

ASSEMBLY, No. 16

STATE OF NEW JERSEY

INTRODUCED MAY 1, 1997

By Assemblymen LANCE and RUSSO

1 AN ACT concerning the Executive Commission on Ethical Standards
2 and the filing of financial disclosure statements and the disposition
3 of certain interests by certain State officers and employees and
4 certain special State officers and employees, amending P.L.1981,
5 c.142 and amending and supplementing P.L.1971, c.182.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9

10 1. Section 10 of P.L.1971, c.182 (C.52:13D-21) is amended to
11 read as follows:

12 10. [(a)] a. The Executive Commission on Ethical Standards
13 created pursuant to P.L.1967, [chapter] c. 229 and continued and
14 established pursuant to P.L.1971, c.182 is continued and established
15 in but not of the Department of Law and Public Safety and shall
16 [constitute the first commission under this act] be independent of any
17 supervision or control by the department or any board or office
18 thereof, but shall be hereafter known as the Executive Commission on
19 Conflicts of Interest.

20 [(b)] b. The commission shall be composed of [seven] 11 members:
21 six Executive Branch members and five public members appointed by
22 the Governor. The Executive Branch members shall be appointed
23 from among State officers and employees serving in the Executive
24 Branch. [Each member] Executive Branch members shall serve at the
25 pleasure of the Governor during the term of office of the Governor
26 appointing [him and until his successor is appointed and qualified]
27 them. The public members shall be appointed by the Governor, except
28 that a public member shall not be a legislative agent or lobbyist as
29 those terms are defined in section 3 of P.L.1971, c.183 (C.52:13C-20)
30 or a representative of an entity subject to significant regulation by the
31 State. No more than three public members shall be affiliated with the
32 same political party. The Governor shall designate one member to
33 serve as chairman and one member to serve as vice-chairman of the
34 commission, both to serve at the pleasure of the Governor. The public

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 members of the commission shall serve for terms of four years and
2 until the appointment and qualification of their successors, but of the
3 first members appointed, one shall serve for a term of one year, one
4 for a term of two years, one for a term of three years, and one for a
5 term of four years. Upon taking the oath of office at the beginning of
6 a Governor's first term of office, the Secretary of State shall be an ex
7 officio member of the commission and shall serve until the
8 appointment of the first Executive Branch member by the Governor.
9 The Governor may appoint the Secretary of State to be a regular
10 Executive Branch member of the commission.

11 Vacancies in the membership of the commission shall be filled in the
12 same manner as the original appointments but, in the case of public
13 members, for the unexpired term only. None of the public members
14 shall be State officers or employees or special State officers or
15 employees, except by reason of their service on the commission.

16 [(c) Each member] c. Members of the [said] commission shall
17 serve without compensation, but public members shall be entitled to
18 be reimbursed for all actual and necessary expenses incurred in the
19 performance of [his] their duties.

20 [(d)] d. The Attorney General shall act as legal adviser and counsel
21 to the [said] commission. He shall upon request advise the
22 commission in the rendering of advisory opinions by the commission,
23 in the approval and review of codes of ethics adopted by State
24 agencies in the Executive Branch [and], in the recommendation of
25 revisions in codes of ethics or legislation relating to the conduct of
26 State officers [and] or employees or special State officers or
27 employees in the Executive Branch, and in the performance of any of
28 its other duties under P.L.1971, c.182, as amended and supplemented.

29 [(e)] e. The [said] commission [may], within the limits of funds
30 appropriated or otherwise made available to it for the purpose, may
31 employ such other professional, technical, clerical or other assistants,
32 excepting legal counsel, and incur such expenses as may be necessary
33 for the performance of its duties.

34 [(f)] f. The [said] commission, in order to perform its duties
35 pursuant to the provisions of this act, shall have the power to conduct
36 investigations, hold hearings, compel the attendance of witnesses and
37 the production before it of such books and papers as it may deem
38 necessary, proper and relevant to the matter under investigation. The
39 members of the [said] commission and the persons appointed by the
40 commission for such purpose are hereby empowered to administer
41 oaths and examine witnesses under oath.

42 [(g)] g. The [said] commission is authorized to render advisory
43 opinions as to whether a given set of facts and circumstances would,
44 in its opinion, constitute a violation of the provisions of this act [or
45 of], a code of ethics promulgated pursuant to the provisions of this
46 act, or an executive order in which the Governor has granted the

1 commission jurisdiction. Advisory opinions shall be filed with the
2 commission and shall be public records, but no opinion so filed shall
3 contain the name of the person or persons who requested or who are
4 the subject of the opinion. The commission is also authorized to
5 develop educational materials and procedures to assist any State
6 officer or employee or any special State officer or employee in
7 understanding and complying with the obligations of that State officer
8 or employee or special State officer or employee under P.L.1971,
9 c.182, as amended and supplemented.

