gift, compensation or benefit received as a
35 result of such violation. An individual who knowingly and intentionally
36 violates the provisions of paragraphs b, c, d or i of subdivision 3 of
37 section 74 of the public officers law shall be subject to a civil penal-
38 ty in an amount not to exceed \$10,000 and the value of any gift, compen-
39 sation or benefit received as a result of such violation. An individual
40 who knowingly and intentionally violates the provisions of paragraphs a,
41 e or g of subdivision 3 of section 74 of the public officers law shall
42 be subject to a civil penalty in an amount not to exceed the value of
43 any gift, compensation or benefit received as a result of such
44 violation. An individual subject to the jurisdiction of the commission
45 who knowingly and wilfully violates article 1-A of the legislative law
46 shall be subject to civil penalty as provided for in that article.
47 Assessment of a civil penalty pursuant to this section shall be made by
48 the commission with respect to persons subject to its jurisdiction. In
49 assessing the amount of the civil penalties to be imposed, the commis-
50 sion shall consider the seriousness of the violation, the amount of gain
51 to the individual and whether the individual previously had any civil or
52 criminal penalties imposed pursuant to this section, and any other
53 factors the commission deems appropriate. For a violation of this subdi-
54 vision, other than for conduct which constitutes a violation of section
55 107 of the civil service law, subdivisions 12 or 14 through 17 of
56 section 73 or section 74 of the public officers law or article 1-A of

1 the legislative law, the commission may, in lieu of a civil penalty,
2 refer a violation to the appropriate prosecutor and upon such
3 conviction, such violation shall be punishable as a class A misdemeanor.
4 A civil penalty for false filing may not be imposed pursuant to this
5 section in the event a category of "value" or "amount" reported pursuant
6 to this section is incorrect unless such reported information is falsely
7 understated. Notwithstanding any other provision of law to the contrary,
8 no other penalty, civil or criminal may be imposed for a failure to
9 file, or for a false filing, of such statement, or a violation of
10 section 73 of the public officers law, except that the appointing
11 authority may impose disciplinary action as otherwise provided by law.
12 The commission may refer violations of this section to the appointing
13 authority for disciplinary action as otherwise provided by law. The
14 commission shall be deemed to be an agency within the meaning of article
15 3 of the state administrative procedure act and shall adopt rules
16 governing the conduct of adjudicatory proceedings and appeals taken
17 pursuant to a proceeding commenced under article 78 of the civil prac-
18 tice law and rules relating to the assessment of the civil penalties
19 authorized by this subdivision and commission denials of requests for
20 certain deletions or exemptions to be made from a financial disclosure
21 statement as authorized by this act. Such rules, which shall not be
22 subject to the approval requirements of the state administrative proce-
23 dure act, shall provide for due process procedural mechanisms substan-
24 tially similar to those set forth in article 3 of the state administra-
25 tive procedure act but such mechanisms need not be identical in terms or
26 scope. Assessment of a civil penalty or commission denial of such a
27 request shall be final unless modified, suspended or vacated within
28 thirty days of imposition, with respect to the assessment of such penal-
29 ty, or unless such denial of request is reversed within such time peri-
30 od, and upon becoming final shall be subject to review at the instance
31 of the affected reporting individuals in a proceeding commenced against
32 the commission, pursuant to article 78 of the civil practice law and
33 rules.

34 (e) If the commission has a reasonable basis to believe that any
35 person subject to the jurisdiction of the legislative ethics commission
36 may have violated any provisions of section 73 or 74 of the public offi-
37 cers law, it may refer such violation to the legislative ethics commis-
38 sion. The referral by the commission to the legislative ethics commis-
39 sion shall include any information relating thereto coming into the
40 custody or under the control of the commission at any time prior or
41 subsequent to the time of the referral.

42 (f) A copy of any notice of delinquency or notice of reasonable cause
43 sent pursuant to subdivisions (b) and (c) of this section shall be
44 included in the reporting person's file and be available for public
45 inspection and copying.

46 S 7. Website. Within one hundred twenty days of the effective date of
47 this section, the commission shall create and thereafter maintain a
48 publicly accessible website which shall set forth the procedure for
49 filing a complaint with the commission, and which shall contain the
50 documents identified in section eight of this act, other than financial
51 disclosure statements, and any other records or information which the
52 commission determines to be appropriate.

53 S 8. Public access to records. (a) Notwithstanding the provisions of
54 article 6 of the public officers law, the only records of the commission
55 which shall be available for public inspection and copying are:

(1) the information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the public officers law except the categories of value or amount, which shall remain confidential, and any other item of information deleted pursuant to this act;

(2) notices of delinquency sent under subdivision (b) of section six of this act;

(3) notices of reasonable cause sent under paragraph two of subdivision (c) of section six of this act;

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

(5) the terms of any settlement or compromise of a complaint or referral which includes a fine, penalty or other remedy; and

(6) those required to be held or maintained publicly available pursuant to article 1-A of the legislative law.

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

S 9. Responsibilities of covered agencies, state officers and employees. (a) Every state officer or employee in a covered agency shall report promptly to the commission any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her office or employment, or by a person having business dealings with a covered agency relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty. Any officer or employee who acts pursuant to this subdivision by reporting to the commission improper governmental action as defined in section 75-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

(b) The head of any covered agency shall advise the governor within ninety days of the issuance of a report by the commission as to the remedial action that the agency has taken in response to any recommendation for such action contained in such report.

S 10. Confidentiality. Any person conducting or participating in any examination or investigation who shall disclose to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the commission, shall be guilty of a misdemeanor.

S 11. Evidence to be impounded. Upon the application of the commission, the executive director or a duly authorized member of its staff, the supreme court or a justice thereof may impound any exhibit marked in evidence in any public or private hearing held in connection with an investigation conducted by the commission, and may order such exhibit to be retained by, or delivered to and placed in the custody of, the commission. When so impounded such exhibit shall not be taken from the custody of the commission, except upon further order of the court or a

1 justice thereof made upon five days' notice to the commission or upon
2 its application or with its consent.

3 S 12. Immunity from prosecution. In any investigation or hearing
4 conducted by the commission pursuant to this act, relating to any crime
5 or offense with respect to which, by express provision of statute, a
6 competent authority is authorized to confer immunity; the commission may
7 confer immunity in accordance with the provisions of section 50.20 of
8 the criminal procedure law, but only after affording the attorney gener-
9 al and the appropriate district attorney the opportunity to be heard in
10 respect to any objections which they may have to the granting of such
11 immunity.

12 S 13. Transfer of functions, powers and duties. All functions, powers,
13 duties and obligations of the former commission on public integrity and
14 the former office of the state inspector general are hereby trans-
15 ferred to the commission.

16 S 14. Transfer of employees. (a) Upon transfer of the functions of the
17 former commission on public integrity and the former office of the state
18 inspector general to the commission, provisions shall be made for the
19 transfer to the commission of those employees of such former agencies
20 who were engaged in carrying out the functions transferred by this act
21 in accordance with section 70 of the civil service law or, where not
22 subject to the civil service law, the provisions of such section 70
23 shall be deemed applicable, except where the context clearly requires
24 otherwise. Any such employee who, at the time of such transfer, has a
25 temporary or provisional appointment shall be transferred subject to the
26 same right of removal, examination or termination as though such trans-
27 fer had not been made except to the extent such rights are modified by a
28 collective bargaining agreement. Employees holding permanent appoint-
29 ments in competitive class positions who are not transferred pursuant to
30 this section shall have their names entered upon an appropriate
31 preferred list for reinstatement pursuant to the civil service law.

32 (b) A transferred employee shall remain in the same collective
33 bargaining unit as was the case prior to his or her transfer; successor
34 employees to the positions held by such transferred employees shall,
35 consistent with the provisions of article 14 of the civil service law,
36 be included in the same unit as their predecessors. Employees other than
37 management or confidential persons (as defined in article 14 of the
38 civil service law), serving positions in newly created titles shall be
39 assigned to the appropriate bargaining unit. Nothing contained in this
40 section shall be construed to affect:

41 (1) the rights of employees pursuant to a collective bargaining agree-
42 ment;

43 (2) the representational relationships among employee organizations or
44 the bargaining relationships between the state and an employee organiza-
45 tion; or

46 (3) existing law with respect to an application to the public employ-
47 ment relations board, provided, however, that the merger of such negoti-
48 ating units of employees shall be effected only with the consent of the
49 recognized and certified representative of such units and of the depart-
50 ment of law.

51 S 15. Transfer of records. All books, papers and property of the
52 former commission on public integrity and the former office of the state
53 inspector general are to be delivered to the commission at such place
54 and time, and in such manner as the commission shall require.

55 S 16. Continuity of authority. For the purpose of succession to all
56 functions, powers, duties and obligations of the former commission on

1 public integrity and the former office of the state inspector general
2 transferred to and assumed by the commission, such commission shall
3 continue the operation thereof as if performed by such former agencies.

4 S 17. Completion of unfinished business. Any business or other matter
5 undertaken or commenced by the former commission on public integrity and
6 the former office of the state inspector general pertaining to or
7 connected with the functions, powers, duties and obligations transferred
8 and assigned to the commission and pending on the effective date of this
9 section shall be conducted and completed by the commission in the same
10 manner and under the same terms and conditions and with the same effect
11 as if conducted and completed by such former agencies.

12 S 18. Continuation of rules and regulations. All rules, regulations,
13 acts, orders, determinations and decisions of the former commission on
14 public integrity and the former office of the state inspector general in
15 force at the time of such transfer and assumption, shall continue in
16 force and effect as rules, regulations, acts, orders, determinations and
17 decisions of the commission until duly modified or abrogated.

18 S 19. Terms occurring in laws, contracts and other documents. Whenever
19 the former commission on public integrity or the former office of the
20 state inspector general is referred to or designated in any law,
21 contract or document pertaining to the functions, powers, obligations
22 and duties transferred and assigned pursuant to this act, such reference
23 or designation shall be deemed to refer to the commission.

24 S 20. Existing rights and remedies preserved. No existing right or
25 remedy of any character shall be lost, impaired or affected by reason of
26 any transfer or assignment pursuant to this act.

27 S 21. Pending actions or proceedings. No action or proceeding pending
28 upon the effective date of this section relating to the functions,
29 powers and duties of the former commission on public integrity and the
30 former office of the state inspector general transferred to the commis-
31 sion, brought by or against any such former agency, shall be affected by
32 any provision of this act, but the same may be prosecuted or defended in
33 the name of the commission. In all such actions and proceedings, the
34 commission, upon application to the court, shall be substituted as a
35 party.

36 S 22. Transfer of appropriations heretofore made. Subject to the
37 approval of the director of the division of the budget, all appropri-
38 ations and reappropriations heretofore made to the former commission on
39 public integrity and the former office of the state inspector general
40 for the purposes and functions transferred pursuant to this act to the
41 commission, to the extent of remaining unexpended or unencumbered
42 balance thereof, whether allocated or unallocated, and whether obligated
43 or unobligated, are hereby transferred to and made available for use and
44 expenditure by the commission for the same purposes for which originally
45 appropriated or reappropriated and shall be payable on vouchers certi-
46 fied or approved by the executive director on audit and warrant of the
47 comptroller. Payments for liabilities for expenses of personal services,
48 maintenance and operation heretofore incurred by and for liabilities
49 incurred and to be incurred in completing the affairs of the former
50 commission on public integrity and the former office of the state
51 inspector general with respect to the powers, duties and functions
52 transferred in this act, shall also be made on vouchers or certificates
53 approved by the executive director on audit and warrant of the comp-
54 troller.

55 S 23. Transfer of assets and liabilities. All assets and liabilities
56 of the former commission on public integrity and the former office of

1 the state inspector general are hereby transferred to and assumed by the
2 commission.

3 S 24. Actions of the commission. The commission is hereby directed to
4 immediately take any and all actions necessary to enable it to assume
5 all powers, duties and functions of the former commission on public
6 integrity, the former office of the state inspector general and the
7 former temporary state commission of investigation within ninety days of
8 the effective date of this act.

9 S 25. Subdivision 5 of section 107 of the civil service law, as
10 amended by chapter 14 of the laws of 2007, is amended to read as
11 follows:

12 5. Violation of this section. Complaints alleging a violation of this
13 section by a statewide elected official or a state officer or employee,
14 as defined in section seventy-three of the public officers law, may be
15 directed to the commission on [public integrity] OFFICIAL CONDUCT.

16 S 26. Section 94 of the executive law is REPEALED.

17 S 27. Subdivision (f) of section 1-c of the legislative law, as
18 amended by chapter 14 of the laws of 2007, is amended to read as
19 follows:

20 (f) The term "commission" shall mean the commission on [public integ-
21 rity created by section ninety-four of the executive law] OFFICIAL
22 CONDUCT.

23 S 28. Subdivision 3 of section 212 of the racing, pari-mutuel wagering
24 and breeding law, as amended by chapter 18 of the laws of 2008, is
25 amended to read as follows:

26 3. Such members, except as otherwise provided by law, may engage in
27 private or public employment, or in a profession or business. The board,
28 its members, officers and employees shall be subject to the provisions
29 of sections seventy-three and seventy-four of the public officers law.
30 No former trustee or officer of a non-profit racing association known as
31 The New York Racing Association, Inc. or its predecessor, no current
32 director or officer of a franchised corporation or any individual regis-
33 tered with the [New York] commission on [public integrity] OFFICIAL
34 CONDUCT shall be appointed as members to the board nor shall any member
35 of the board have any direct or indirect interest in any racehorse,
36 thoroughbred racing or pari-mutuel wagering business, video lottery
37 terminal facility or any development at any racing facility.

38 S 29. Article 4-A of the executive law is REPEALED.

39 S 30. Subdivision 3 of section 63 of the executive law, as amended by
40 chapter 155 of the laws of 2012, is amended to read as follows:

41 3. Upon request of the governor, comptroller, secretary of state,
42 commissioner of transportation, superintendent of financial services,
43 commissioner of taxation and finance, commissioner of motor vehicles, or
44 the [state inspector general] COMMISSION ON OFFICIAL CONDUCT, or the
45 head of any other department, authority, division or agency of the
46 state, investigate the alleged commission of any indictable offense or
47 offenses in violation of the law which the officer making the request is
48 especially required to execute or in relation to any matters connected
49 with such department, and to prosecute the person or persons believed to
50 have committed the same and any crime or offense arising out of such
51 investigation or prosecution or both, including but not limited to
52 appearing before and presenting all such matters to a grand jury.