10 [(h)] h. The [said] commission shall have jurisdiction to initiate,
11 receive, hear and review complaints regarding violations, by any State
12 officer or employee or special State officer or employee in the
13 Executive Branch, of the provisions of this act [or], of any code of
14 ethics promulgated pursuant to the provisions of this act, or of any
15 executive order in which the Governor has granted the commission
16 jurisdiction. Any complaint regarding a violation of a code of ethics
17 may be referred by the commission for disposition in accordance with
18 subsection d. of section 12[(d)] of this act (C.52:13D-23).

19 [(i)] i. The commission shall prepare and publish an annual report
20 of its activities for the Governor and the Legislature on or about May
21 1 of each year.

22 j. Any State officer or employee or special State officer or
23 employee in the Executive Branch found [guilty by the commission of
24 violating] by the commission to have violated any provision of this act
25 [or of], a code of ethics promulgated pursuant to the provisions of
26 this act, or an executive order in which the Governor has granted the
27 commission jurisdiction shall be fined not less than ~~[\$100.00]~~ \$500
28 nor more than ~~[\$500.00]~~ \$1,500, which penalty may be collected in a
29 summary proceeding pursuant to [the Penalty Enforcement Law
30 (N.J.S. 2A:58-1)] "the penalty enforcement law," N.J.S.2A:58-1 et
31 seq., may be reprimanded and ordered to pay restitution where
32 appropriate, and may be suspended from [his] office or employment
33 by order of the commission for a period of not in excess of [1] one
34 year. If the commission finds that the conduct of such officer or
35 employee, given the nature and frequency of the conduct and the
36 functions and responsibilities of the officer or employee, evidences a
37 careless disregard of the provisions of P.L.1971, c.182, as amended
38 and supplemented, a code of ethics promulgated pursuant to the
39 provisions of that act, or an executive order in which the Governor has
40 granted the commission jurisdiction, it may order such person removed
41 from the person's office or employment and may further bar such
42 person from holding any public office or employment in this State in
43 any capacity whatsoever for a period not exceeding two years from the
44 date on which the person was found to have violated any provision of
45 P.L.1971, c.182, as amended and supplemented, a code of ethics
46 promulgated pursuant to the provisions of that act, or an executive

1 order in which the Governor has granted the commission jurisdiction.
2 If the commission finds that the conduct of such officer or employee
3 constitutes a willful and continuous disregard of the provisions of this
4 act [or of], a code of ethics promulgated pursuant to the provisions
5 of this act, or an executive order in which the Governor has granted
6 the commission jurisdiction, it may order such person removed from
7 [his] the person's office or employment and may further bar such
8 person from holding any public office or employment in this State in
9 any capacity whatsoever for a period of not exceeding [5] five years
10 from the date on which [he] the person was found [guilty by the
11 commission] to have violated any provision of P.L.1971, c.182, as
12 amended and supplemented, a code of ethics promulgated pursuant to
13 the provisions of that act, or an executive order in which the Governor
14 has granted the commission jurisdiction.

15 k. The commission shall have the primary responsibility for
16 assuring the proper administration and implementation of P.L.1971,
17 c.182, as amended and supplemented, and shall have the power to
18 perform the acts necessary and convenient to administering and
19 implementing that act. The commission in its discretion may provide
20 for the extension of any filing period provided in that act. The
21 commission shall set appropriate conditions for an extension of time
22 during the period of the extension. The commission may from time to
23 time delegate matters within its jurisdiction to its chief administrative
24 officer. A delegation shall remain in effect until removed or modified
25 by the commission. Delegations involving advisory opinions rendered
26 pursuant to subsection g. of section 10 of P.L.1971, c.182 (C.52:13D-
27 21) shall only be made subject to commission review.

28 (cf: P.L.1971, c.182, s.10)

29

30 2. Section 4 of P.L.1981, c.142 (C.52:13D-17.2) is amended to
31 read as follows:

32 4. a. As used in this section "person" means any State officer or
33 employee subject to financial disclosure by law or executive order and
34 any other State officer or employee with responsibility for matters
35 affecting casino activity; any special State officer or employee with
36 responsibility for matters affecting casino activity; the Governor; any
37 member of the Legislature or any full-time member of the Judiciary;
38 any full-time professional employee of the Office of the Governor, or
39 the Legislature; members of the Casino Reinvestment Development
40 Authority; the head of a principal department; the assistant or deputy
41 heads of a principal department, including all assistant and deputy
42 commissioners; the head of any division of a principal department; any
43 member of the governing body, or the municipal judge or the
44 municipal attorney of a municipality wherein a casino is located; any
45 member of or attorney for the planning board or zoning board of
46 adjustment of a municipality wherein a casino is located, or any

1 professional planner, or consultant regularly employed or retained by
2 such planning board or zoning board of adjustment.