53 S 31. Section 2350-dd of the public authorities law, as added by chap-
54 ter 762 of the laws of 2005, is amended to read as follows:

1 S 2350-dd. Jurisdiction of [state inspector general] COMMISSION ON
2 OFFICIAL CONDUCT. The agency is subject to the jurisdiction of the
3 [office of the state inspector general] COMMISSION ON OFFICIAL CONDUCT.

4 S 32. Subdivision 3 of section 2.10 of the criminal procedure law, as
5 added by chapter 843 of the laws of 1980, is amended to read as follows:

6 3. [Investigators] THE EXECUTIVE DIRECTOR AND INVESTIGATORS of the
7 [office of the state] commission [of investigation] ON OFFICIAL CONDUCT.

8 S 33. Subdivision 68 of section 2.10 of the criminal procedure law, as
9 added by chapter 168 of the laws of 2000, is REPEALED.

10 S 34. Subdivision 3 of section 70-a of the executive law, as added by
11 chapter 1003 of the laws of 1970, is amended to read as follows:

12 3. The deputy attorney general in charge of the organized crime task
13 force may request and shall receive from the division of state police,
14 the state department of taxation and finance, the state department of
15 labor, the [temporary state] commission [of investigation] ON OFFICIAL
16 CONDUCT, and from every department, division, board, bureau, commission
17 or other agency of the state, or of any political subdivision thereof,
18 cooperation and assistance in the performance of his duties. Such deputy
19 attorney general may provide technical and other assistance to any
20 district attorney or other local law enforcement official requesting
21 such assistance in the investigation or prosecution of organized crime
22 cases.

23 S 35. Subdivision 9 of section 835 of the executive law, as separately
24 amended by chapters 14 and 155 of the laws of 2012, is amended to read
25 as follows:

26 9. "Qualified agencies" means courts in the unified court system, the
27 administrative board of the judicial conference, probation departments,
28 sheriffs' offices, district attorneys' offices, the state department of
29 corrections and community supervision, the department of correction of
30 any municipality, the financial frauds and consumer protection unit of
31 the state department of financial services, the office of professional
32 medical conduct of the state department of health for the purposes of
33 section two hundred thirty of the public health law, the child protec-
34 tive services unit of a local social services district when conducting
35 an investigation pursuant to subdivision six of section four hundred
36 twenty-four of the social services law, the office of Medicaid inspector
37 general, the [temporary state] commission [of investigation] ON OFFICIAL
38 CONDUCT, police forces and departments having responsibility for
39 enforcement of the general criminal laws of the state, the Onondaga
40 County Center for Forensic Sciences Laboratory when acting within the
41 scope of its law enforcement duties and the division of forensic
42 services of the Nassau county medical examiner's office when acting
43 within the scope of its law enforcement duties.

44 S 36. Subdivision 8 of section 92 of the public officers law, as
45 amended by section 135 of subpart B of part C of chapter 62 of the laws
46 of 2011, is amended to read as follows:

47 (8) Public safety agency record. The term "public safety agency
48 record" means a record of the state commission of correction, the
49 [temporary state] commission [of investigation] ON OFFICIAL CONDUCT, the
50 department of corrections and community supervision, the office of chil-
51 dren and family services, the office of victim services, the office of
52 probation and correctional alternatives or the division of state police
53 or of any agency or component thereof whose primary function is the
54 enforcement of civil or criminal statutes if such record pertains to
55 investigation, law enforcement, confinement of persons in correctional
56 facilities or supervision of persons pursuant to criminal conviction or

1 court order, and any records maintained by the division of criminal
2 justice services pursuant to sections eight hundred thirty-seven, eight
3 hundred thirty-seven-a, eight hundred thirty-seven-b, eight hundred
4 thirty-seven-c, eight hundred thirty-eight, eight hundred thirty-nine,
5 and eight hundred forty-five of the executive law and by the department
6 of state pursuant to section ninety-nine of the executive law.

7 S 37. Chapter 989 of the laws of 1958, creating a temporary state
8 commission of investigation, is REPEALED.

9 S 38. Paragraph (b) of subdivision 9 of section 80 of the legislative
10 law, as added by section 9 of part A of chapter 399 of the laws of 2011,
11 is amended to read as follows:

12 (b) Not later than forty-five calendar days after receipt from the
13 [joint] commission on [public ethics] OFFICIAL CONDUCT of a written
14 substantial basis investigation report and any supporting documentation
15 or other materials regarding a matter before the commission [pursuant to
16 subdivision fourteen-a of section ninety-four of the executive law],
17 unless requested by a law enforcement agency to suspend the commission's
18 action because of an ongoing criminal investigation, the legislative
19 ethics commission shall make public such report in its entirety;
20 provided, however, that the commission may withhold such information for
21 not more than one additional period of the same duration or refer the
22 matter back to the [joint] commission on [public ethics] OFFICIAL
23 CONDUCT once for additional investigation, in which case the legislative
24 ethics commission shall, upon the termination of such additional period
25 or upon receipt of a new report by the [joint] commission on [public
26 ethics] OFFICIAL CONDUCT after such additional investigation, make
27 public the written report and publish it on the commission's website. If
28 the legislative ethics commission fails to make public the written
29 report received from the [joint] commission in accordance with this
30 paragraph, the [joint] commission shall release such report publicly
31 promptly and in any event no later than ten days after the legislative
32 ethics commission is required to release such report. The legislative
33 ethics commission shall not refer the matter back to the [joint] commis-
34 sion on [public ethics] OFFICIAL CONDUCT for additional investigation
35 more than once. If the commission refers the matter back to the [joint]
36 commission for additional fact-finding, the [joint] commission's
37 original report shall remain confidential.

38 S 39. Subparagraph 1 of paragraph a of subdivision 12 of section 80 of
39 the legislative law, as amended by section 9 of part A of chapter 399 of
40 the laws of 2011, is amended to read as follows:

41 (1) the terms of any settlement or compromise of a complaint or refer-
42 ral or report which includes a fine, penalty or other remedy reached
43 after the commission has received a report from the [joint] commission
44 on [public ethics pursuant to subdivision fourteen-a of section ninety-
45 four of the executive law] OFFICIAL CONDUCT;

46 S 40. Subparagraphs (ii) and (iii) of paragraph (c) and paragraph
47 (d-1) of subdivision 1 of section 73-a of the public officers law,
48 subparagraphs (ii) and (iii) of paragraph (c) as amended and paragraph
49 (d-1) as added by section 5 of part A of chapter 399 of the laws of
50 2011, are amended to read as follows:

51 (ii) officers and employees of statewide elected officials, officers
52 and employees of state departments, boards, bureaus, divisions, commis-
53 sions, councils or other state agencies, who receive annual compensation
54 in excess of the filing rate established by paragraph (1) of this subdi-
55 vision or who hold policy-making positions, as annually determined by
56 the appointing authority and set forth in a written instrument which

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

(iii) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, and employees of such authorities, corporations and commissions who receive annual compensation in excess of the filing rate established by paragraph (1) of this subdivision or who hold policy-making positions, as determined annually by the appointing authority and set forth in a written instrument which shall be filed with the [joint] commission on [public ethics established by section ninety-four of the executive law] OFFICIAL CONDUCT during the month of February, provided, however, that the appointing authority shall amend such written instrument after such date within thirty days after the undertaking of policy-making responsibilities by a new employee or any other employee whose name did not appear on the most recent written instrument.