3 b. No State officer or employee, nor any person, nor any member
4 of the immediate family of any State officer or employee, or person,
5 nor any partnership, firm or corporation with which any such State
6 officer or employee or person is associated or in which he has an
7 interest, nor any partner, officer, director or employee while he is
8 associated with such partnership, firm, or corporation, shall hold,
9 directly or indirectly, an interest in, or hold employment with, or
10 represent, appear for, or negotiate on behalf of, any holder of, or
11 applicant for, a casino license, or any holding or intermediary company
12 with respect thereto, in connection with any cause, application, or
13 matter, except that (1) a State officer or employee other than a State
14 officer or employee included in the definition of person, and (2) a
15 member of the immediate family of a State officer or employee, or of
16 a person, may hold employment with the holder of, or applicant for, a
17 casino license if, in the judgment of the Executive Commission on
18 **[Ethical Standards]** Conflicts of Interest, the Joint Legislative
19 Committee on Ethical Standards, or the Supreme Court, as
20 appropriate, such employment will not interfere with the
21 responsibilities of the State officer or employee, or person, and will
22 not create a conflict of interest, or reasonable risk of the public
23 perception of a conflict of interest, on the part of the State officer or
24 employee, or person. No special State officer or employee without
25 responsibility for matters affecting casino activity, excluding those
26 serving in the Departments of Education, Health, and Human Services
27 and the Commission on Higher Education, shall hold, directly or
28 indirectly, an interest in, or represent, appear for, or negotiate on
29 behalf of, any holder of, or applicant for, a casino license, or any
30 holding or intermediary company with respect thereto, in connection
31 with any cause, application, or matter. However, a special State
32 officer or employee without responsibility for matters affecting casino
33 activity may hold employment directly with any holder of or applicant
34 for a casino license or any holding or intermediary company thereof
35 and if so employed may hold, directly or indirectly, an interest in, or
36 represent, appear for, or negotiate on behalf of, his employer, except
37 as otherwise prohibited by law.

38 c. No person or any member of his immediate family, nor any
39 partnership, firm or corporation with which such person is associated
40 or in which he has an interest, nor any partner, officer, director or
41 employee while he is associated with such partnership, firm or
42 corporation, shall, within two years next subsequent to the termination
43 of the office or employment of such person, hold, directly or
44 indirectly, an interest in, or hold employment with, or represent,
45 appear for or negotiate on behalf of, any holder of, or applicant for, a
46 casino license in connection with any cause, application or matter, or

1 any holding or intermediary company with respect to such holder of,
2 or applicant for, a casino license in connection with any phase of
3 casino development, permitting, licensure or any other matter
4 whatsoever related to casino activity, except that:

5 (1) a member of the immediate family of a person may hold
6 employment with the holder of, or applicant for, a casino license if, in
7 the judgment of the Executive Commission on [Ethical Standards]
8 Conflicts of Interest, the Joint Legislative Committee on Ethical
9 Standards, or the Supreme Court, as appropriate, such employment
10 will not interfere with the responsibilities of the person and will not
11 create a conflict of interest, or reasonable risk of the public perception
12 of a conflict of interest, on the part of the person; and

13 (2) an employee who is terminated as a result of a reduction in the
14 workforce at the agency where employed, other than an employee who
15 held a policy-making management position at any time during the five
16 years prior to termination of employment, may, at any time prior to the
17 end of the two-year period, accept employment with the holder of, or
18 applicant for, a casino license if, in the judgment of the Executive
19 Commission on [Ethical Standards] Conflicts of Interest, the Joint
20 Legislative Committee on Ethical Standards, or the Supreme Court, as
21 appropriate, such employment will not create a conflict of interest, or
22 reasonable risk of the public perception of a conflict of interest, on the
23 part of the employee. In no case shall the restrictions of this
24 subsection apply to a secretarial or clerical employee. Nothing herein
25 contained shall alter or amend the post-employment restrictions
26 applicable to members and employees of the Casino Control
27 Commission and employees and agents of the Division of Gaming
28 Enforcement pursuant to subsection b. (2) of section 59 and to section
29 60 of P.L.1977, c.110 (C.5:12-59 and C.5:12-60).

30 d. This section shall not apply to the spouse of a State officer or
31 employee, which State officer or employee is without responsibility for
32 matters affecting casino activity, who becomes the spouse subsequent
33 to the State officer's or employee's appointment or employment as a
34 State officer or employee and who is not individually or directly
35 employed by a holder of, or applicant for, a casino license, or any
36 holding or intermediary company.

37 e. The Joint Legislative Committee on Ethical Standards and the
38 Executive Commission on [Ethical Standards] Conflicts of Interest, as
39 appropriate, shall forthwith determine and publish, and periodically
40 update, a list of those positions in State government with responsibility
41 for matters affecting casino activity.

42 f. No person shall solicit or accept, directly or indirectly, any
43 complimentary service or discount from any casino applicant or
44 licensee which he knows or has reason to know is other than a service
45 or discount that is offered to members of the general public in like
46 circumstance.