(d-1) A financial disclosure statement required pursuant to section seventy-three of this article and this section shall be deemed "filed" with the [joint] commission on [public ethics] OFFICIAL CONDUCT upon its filing, in accordance with this section, with the legislative ethics commission for all purposes including, but not limited to, [subdivision fourteen of section ninety-four of the executive law,] subdivision nine of section eighty of the legislative law and subdivision four of this section.

S 41. Subparagraph (ii) of paragraph (a) and paragraph (c) of subdivision 2 of section 73-a of the public officers law, as amended by section 5 of part A of chapter 399 of the laws of 2011, are amended to read as follows:

(ii) a person who is required to file an annual financial disclosure statement with the [joint] commission on [public ethics] OFFICIAL CONDUCT, and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship[, in accordance with required rules and regulations on the subject adopted pursuant to paragraph c of subdivision nine of section ninety-four of the executive law] shall file such statement within the additional period of time granted; and the legislative ethics commission shall notify the [joint] commission on [public ethics] OFFICIAL CONDUCT of any extension granted pursuant to this paragraph;

(c) If the reporting individual is a senator or member of assembly, candidate for the senate or member of assembly or a legislative employee, such statement shall be filed with both the legislative ethics commission established by section eighty of the legislative law and the [joint] commission on [public ethics] OFFICIAL CONDUCT in accordance with paragraph (d-1) of subdivision one of this section. If the reporting individual is a statewide elected official, candidate for statewide elected office, a state officer or employee or a political party chairman, such statement shall be filed with the [joint] commission on [public ethics established by section ninety-four of the executive law] OFFICIAL CONDUCT.

S 42. Paragraph 8 of subdivision 3 and subdivision 4 of section 73-a of the public officers law, as amended by section 5 of part A of chapter 399 of the laws of 2011, are amended to read as follows:

8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, or works as a member or employee of a firm required to register pursuant to section one-e of the legislative law as a lobbyist, give a general description of the principal subject areas of matters undertaken by such individual. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of principal subject areas of matters undertaken by such firm or corporation.

(b) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE, OR FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE:

If the reporting individual personally provides services to any person or entity, or works as a member or employee of a partnership or corporation that provides such services (referred to hereinafter as a "firm"), then identify each client or customer to whom the reporting individual personally provided services, or who was referred to the firm by the reporting individual, and from whom the reporting individual or his or her firm earned fees in excess of \$10,000 during the reporting period for such services rendered in direct connection with:

(i) A proposed bill or resolution in the senate or assembly during the reporting period;

(ii) A contract in an amount totaling \$50,000 or more from the state or any state agency for services, materials, or property;

(iii) A grant of \$25,000 or more from the state or any state agency during the reporting period;

(iv) A grant obtained through a legislative initiative during the reporting period; or

(v) A case, proceeding, application or other matter that is not a ministerial matter before a state agency during the reporting period.

For purposes of this question, "referred to the firm" shall mean: having intentionally and knowingly taken a specific act or series of acts to intentionally procure for the reporting individual's firm or knowingly solicit or direct to the reporting individual's firm in whole or substantial part, a person or entity that becomes a client of that firm for the purposes of representation for a matter as defined in subparagraphs (i) through (v) of this paragraph, as the result of such procurement, solicitation or direction of the reporting individual. A reporting individual need not disclose activities performed while lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivision seven of section seventy-three of this article.

The disclosure requirement in this question shall not require disclosure of clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or

1 insurance brokering services from the reporting individual or his or her
2 firm. The reporting individual need not identify any client to whom he
3 or she or his or her firm provided legal representation with respect to
4 investigation or prosecution by law enforcement authorities, bankruptcy,
5 or domestic relations matters. With respect to clients represented in
6 other matters, where disclosure of a client's identity is likely to
7 cause harm, the reporting individual shall request an exemption from the
8 [joint] commission [pursuant to paragraph (i) of subdivision nine of
9 section ninety-four of the executive law] ON OFFICIAL CONDUCT. Only a
10 reporting individual who first enters public office after July first,
11 two thousand twelve, need not report clients or customers with respect
12 to matters for which the reporting individual or his or her firm was
13 retained prior to entering public office.

14 Client	Nature of Services Provided
15	
16	
17	
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20 (c) List the name, principal address and general description or the
21 nature of the business activity of any entity in which the reporting
22 individual or such individual's spouse had an investment in excess of
23 \$1,000 excluding investments in securities and interests in real proper-
24 ty.

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30 4. A reporting individual who knowingly and wilfully fails to file an
31 annual statement of financial disclosure or who knowingly and wilfully
32 with intent to deceive makes a false statement or gives information
33 which such individual knows to be false on such statement of financial
34 disclosure filed pursuant to this section shall be subject to a civil
35 penalty in an amount not to exceed forty thousand dollars. Assessment of
36 a civil penalty hereunder shall be made by the [joint] commission on
37 [public ethics] OFFICIAL CONDUCT or by the legislative ethics commis-
38 sion, as the case may be, with respect to persons subject to their
39 respective jurisdictions. The [joint] commission on [public ethics
40 acting pursuant to subdivision fourteen of section ninety-four of the
41 executive law] OFFICIAL CONDUCT or the legislative ethics commission
42 acting pursuant to subdivision eleven of section eighty of the legisla-
43 tive law, as the case may be, may, in lieu of or in addition to a civil
44 penalty, refer a violation to the appropriate prosecutor and upon such
45 conviction, but only after such referral, such violation shall be
46 punishable as a class A misdemeanor. A civil penalty for false filing
47 may not be imposed hereunder in the event a category of "value" or
48 "amount" reported hereunder is incorrect unless such reported informa-
49 tion is falsely understated. Notwithstanding any other provision of law
50 to the contrary, no other penalty, civil or criminal may be imposed for
51 a failure to file, or for a false filing, of such statement, except that
52 the appointing authority may impose disciplinary action as otherwise
53 provided by law. The [joint] commission on [public ethics] OFFICIAL

1 CONDUCT and the legislative ethics commission shall each be deemed to be
2 an agency within the meaning of article three of the state administra-
3 tive procedure act and shall adopt rules governing the conduct of adju-
4 dicatory proceedings and appeals relating to the assessment of the civil
5 penalties herein authorized. Such rules, which shall not be subject to
6 the approval requirements of the state administrative procedure act,
7 shall provide for due process procedural mechanisms substantially simi-
8 lar to those set forth in such article three but such mechanisms need
9 not be identical in terms or scope. Assessment of a civil penalty shall
10 be final unless modified, suspended or vacated within thirty days of
11 imposition and upon becoming final shall be subject to review at the
12 instance of the affected reporting individual in a proceeding commenced
13 against the [joint] commission on [public ethics] OFFICIAL CONDUCT or
14 the legislative ethics commission, pursuant to article seventy-eight of
15 the civil practice law and rules.