1 g. No person shall influence, or attempt to influence, by use of his
2 official authority, the decision of the commission or the investigation
3 of the division in any application for licensure or in any proceeding to
4 enforce the provisions of this act or the regulations of the commission.
5 Any such attempt shall be promptly reported to the Attorney General;
6 provided, however, that nothing in this section shall be deemed to
7 proscribe a request for information by any person concerning the
8 status of any application for licensure or any proceeding to enforce the
9 provisions of this act or the regulations of the commission.

10 h. Any person who willfully violates the provisions of this section
11 is a disorderly person and shall be subject to a fine not to exceed
12 \$500.00 or imprisonment not to exceed six months, or both.

13 (cf: P.L.1995, c.18, s.43)

14
15 3. Section 12 of P.L.1971, c.182 (C.52:13D-23) is amended to
16 read as follows:

17 12. [(a)] a. The head of each State agency, or the principal officer
18 in charge of a division, board, bureau, commission or other
19 instrumentality within a department of State Government designated
20 by the head of such department for the purposes hereinafter set forth,
21 shall within six months from the date of enactment, promulgate a code
22 of ethics to govern and guide the conduct of the members of the
23 Legislature, the State officers and employees or the special State
24 officers and employees in the agency to which said code is applicable.
25 Such code shall conform to the general standards hereinafter set forth
26 in this section, but it shall be formulated with respect to the particular
27 needs and problems of the agency to which said code is to apply.
28 Notwithstanding any other provisions of this section, the New Jersey
29 members to any interstate agency to which New Jersey is a party and
30 the officers and employees of any State agency which fails to
31 promulgate a code of ethics shall be deemed to be subject to a code of
32 ethics the provisions of which shall be paragraphs (1) through (6) of
33 subsection [(e)] e. of this section.

34 [(b)] b. A code of ethics formulated pursuant to this section to
35 govern and guide the conduct of the State officers and employees or
36 the special State officers and employees in any State agency in the
37 Executive Branch, or any portion of such a code, shall not be effective
38 unless it has first been approved by the Executive Commission on
39 [Ethical Standards] Conflicts of Interest. When a proposed code is
40 submitted to the [said] commission it shall be accompanied by an
41 opinion of the Attorney General as to its compliance with the
42 provisions of this act and any other applicable provision of law.
43 Nothing contained herein shall prevent officers of State agencies in the
44 Executive Branch from consulting with the Attorney General or with
45 the Executive Commission on [Ethical Standards] Conflicts of Interest
46 at any time in connection with the preparation or revision of such

1 codes of ethics.

2 [(c)] c. A code of ethics formulated pursuant to this section to
3 govern and guide the conduct of the members of the Legislature, State
4 officers and employees or special State officers and employees in any
5 State agency in the Legislative Branch, or any portion of such code,
6 shall not be effective unless it has first been approved by the
7 Legislature by concurrent resolution. When a proposed code is
8 submitted to the Legislature for approval it shall be accompanied by
9 an opinion of the chief counsel as to its compliance with the provisions
10 of this act and any other applicable provisions of law. Nothing
11 contained herein shall prevent officers of State agencies in the
12 Legislative Branch from consulting with the Chief Legislative Counsel
13 or the Joint Legislative Committee on Ethical Standards at any time in
14 connection with the preparation or revision of such codes of ethics.

15 [(d)] d. Violations of a code of ethics promulgated pursuant to this
16 section shall be cause for removal, suspension, demotion or other
17 disciplinary action by the State officer or agency having the power of
18 removal or discipline. When a person who is in the classified civil
19 service is charged with a violation of such a code of ethics, the
20 procedure leading to such removal or discipline shall be governed by
21 any applicable provisions of the Civil Service Law and the Rules of the
22 Department of [Civil Service] Personnel. No action for removal or
23 discipline shall be taken under this subsection except upon the referral
24 or with the approval of the Executive Commission on [Ethical
25 Standards] Conflicts of Interest or the Joint Legislative Committee on
26 Ethical Standards, whichever is authorized to exercise jurisdiction with
27 respect to the complaint upon which such action for removal or
28 discipline is to be taken.

29 [(e)] e. A code of ethics for officers and employees of a State
30 agency shall conform to the following general standards:

31 (1) No State officer or employee or special State officer or
32 employee should have any interest, financial or otherwise, direct or
33 indirect, or engage in any business or transaction or professional
34 activity, which is in substantial conflict with the proper discharge of
35 his duties in the public interest.

36 (2) No State officer or employee or special State officer or
37 employee should engage in any particular business, profession, trade
38 or occupation which is subject to licensing or regulation by a specific
39 agency of State Government without promptly filing notice of such
40 activity with the Executive Commission on [Ethical Standards]
41 Conflicts of Interest, if he is an officer or employee in the Executive
42 Branch, or with the Joint Legislative Committee on Ethical Standards,
43 if he is an officer or employee in the Legislative Branch.

44 (3) No State officer or employee or special State officer or
45 employee should use or attempt to use his official position to secure
46 unwarranted privileges or advantages for himself or others.

1 (4) No State officer or employee or special State officer or
2 employee should act in his official capacity in any matter wherein he
3 has a direct or indirect personal financial interest that might reasonably
4 be expected to impair his objectivity or independence of judgment.

5 (5) No State officer or employee or special State officer or
6 employee should undertake any employment or service, whether
7 compensated or not, which might reasonably be expected to impair his
8 objectivity and independence of judgment in the exercise of his official
9 duties.

10 (6) No State officer or employee or special State officer or
11 employee should accept any gift, favor, service or other thing of value
12 under circumstances from which it might be reasonably inferred that
13 such gift, service or other thing of value was given or offered for the
14 purpose of influencing him in the discharge of his official duties.

15 (7) No State officer or employee or special State officer or
16 employee should knowingly act in any way that might reasonably be
17 expected to create an impression or suspicion among the public having
18 knowledge of his acts that he may be engaged in conduct violative of
19 his trust as a State officer or employee or special State officer or
20 employee.

21 (8) Rules of conduct adopted pursuant to these principles should
22 recognize that under our democratic form of government public
23 officials and employees should be drawn from all of our society, that
24 citizens who serve in government cannot and should not be expected
25 to be without any personal interest in the decisions and policies of
26 government; that citizens who are government officials and employees
27 have a right to private interests of a personal, financial and economic
28 nature; that standards of conduct should separate those conflicts of
29 interest which are unavoidable in a free society from those conflicts of
30 interest which are substantial and material, or which bring government
31 into disrepute.

32 [(f)] f. The code of ethics for members of the Legislature shall
33 conform to subsection [(e)] e. hereof as nearly as may be possible.
34 (cf: P.L.1987, c.432, s.6)

35

36 4. Section 2 of P.L.1971, c.182 (C.52:13D-13) is amended to read
37 as follows:

38 2. As used in this act, and unless a different meaning clearly
39 appears from the context, the following terms shall have the following
40 meanings:

41 a. "State agency" means any of the principal departments in the
42 Executive Branch of the State Government, and any division, board,
43 bureau, office, commission or other instrumentality within or created
44 by such department, the Legislature of the State and any office, board,
45 bureau or commission within or created by the Legislative Branch,
46 and, to the extent consistent with law, any interstate agency to which

1 New Jersey is a party and any independent State authority,
2 commission, instrumentality or agency. A county or municipality shall
3 not be deemed an agency or instrumentality of the State.

4 b. "State officer or employee" means any person, other than a
5 special State officer or employee (1) holding an office or employment
6 in a State agency, excluding an interstate agency, other than a member
7 of the Legislature or (2) appointed as a New Jersey member to an
8 interstate agency.

9 c. "Member of the Legislature" means any person elected to serve
10 in the General Assembly or the Senate.

11 d. "Head of a State agency" means (1) in the case of the Executive
12 Branch of government, except with respect to interstate agencies, the
13 department head or, if the agency is not assigned to a department, the
14 Governor, and (2) in the case of the Legislative Branch, the chief
15 presiding officer of each House of the Legislature.

16 e. "Special State officer or employee" means (1) any person
17 holding an office or employment in a State agency, excluding an
18 interstate agency, for which office or employment no compensation is
19 authorized or provided by law, or no compensation other than a sum
20 in reimbursement of expenses, whether payable per diem or per annum,
21 is authorized or provided by law; (2) any person, not a member of the
22 Legislature, holding a part-time elective or appointive office or
23 employment in a State agency, excluding an interstate agency, or (3)
24 any person appointed as a New Jersey member to an interstate agency
25 the duties of which membership are not full-time.

26 f. "Person" means any natural person, association [or],
27 corporation or other business organization.

28 g. "Interest" means (1) the ownership or control of more than 10%
29 of the profits or assets of a firm, association, or partnership, or more
30 than 10% of the stock in a corporation for profit other than a
31 professional service corporation organized under the "Professional
32 Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.); or
33 (2) the ownership or control of more than 1% of the profits of a firm,
34 association, or partnership, or more than 1% of the stock in any
35 corporation, which is the holder of, or an applicant for, a casino
36 license or in any holding or intermediary company with respect
37 thereto, as defined by the "Casino Control Act," P.L.1977, c.110
38 (C.5:12-1 et seq.). The provisions of this act governing the conduct
39 of individuals are applicable to shareholders, associates or professional
40 employees of a professional service corporation regardless of the
41 extent or amount of their shareholder interest in such a corporation.

42 h. "Commission" means the Executive Commission on Conflicts of
43 Interest.