16 S 43. The opening paragraph of section 1-d of the legislative law, as
17 amended by chapter 14 of the laws of 2007, is amended to read as
18 follows:

19 In addition to any other powers and duties [provided by section nine-
20 ty-four of the executive law,] the commission shall, with respect to its
21 lobbying-related functions only, have the power and duty to:

22 S 44. Subdivision 3 of section 2986 of the public authorities law, as
23 added by chapter 506 of the laws of 2009, is amended to read as follows:

24 3. Any communications between an employee and the authorities budget
25 office pursuant to this section shall be held strictly confidential by
26 the authorities budget office, unless the employee specifically waives
27 in writing the right to confidentiality, except that such confidentiali-
28 ty shall not exempt the authorities budget office from disclosing such
29 information, where appropriate, to the COMMISSION ON OFFICIAL CONDUCT
30 [state inspector general in accordance with section fifty-five of the
31 executive law,] or prevent disclosure to any law enforcement authority.

32 S 45. This act shall take effect on the first of January next succeed-
33 ing the date on which it shall have become a law, provided that sections
34 six through twenty-three and sections twenty-five through thirty-seven
35 of this act shall take effect on the first of April next succeeding the
36 date on which it shall have become a law.

37

PART F

38 Section 1. The election law is amended by adding a new section 14-131
39 to read as follows:

40 S 14-131. CONTRIBUTION FUNDS; FORFEITURE AFTER CRIMINAL CONVICTION. 1.
41 ALL CONTRIBUTIONS RECEIVED BY AN ELECTED CANDIDATE FOR PUBLIC OFFICE OR
42 AN ELECTED OFFICIAL, WHO IS CHARGED WITH A FELONY WHERE SUCH FELONY WAS
43 DIRECTLY RELATED TO HIS OR HER SERVICE AS AN ELECTED OFFICIAL, OR OFFI-
44 CER OF THE STATE OR OF A CIVIL DIVISION THEREOF, SHALL BE SUBJECT TO
45 IMMEDIATE AUDIT AND ANY UNSPENT CONTRIBUTIONS SHALL BE SUBJECT TO
46 FORFEITURE PROCEEDINGS UPON CONVICTION OR RESIGNATION OF SUCH ELECTED
47 CANDIDATE.

48 2. THE ATTORNEY GENERAL, OR DISTRICT ATTORNEY OF THE COUNTY WHEREIN
49 THE ELECTION OCCURRED, SHALL HAVE STANDING TO INITIATE A FORFEITURE
50 PROCEEDING BROUGHT PURSUANT TO ARTICLE SIXTEEN OF THIS CHAPTER. TO THE
51 EXTENT POSSIBLE, THIS SPECIAL PROCEEDING SHALL BE GOVERNED BY THE PROCE-
52 DURES OF ARTICLE THIRTEEN-A OF THE CIVIL PRACTICE LAW AND RULES SHALL
53 GOVERN THE PROCEEDINGS AND ACTIONS UNDER THIS SECTION.

1 3. THE COMPTROLLER SHALL RECEIVE ANY FORFEITED UNSPENT CONTRIBUTIONS
2 AND, TO THE EXTENT PRACTICABLE, RETURN SUCH FUNDS TO THE PRIVATE SOURCE
3 OF SUCH FUNDS, AS LONG AS THE PRIVATE SOURCE OF SUCH FUNDS IS LOCATED
4 WITHIN THE DISTRICT THAT IS REPRESENTED BY THE ELECTED CANDIDATE FOR
5 PUBLIC OFFICE OR ELECTED OFFICIAL OR STATEWIDE FOR GOVERNOR, COMP-
6 TROLLER, AND ATTORNEY GENERAL. IF THE COMPTROLLER FAILS TO LOCATE THE
7 PRIVATE SOURCE OF SUCH FUNDS, OR IF THE PRIVATE SOURCE OF SUCH FUNDS
8 RESIDES OUTSIDE OF THE ELECTION DISTRICT THAT IS REPRESENTED BY THE
9 ELECTED CANDIDATE FOR PUBLIC OFFICE OR ELECTED OFFICIAL OR STATEWIDE FOR
10 GOVERNOR, COMPTROLLER, AND ATTORNEY GENERAL, THE UNSPENT CONTRIBUTIONS
11 SHALL BE DONATED TO A CHARITABLE ORGANIZATION THAT IS, TO THE EXTENT
12 PRACTICABLE, LOCATED IN THE ELECTION DISTRICT THAT IS REPRESENTED BY THE
13 ELECTED CANDIDATE FOR PUBLIC OFFICE OR ELECTED OFFICIAL OR STATEWIDE FOR
14 GOVERNOR, COMPTROLLER, AND ATTORNEY GENERAL. ANY FORFEITED UNSPENT
15 CONTRIBUTIONS SHALL BE RETURNED TO THE PRIVATE SOURCE OF SUCH FUNDS, OR
16 DONATED TO A CHARITABLE ORGANIZATION, WITHIN ONE HUNDRED EIGHTY DAYS OF
17 THE RECEIPT OF SUCH FUNDS BY THE COMPTROLLER.

18 4. FOR THE PURPOSES OF THIS SECTION, "CHARITABLE ORGANIZATION" SHALL
19 MEAN ANY NON-PROFIT CORPORATION ORGANIZED FOR BONA FIDE CHARITABLE OR
20 PHILANTHROPIC PURPOSES.

21 5. THE COMPTROLLER SHALL PROVIDE THE GOVERNOR AND THE LEGISLATURE WITH
22 A LIST OF CHARITABLE ORGANIZATIONS THAT ARE ELIGIBLE TO RECEIVE
23 DONATIONS PURSUANT TO THIS SECTION. CHARITABLE ORGANIZATIONS ON SUCH
24 LIST MAY BE DEEMED INELIGIBLE TO RECEIVE DONATIONS PURSUANT TO THIS
25 SECTION BY THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE
26 SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE OR THE MINOR-
27 ITY LEADER OF THE ASSEMBLY.

28 S 2. The election law is amended by adding a new section 16-111 to
29 read as follows:

30 S 16-111. PROCEEDINGS AS TO FORFEITURE OF FUNDS. THE ATTORNEY GENERAL
31 OR THE DISTRICT ATTORNEY MAY BRING A SPECIAL PROCEEDING SEEKING TO SEIZE
32 AND CAUSE TO BE FORFEITED THE FUNDS OF A DESIGNATED CAMPAIGN ACCOUNT AS
33 OUTLINED IN SECTION 14-131 OF THIS CHAPTER. UPON A SHOWING OF INDICTMENT
34 OR CRIMINAL ARRAIGNMENT, AN ACTION MAY BE INSTITUTED PURSUANT TO THIS
35 SECTION WHICH WILL ALLOW FOR THE FREEZING OF SAID DESIGNATED CAMPAIGN
36 ACCOUNT.