44 i. "Cause, proceeding, application or other matter" means a
45 specific cause, proceeding or matter and does not mean or include
46 determinations of general applicability or the preparation or review of

1 legislation which is no longer pending before the Legislature or the
2 Governor.

3 j. "Dependent child" means a child for whom the State officer or
4 employee or special State officer or employee or the spouse of the
5 State officer or employee or special State officer or employee claims
6 federal or State tax status as a dependent.

7 [i.] k. "Member of the immediate family" of any person means the
8 person's spouse, child, parent or sibling residing in the same
9 household.

10 l. "Financial disclosure statement" means a disclosure form
11 required to be filed with the commission by certain persons pursuant
12 to P.L.1971, c.182 (C.52:13D-12 et seq.), as amended and
13 supplemented, or by executive order of the Governor.

14 m. "Filing employee" means any person holding any of the
15 following offices in the Executive Branch of State government,
16 together with any offices added to such list by executive order:

17 (1) the Governor;

18 (2) the head of each principal department where such head is a
19 single executive;

20 (3) the assistant or deputy heads of each principal department,
21 including all assistant and deputy commissioners of such department;

22 (4) the head and assistant heads of a division of each principal
23 department, or any person exercising substantially similar authority
24 for: (a) any board or commission which is organized as in but not of
25 a principal department or (b) any independent authority;

26 (5) the executive or administrative head and assistant heads of: (a)
27 any board or commission which is organized as in but not of a
28 principal department or (b) any independent authority;

29 (6) the following members of the staff of the Office of the
30 Governor:

31 (a) Chief of Staff;

32 (b) Chief Counsel to the Governor;

33 (c) Chief, Office of Policy and Planning;

34 (d) Director of Communications;

35 (e) Executive Assistant to the Governor and any deputy and the
36 principal administrative assistant to any of the foregoing members of
37 the staff of the Office of the Governor;

38 (7) members of the State Board of Agriculture;

39 (8) members of the State Board of Education;

40 (9) members of the Board of Public Utilities;

41 (10) members of the State Parole Board; and

42 (11) presidents of the State colleges and universities.

43 "Filing employee" also means any person holding an office not
44 specified above, but which is functionally equivalent to any of those
45 offices. Functional equivalence shall be determined by the Chief
46 Counsel to the Governor, the head of each principal department, the

1 head of each agency, board or commission in but not of a principal
2 department or the head of each independent authority, as appropriate,
3 in consultation with the commission.

4 In addition to the filing employees listed above, the Governor, by
5 executive order, may designate which members of the staff of the
6 Office of the Governor are "filing employees" for the purpose of
7 P.L.1971, c.182, as amended and supplemented, except that the Chief
8 of Staff, the Chief, Office of Policy and Planning and the Director of
9 Communications shall be "filing employees" for the purposes of that
10 act unless those positions or their equivalents are abolished.

11 n. "Filing officer" means:

12 (1) the members of the following boards, commissions,
13 independent authorities and public corporations, or their successor
14 organizations together with any offices or bodies added to such list by
15 executive order:

- 16 (a) Agriculture Development Committee;
- 17 (b) Atlantic City Convention Center Authority;
- 18 (c) Capital City Redevelopment Corporation;
- 19 (d) Casino Reinvestment Development Authority;
- 20 (e) Commission on Higher Education;
- 21 (f) Council on Affordable Housing;
- 22 (g) Educational Facilities Authority;
- 23 (h) Election Law Enforcement Commission;
- 24 (i) Executive Commission on Conflicts of Interest;
- 25 (j) Hackensack Meadowlands Development Commission;
- 26 (k) Hazardous Waste Facilities Siting Commission;
- 27 (l) Health Care Administration Board;
- 28 (m) Health Care Facilities Financing Authority;
- 29 (n) Local Finance Board;
- 30 (o) Merit System Board;
- 31 (p) New Jersey Building Authority;
- 32 (q) New Jersey Commission on Science and Technology;
- 33 (r) New Jersey Economic Development Authority;
- 34 (s) New Jersey Highway Authority;
- 35 (t) New Jersey Historic Trust;
- 36 (u) New Jersey Housing and Mortgage Finance Agency;
- 37 (v) New Jersey Low-Level Radioactive Waste Disposal Facility
38 Siting Board;
- 39 (w) New Jersey Natural Lands Trust;
- 40 (x) New Jersey Public Broadcasting Authority;
- 41 (y) New Jersey Racing Commission;
- 42 (z) New Jersey Real Estate Commission;
- 43 (aa) New Jersey Redevelopment Authority;
- 44 (bb) New Jersey Sports and Exposition Authority;
- 45 (cc) New Jersey State Council on the Arts;
- 46 (dd) New Jersey Transit Corporation;