37 S 3. This act shall take effect immediately.

38

PART G

39 Section 1. Subdivision 1 of section 80.00 of the penal law, as amended
40 by chapter 338 of the laws of 1989, is amended to read as follows:

41 1. A sentence to pay a fine for a felony shall be a sentence to pay an
42 amount, fixed by the court, not exceeding the higher of

43 a. five thousand dollars; or

44 b. double the amount of the defendant's gain from the commission of
45 the crime; or

46 c. if the conviction is for any felony defined in article two hundred
47 twenty or two hundred twenty-one of this chapter, according to the
48 following schedule:

49 (i) for A-I felonies, one hundred thousand dollars;

50 (ii) for A-II felonies, fifty thousand dollars;

51 (iii) for B felonies, thirty thousand dollars;

52 (iv) for C felonies, fifteen thousand dollars. When imposing a fine
53 pursuant to the provisions of this paragraph, the court shall consider
54 the profit gained by defendant's conduct, whether the amount of the fine

1 is disproportionate to the conduct in which defendant engaged, its
2 impact on any victims, and defendant's economic circumstances, including
3 the defendant's ability to pay, the effect of the fine upon his or her
4 immediate family or any other persons to whom the defendant owes an
5 obligation of support[.]; OR

6 D. FOR AN ABUSE OF PUBLIC TRUST CRIME, AS DEFINED IN SECTION 196.00 OF
7 THIS CHAPTER, OR ANY OFFENSE FOR WHICH THE OFFENDER'S STATUS AS A PUBLIC
8 SERVANT CONSTITUTES AN ELEMENT OF THE OFFENSE AS ENUMERATED IN PARAGRAPH
9 (B) OF SUBDIVISION ONE OF SECTION 196.00 OF THIS CHAPTER, THE COURT, IN
10 ADDITION TO ANY OTHER PENALTY WHICH MAY BE IMPOSED PURSUANT TO LAW,
11 SHALL IMPOSE A FINE IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH A OR
12 B OF THIS SUBDIVISION, WHICHEVER IS GREATER.

13 S 2. Section 195.00 of the penal law, as amended by chapter 906 of the
14 laws of 1990, is amended to read as follows:

15 S 195.00 Official misconduct IN THE THIRD DEGREE.

16 A public servant is guilty of official misconduct IN THE THIRD DEGREE
17 when, with intent to obtain a benefit or deprive another person of a
18 benefit:

19 1. He OR SHE commits an act relating to his OR HER office but consti-
20 tuting an unauthorized exercise of his OR HER official functions, know-
21 ing that such act is unauthorized; or

22 2. He OR SHE knowingly refrains from performing a duty which is
23 imposed upon him OR HER by law or is clearly inherent in the nature of
24 his OR HER office.

25 Official misconduct IN THE THIRD DEGREE is a class [A misdemeanor] E
26 FELONY.

27 S 3. The penal law is amended by adding two new sections 195.01 and
28 195.02 to read as follows:

29 S 195.01 OFFICIAL MISCONDUCT IN THE SECOND DEGREE.

30 A PUBLIC SERVANT IS GUILTY OF OFFICIAL MISCONDUCT IN THE SECOND DEGREE
31 WHEN HE OR SHE COMMITS THE CRIME OF OFFICIAL MISCONDUCT IN THE THIRD
32 DEGREE AND HE OR SHE OBTAINS ANY BENEFIT OR DEPRIVES ANOTHER PERSON OF A
33 BENEFIT VALUED IN EXCESS OF ONE THOUSAND DOLLARS.

34 OFFICIAL MISCONDUCT IN THE SECOND DEGREE IS A CLASS D FELONY.

35 S 195.02 OFFICIAL MISCONDUCT IN THE FIRST DEGREE.

36 A PUBLIC SERVANT IS GUILTY OF OFFICIAL MISCONDUCT IN THE FIRST DEGREE
37 WHEN HE OR SHE COMMITS THE CRIME OF OFFICIAL MISCONDUCT IN THE THIRD
38 DEGREE AND HE OR SHE OBTAINS ANY BENEFIT OR DEPRIVES ANOTHER PERSON OF A
39 BENEFIT VALUED IN EXCESS OF THREE THOUSAND DOLLARS.

40 OFFICIAL MISCONDUCT IN THE FIRST DEGREE IS A CLASS C FELONY.

41 S 4. The penal law is amended by adding a new article 196 to read as
42 follows:

43 ARTICLE 196

44 ABUSE OF PUBLIC TRUST

45 SECTION 196.00 ABUSE OF PUBLIC TRUST CRIME.

46 S 196.00 ABUSE OF PUBLIC TRUST CRIME.

47 1. A PERSON COMMITS AN ABUSE OF PUBLIC TRUST CRIME WHEN HE OR SHE
48 COMMITS A FELONY OFFENSE AND EITHER:

49 (A) INTENTIONALLY USES HIS OR HER POSITION AS A PUBLIC SERVANT IN A
50 MANNER THAT SIGNIFICANTLY FACILITATES THE COMMISSION OR CONCEALMENT OF
51 THE OFFENSE; OR

52 (B) ATTEMPTS, CONSPIRES OR SOLICITS ANOTHER TO COMMIT ANY FELONY, AND
53 IN SUCH ATTEMPT, CONSPIRACY OR SOLICITATION INTENTIONALLY USES HIS OR
54 HER POSITION AS A PUBLIC SERVANT TO SIGNIFICANTLY FACILITATE THE COMMIS-
55 SION OR CONCEALMENT OF THE OFFENSE.

2. WHEN A PERSON IS CONVICTED OF AN ABUSE OF TRUST CRIME PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND THE SPECIFIED OFFENSE IS A CLASS C, D OR E FELONY, THE CRIME SHALL BE DEEMED TO BE ONE CATEGORY HIGHER THAN THE SPECIFIED OFFENSE THE DEFENDANT COMMITTED, OR ONE CATEGORY HIGHER THAN THE OFFENSE LEVEL APPLICABLE TO THE DEFENDANT'S CONVICTION FOR AN ATTEMPT OR CONSPIRACY TO COMMIT A SPECIFIED OFFENSE, WHICHEVER IS APPLICABLE.

3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A PERSON IS CONVICTED OF A CRIME PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND THE SPECIFIED OFFENSE IS A CLASS B FELONY:

(A) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE MUST BE AT LEAST SIX YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.00 OF THIS CHAPTER;

(B) THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST EIGHT YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.02 OF THIS CHAPTER;

(C) THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST TWELVE YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.04 OF THIS CHAPTER;

(D) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE MUST BE AT LEAST FOUR YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.05 OF THIS CHAPTER; AND

(E) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE OR THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST TEN YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.06 OF THIS CHAPTER.

4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A PERSON IS CONVICTED OF A CRIME PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND THE SPECIFIED OFFENSE IS A CLASS A-1 FELONY, THE MINIMUM PERIOD OF THE INDETERMINATE SENTENCE SHALL BE NOT LESS THAN TWENTY YEARS.