- 1 (ee) New Jersey Transportation Trust Fund Authority;
2 (ff) New Jersey Turnpike Authority;
3 (gg) New Jersey Urban Enterprise Zone Authority;
4 (hh) New Jersey Water Supply Authority;
5 (ii) North Jersey District Water Supply Commission;
6 (jj) Passaic Valley Sewerage Commissioners;
7 (kk) Pinelands Commission;
8 (ll) Public Employment Relations Commission;
9 (mm) School Ethics Commission;
10 (nn) Shell Fisheries Council;
11 (oo) South Jersey Food Distribution Authority;
12 (pp) South Jersey Transportation Authority;
13 (qq) State Athletic Control Board;
14 (rr) State Lottery Commission;
15 (ss) State Planning Commission;
16 (tt) Tidelands Resource Council;
17 (uu) Wastewater Treatment Trust; and
18 (vv) Wetlands Mitigation Council;
19 (2) individuals appointed as a New Jersey member to the following
20 interstate agencies:
21 (a) Atlantic States Marine Fisheries Commission;
22 (b) Clean Ocean and Shore Trust Committee;
23 (c) Delaware River and Bay Authority;
24 (d) Delaware River Basin Commission;
25 (e) Delaware River Joint Toll Bridge Commission;
26 (f) Delaware River Port Authority;
27 (g) Delaware Valley Regional Planning Commission;
28 (h) Interstate Sanitation Commission;
29 (i) Northeast Interstate Low Level Radioactive Waste Commission;
30 (j) Palisades Interstate Park Commission;
31 (k) Port Authority of New York and New Jersey;
32 (l) Port Authority Trans-Hudson Corporation;
33 (m) South Jersey Port Corporation; and
34 (n) Waterfront Commission of New York Harbor.
35 o. "Government instrumentality" means the Legislative, Judicial
36 and Executive Branches of State government, including any office,
37 department, division, bureau, board, commission, council, authority or
38 agency therein and any county, municipality, school board, district,
39 public authority, public agency or other political subdivision or public
40 body in the State.
41 p. "Income" means all income from whatever source derived.
42 q. "Relative" means a son, daughter, grandson, granddaughter,
43 father, mother, grandfather, grandmother, great-grandfather, great-
44 grandmother, brother, sister, nephew, niece, uncle or aunt. Relatives
45 by adoption, half-blood, marriage or remarriage shall be treated as
46 relatives of the whole kinship.

1 r. "Asset" means property of any kind, real or personal, tangible or
2 intangible, having a value greater than \$1,000.

3 s. "Interest in a closely held business entity" means any ownership
4 or control of any profits or assets of such business entity.

5 t. "Doing business" with any government instrumentality means
6 business or commercial transactions involving the sale, conveyance or
7 rental of any estate, goods or services, and does not include
8 compliance with regulatory procedures.

9 (cf: P.L.1987,c.432,s.2)

10

11 5. (New section) Every filing employee and filing officer, as such
12 terms are defined in subsections m. and n. of section 2 of P.L.1971,
13 c.182 (C.52:13D-13), shall file a current sworn and duly notarized
14 financial disclosure statement with the commission. Each statement
15 shall include the following information:

16 a. the name and position of the filing employee or filing officer;

17 b. any occupation, trade, business or profession engaged in by the
18 filing employee or filing officer and the employee's or officer's spouse
19 and dependent children;

20 c. (1) a list of all assets having a value of more than \$1,000, both
21 tangible and intangible, in which a direct or indirect interest is held by
22 the filing employee or filing officer or the employee's or officer's
23 spouse or dependent children, valued as of the statement date, except
24 that when the value cannot be determined as of that date, a separate
25 valuation date shall be specified for the particular asset. Where stocks
26 and bonds are involved, there shall be included the name of the
27 company, mutual fund, holding company or government agency issuing
28 them, except that whenever such interest exists through ownership in
29 a mutual fund or holding company, the individual stocks held by such
30 mutual fund or holding company need not be listed, and whenever such
31 interest exists through a beneficial interest in a trust, the stocks and
32 bonds held in such trust shall be listed only if the filing employee or
33 filing officer has knowledge or what stocks and bonds are so held.
34 Where more than 10 percent of the stock of a corporation is held, the
35 percentage of ownership shall be stated;

36 (2) a list of assets consisting of any direct or indirect interest,
37 whether vested or contingent, in any contract made or executed by a
38 government instrumentality;

39 (3) a list of assets consisting of real estate interests, including the
40 location, size, general nature and acquisition date of any real property
41 in New Jersey in which any direct, indirect, vested or contingent
42 interest is held, together with the names of all individuals or entities
43 who share a direct or indirect interest therein and the name of any
44 government instrumentality that is a tenant of such property or that
45 has before it an application, complaint or proceeding directly affecting
46 such property.

1 A filing employee required to file a financial disclosure form need
2 not include on any of the above lists of assets any of the holdings of a
3 qualified blind trust or a qualified diversified trust as defined in
4 regulations adopted by the commission, but a filing employee shall
5 report the category of the amount of income received by the employee
6 or officer or the employee's or officer's spouse from the trust as
7 provided in this section.