S 5. Subdivision 4 of section 200.50 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

4. A statement in each count that the grand jury, or, where the accusatory instrument is a superior court information, the district attorney, accuses the defendant or defendants of a designated offense, provided that in any prosecution under article four hundred eighty-five of the penal law, the designated offense shall be the specified offense, as defined in subdivision three of section 485.05 of the penal law, followed by the phrase "as a hate crime", and provided further that in any prosecution under section 490.25 of the penal law, the designated offense shall be the specified offense, as defined in subdivision three of section 490.05 of the penal law, followed by the phrase "as a crime of terrorism"; and provided further that in any prosecution under section 130.91 of the penal law, the designated offense shall be the specified offense, as defined in subdivision two of section 130.91 of the penal law, followed by the phrase "as a sexually motivated felony"; AND PROVIDED FURTHER THAT IN ANY PROSECUTION UNDER ARTICLE ONE HUNDRED NINETY-SIX OF THE PENAL LAW, THE DESIGNATED OFFENSE SHALL BE THE DESIGNATED FELONY OFFENSE, AS DEFINED IN SUBDIVISION TWO OF SECTION 196.00 OF THE PENAL LAW, FOLLOWED BY THE PHRASE "AS AN ABUSE OF PUBLIC TRUST CRIME"; and

S 6. Subdivision 7 of section 200.50 of the criminal procedure law is amended by adding a new paragraph (f) to read as follows:

(F) IN THE CASE OF AN ABUSE OF PUBLIC TRUST CRIME, AS DEFINED IN SECTION 196.00 OF THE PENAL LAW, SPECIFIES, AS APPLICABLE, THAT THE DEFENDANT OR DEFENDANTS COMMITTED, OR ATTEMPTED, CONSPIRED OR SOLICITED ANOTHER TO COMMIT, A FELONY AND INTENTIONALLY USED HIS OR HER POSITION AS A PUBLIC SERVANT IN A MANNER THAT SIGNIFICANTLY FACILITATED THE COMMISSION OR CONCEALMENT OF THE OFFENSE; AND

1 S 7. Section 200.00 of the penal law, as amended by chapter 833 of the
2 laws of 1986, is amended to read as follows:

3 S 200.00 Bribery in the third degree.

4 A person is guilty of bribery in the third degree when he OR SHE
5 confers, or offers or agrees to confer, any benefit upon a public serv-
6 ant [upon an agreement or understanding that] WITH THE INTENT TO INFLU-
7 ENCE such public servant's vote, opinion, judgment, action, decision or
8 exercise of discretion as a public servant [will thereby be influenced].

9 Bribery in the third degree is a class D felony.

10 S 8. Section 200.03 of the penal law, as amended by chapter 833 of the
11 laws of 1986, is amended to read as follows:

12 S 200.03 Bribery in the second degree.

13 A person is guilty of bribery in the second degree when he OR SHE
14 confers, or offers or agrees to confer, any benefit valued in excess of
15 ten thousand dollars upon a public servant [upon an agreement or under-
16 standing that] WITH THE INTENT TO INFLUENCE such public servant's vote,
17 opinion, judgment, action, decision or exercise of discretion as a
18 public servant [will thereby be influenced].

19 Bribery in the second degree is a class C felony.

20 S 9. Section 200.04 of the penal law, as added by chapter 276 of the
21 laws of 1973, is amended to read as follows:

22 S 200.04 Bribery in the first degree.

23 A person is guilty of bribery in the first degree when he OR SHE
24 confers, or offers or agrees to confer, any benefit upon a public serv-
25 ant [upon an agreement or understanding that] WITH THE INTENT TO INFLU-
26 ENCE such public servant's vote, opinion, judgment, action, decision or
27 exercise of discretion as a public servant [will thereby be influenced]
28 in the investigation, arrest, detention, prosecution or incarceration of
29 any person for the commission or alleged commission of a class A felony
30 defined in article two hundred twenty of [the penal law] THIS PART or an
31 attempt to commit any such class A felony.

32 Bribery in the first degree is a class B felony.

33 S 10. Section 200.11 of the penal law, as added by chapter 833 of the
34 laws of 1986, is amended to read as follows:

35 S 200.11 Bribe receiving in the second degree.

36 A public servant is guilty of bribe receiving in the second degree
37 when he OR SHE solicits, accepts or agrees to accept any benefit valued
38 in excess of [ten] FIVE thousand dollars from another person [upon an
39 agreement or understanding that] WITH THE INTENT THAT his OR HER vote,
40 opinion, judgment, action, decision or exercise of discretion as a
41 public servant will thereby be influenced.

42 Bribe receiving in the second degree is a class C felony.

43 S 11. Section 200.12 of the penal law, as added by chapter 276 of the
44 laws of 1973, is amended to read as follows:

45 S 200.12 Bribe receiving in the first degree.

46 A public servant is guilty of bribe receiving in the first degree when
47 he OR SHE solicits, accepts or agrees to accept any benefit VALUED IN
48 EXCESS OF TEN THOUSAND DOLLARS from another person [upon an agreement or
49 understanding that] WITH THE INTENT THAT his OR HER vote, opinion, judg-
50 ment, action, decision or exercise of discretion as a public servant
51 will thereby be influenced OR HE OR SHE SOLICITS, ACCEPTS OR AGREES TO
52 ACCEPT ANY BENEFIT FROM ANOTHER PERSON WITH THE INTENT THAT HIS OR HER
53 VOTE, OPINION, JUDGMENT, ACTION, DECISION OR EXERCISE OF DISCRETION AS A
54 PUBLIC SERVANT WILL THEREBY BE INFLUENCED in the investigation, arrest,
55 detention, prosecution or incarceration of any person for the commission
56 or alleged commission of a class A felony defined in article two hundred

twenty of [the penal law] THIS PART or an attempt to commit any such class A felony.

Bribe receiving in the first degree is a class B felony.

S 12. Section 200.45 of the penal law is amended to read as follows:

S 200.45 Bribe giving for public office.

A person is guilty of bribe giving for public office when he OR SHE confers, or offers or agrees to confer, any money or other property upon a public servant or a party officer [upon an agreement or understanding that] WITH THE INTENT THAT some person will or may be appointed to a public office or designated or nominated as a candidate for public office.

Bribe giving for public office is a class D felony.

S 13. Section 200.50 of the penal law is amended to read as follows:

S 200.50 Bribe receiving for public office.

A public servant or a party officer is guilty of bribe receiving for public office when he OR SHE solicits, accepts or agrees to accept any money or other property from another person [upon an agreement or understanding that] WITH THE INTENT THAT some person will or may be appointed to a public office or designated or nominated as a candidate for public office.

Bribe receiving for public office is a class D felony.

S 14. The penal law is amended by adding a new article 201 to read as follows:

ARTICLE 201

FAILURE TO REPORT CORRUPTION

SECTION 201.00 FAILURE TO REPORT CORRUPTION.

S 201.00 FAILURE TO REPORT CORRUPTION.

1. A PUBLIC SERVANT IS GUILTY OF FAILURE TO REPORT CORRUPTION WHEN:

(A) A PUBLIC SERVANT KNOWS THAT ANOTHER PERSON OR PUBLIC SERVANT IS GUILTY OF OFFICIAL MISCONDUCT PURSUANT TO ARTICLE ONE HUNDRED NINETY-FIVE OF THIS TITLE; COMMITS AN ABUSE OF PUBLIC TRUST CRIME PURSUANT TO ARTICLE ONE HUNDRED NINETY-SIX OF THIS TITLE; OR IS GUILTY OF BRIBERY OR BRIBE RECEIVING PURSUANT TO ARTICLE TWO HUNDRED OF THIS TITLE; AND

(B) SUCH PUBLIC SERVANT DOES NOT, AS SOON AS REASONABLY PRACTICABLE, REPORT SUCH CRIME TO A DISTRICT ATTORNEY OR TO THE COMMISSION ON OFFICIAL MISCONDUCT.

2. ANY PUBLIC SERVANT WHO MAKES A REPORT PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO DISMISSAL, DISCIPLINE OR OTHER PERSONNEL ACTION AS A RESULT OF MAKING SUCH REPORT.

FAILURE TO REPORT CORRUPTION IS A CLASS A MISDEMEANOR.

S 15. Subdivision 4 of section 17-158 of the election law is amended to read as follows:

4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is guilty of a CLASS D felony.

S 16. This act shall take effect on the one hundred twentieth day after it shall have become a law.

PART H

Section 1. Section 14-130 of the election law, as added by chapter 152 of the laws of 1985, is amended to read as follows:

1 S 14-130. Campaign funds for personal use. 1. Contributions received
2 by a candidate or a political committee may be expended for any lawful
3 purpose THAT IS DIRECTLY RELATED TO PROMOTING THE NOMINATION OR ELECTION
4 OF A CANDIDATE. Such funds shall not be converted by any person to a
5 personal use [which is unrelated to a political campaign or the holding
6 of a public office or party position].

7 2. (A) AS USED IN THIS SECTION, EXPENDITURES FOR "PERSONAL USE" ARE
8 DEFINED AS EXPENDITURES THAT:

9 (I) ARE FOR THE PERSONAL BENEFIT OF THE CANDIDATE OR ANY OTHER INDI-
10 VIDUAL;

11 (II) DEFRAY NORMAL LIVING EXPENSES OF THE CANDIDATE, IMMEDIATE FAMILY
12 OF THE CANDIDATE, OR ANY OTHER INDIVIDUAL;

13 (III) ARE USED TO FULFILL ANY COMMITMENT, OBLIGATION, OR EXPENSE OF A
14 PERSON THAT WOULD EXIST IRRESPECTIVE OF THE CANDIDATE'S ELECTION
15 CAMPAIGN;

16 (IV) ARE PUT TO ANY USE FOR WHICH THE CANDIDATE WOULD BE REQUIRED TO
17 TREAT THE AMOUNT OF THE EXPENDITURE AS GROSS INCOME UNDER SECTION
18 SIXTY-ONE OF THE INTERNAL REVENUE CODE, OR ANY SUBSEQUENT CORRESPONDING
19 SECTION OF THE INTERNAL REVENUE CODE OF THE UNITED STATES.

20 (B) EXPENDITURES FOR PERSONAL USE SHALL INCLUDE, BUT ARE NOT LIMITED
21 TO, EXPENSES FOR THE FOLLOWING THAT ARE NOT RELATED TO CAMPAIGN PURPOSES
22 OR ACTIVITIES:

23 (I) CRIMINAL ATTORNEY OR LEGAL FEES;

24 (II) FOOD;

25 (III) SALARY PAYMENTS TO A PERSON OR A FAMILY MEMBER;

26 (IV) AUTOMOBILE PURCHASES OR LEASES;

27 (V) TRAVEL AND MILEAGE;

28 (VI) RESIDENTIAL OR HOUSEHOLD ITEMS;

29 (VII) MORTGAGE, RENT, OR UTILITY PAYMENTS;

30 (VIII) FUNERAL, CREMATION, OR BURIAL;

31 (IX) CLOTHING;

32 (X) TUITION PAYMENTS;

33 (XI) CHILDCARE;

34 (XII) DUES, FEES, OR GRATUITIES AT A COUNTRY CLUB, HEALTH CLUB,
35 FRATERNAL ORGANIZATION OR PROFESSIONAL ORGANIZATION OR RECREATIONAL
36 FACILITY;

37 (XIII) ADMISSION TO A SPORTING EVENT, CONCERT, THEATER, OR OTHER FORM
38 OF ENTERTAINMENT;

39 (XIV) PAYMENT OF ANY FINES, FEES, OR PENALTIES; AND

40 (XV) ANY OTHER EXPENDITURE DESIGNATED BY THE COMMISSION ON OFFICIAL
41 CONDUCT AS CONSTITUTING PERSONAL USE.

42 S 2. This act shall take effect on the first of January next succeed-
43 ing the date on which it shall have become a law.

44 PART I

45 Section 1. Section 14-126 of the election law, as amended by section 3
46 of part E of chapter 399 of the laws of 2011, is amended to read as
47 follows:

48 S 14-126. Violations; penalties. 1. Any person who fails to file a
49 statement required to be filed by this article shall be subject to a
50 civil penalty, not in excess of one thousand dollars, to be recoverable
51 in a special proceeding or civil action to be brought by the state board
52 of elections [or], other board of elections OR BY THE COMMISSION ON
53 OFFICIAL CONDUCT. Any person who, three or more times within a given
54 election cycle for such term of office, fails to file a statement or

statements required to be filed by this article, shall be subject to a civil penalty, not in excess of ten thousand dollars, to be recoverable as provided for in this subdivision.

2. Any person who, acting as or on behalf of a candidate or political committee, under circumstances evincing an intent to violate such law, unlawfully accepts a contribution in excess of a contribution limitation established in this article, shall be required to refund such excess amount and shall be subject to a civil penalty equal to the excess amount plus a fine of up to ten thousand dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections.

3. (A) Any person who knowingly and willfully fails to file a statement required to be filed by this article within ten days after the date provided for filing such statement or any person who knowingly and willfully violates any other provision of this article shall be guilty of a misdemeanor.

(B) ANY CANDIDATE OR PERSON ACTING AS OR ON BEHALF OF A CANDIDATE OR POLITICAL COMMITTEE WHO KNOWINGLY AND WILLFULLY FAILS TO FILE A STATEMENT REQUIRED TO BE FILED BY THIS ARTICLE WITHIN THIRTY DAYS AFTER THE DATE PROVIDED FOR FILING SUCH STATEMENT, UNLESS GRANTED AN EXTENSION BY THE STATE BOARD OF ELECTIONS OR OTHER BOARD OF ELECTIONS, SHALL BE SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR THE FIRST OFFENSE AND TWO THOUSAND FIVE HUNDRED DOLLARS FOR THE SECOND OFFENSE AND EVERY OFFENSE COMMITTED THEREAFTER TO BE RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION TO BE BROUGHT BY THE COMMISSION ON OFFICIAL CONDUCT. CANDIDATES SHALL BE PLACED ON NOTICE BY THE BOARD OF ELECTIONS, AND WILL BE LIABLE FOR ANY CRIMINAL OR CIVIL PENALTIES FOR THE TREASURER'S FAILURE TO FILE REQUIRED DISCLOSURE REPORTS.

4. Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a misdemeanor.

5. Any person who shall, acting on behalf of a candidate or political committee, knowingly and willfully solicit, organize or coordinate the formation of activities of one or more unauthorized committees, make expenditures in connection with the nomination for election or election of any candidate, or solicit any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.

S 2. This act shall take effect immediately.

PART J

Section 1. The legislative law is amended by adding a new section 5-b to read as follows:

S 5-B. LIMITS ON TIME A LEGISLATOR MAY SERVE AS A LEGISLATIVE LEADER. NO MEMBER OF THE LEGISLATURE MAY BE ELECTED TO SERVE MORE THAN FOUR CONSECUTIVE TWO YEAR TERMS AS THE TEMPORARY PRESIDENT OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADER OF THE ASSEMBLY OR THE CHAIRPERSON OF ANY SENATE OR ASSEMBLY COMMITTEE.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or part thereof directly involved in the controversy in which such judg-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

6 S 4. This act shall take effect immediately; provided, however, that
7 the applicable effective dates of Parts A through J of this act shall be
8 as specifically set forth in the last section of such Parts.