8 The commission shall have authority to adopt regulations defining
9 qualified blind trusts and qualified diversified trusts, establishing
10 standards and procedures for the certification of such trusts,
11 establishing standards for independent trustees, establishing
12 restrictions on fiduciaries and interested parties, establishing filing
13 requirements for qualified trusts, and providing for the revocation of
14 trust certificates and trustee approvals.

15 In promulgating and adopting such regulations the commission shall
16 be guided by and conform substantially to the standards and
17 prerequisites for qualified blind trusts and qualified diversified trusts
18 set forth in the Ethics in Government Act of 1978 (Pub.L.95-521, as
19 amended) and regulations adopted by the Office of Government Ethics
20 pursuant thereto.

21 Assets of a filing employee and the employee's spouse shall be listed
22 according to the following value categories:

- 23 (a) greater than \$1,000, but not more than \$5,000;
- 24 (b) greater than \$5,000, but not more than \$10,000;
- 25 (c) greater than \$10,000, but not more than \$20,000;
- 26 (d) greater than \$20,000, but not more than \$40,000;
- 27 (e) greater than \$40,000, but not more than \$80,000;
- 28 (f) greater than \$80,000, but not more than \$120,000;
- 29 (g) greater than \$120,000, but not more than \$160,000;
- 30 (h) greater than \$160,000, but not more than \$200,000;
- 31 (i) greater than \$200,000, but not more than \$240,000;
- 32 (j) greater than \$240,000, but not more than \$280,000;
- 33 (k) greater than \$280,000, but not more than \$320,000;
- 34 (l) greater than \$320,000, but not more than \$360,000;
- 35 (m) greater than \$400,000.

36 The value of assets of a filing employee's dependent children or of
37 a filing officer and the officer's spouse and dependent children need
38 not be disclosed unless specifically requested by the Governor or the
39 commission;

40 d. A list of all liabilities of the filing employee or filing officer and
41 the employee's or officer's spouse and dependent children, valued by
42 category in the same manner as required by subsection c. above,
43 except liabilities which are:

- 44 (1) less than \$10,000 and owed to a relative, as defined in
45 subsection q. of section 2 of P.L.1971, c.182 (C.52:13D-13);
- 46 (2) less than \$1,000 and owed to any other person;

1 (3) loans secured to purchase a personal motor vehicle, household
2 furniture or appliances where the loan did not exceed the purchase
3 price of the item and the outstanding balance did not exceed \$10,000
4 as of the close of the preceding calendar year; and

5 (4) revolving charge accounts where the outstanding liability does
6 not exceed \$10,000 as of the close of the preceding calendar year;

7 e. A list of all former liabilities of the filing employee or filing
8 officer and the employee's or officer's spouse and dependent children
9 which have been forgiven by the creditor within 12 months of the
10 statement date. For each such forgiven liability so listed, the name of
11 the creditor to whom such liability was owed shall be stated;

12 f. A list of all sources of income of the filing employee or filing
13 officer and the employee's or officer's spouse and dependent children.
14 Statements filed before July 1 of any year shall disclose sources of
15 income for the preceding calendar year. Statements filed after July 1
16 of any year shall provide this information for the 12-month period
17 immediately preceding the filing date or for such time period as may
18 be designated by the filer with the concurrence of the commission.
19 The amounts of such income received shall be listed and valued by
20 category in the same manner as assets as set forth in subsection c. The
21 amount of income of a filing employee's dependent children or of a
22 filing officer and the officer's spouse and dependent children need not
23 be disclosed unless specifically requested by the Governor or the
24 commission. Sources of income that are not required to be reported
25 are:

26 (1) cash gifts in an aggregated amount of less than \$100 received
27 during the preceding 12 months from a person;

28 (2) non-cash gifts with an aggregated fair market value of less than
29 \$200 received during the preceding 12 months from a person; and

30 (3) gifts with an aggregated cash or fair market value of less than
31 \$3,000 received during the preceding 12 months from a relative;

32 g. A list of any offices, trusteeships, directorships or positions of
33 any nature, whether compensated or uncompensated, held by the filing
34 employee or filing officer or the employee's or officer's spouse or
35 dependent children and the name of the firm, corporation, association,
36 partnership, business or other entity with which the position is held.
37 If any listed firm, corporation, association, partnership or business
38 does business with or is licensed, regulated or inspected by a State
39 agency or does business with a casino license holder or applicant, the
40 State agency, casino or applicant must be identified;

41 h. A list of entities that do business with any government
42 instrumentalities in which the filing officer has an interest, as defined
43 in subsection g. of section 2 of P.L.1971, c.182 (C.52:13D-13).

44
45 6. (New section) Each statement shall contain a certification by
46 the filing employee or filing officer that the employee or officer has

1 read the statement, that to the best of the employee's or officer's
2 knowledge and belief it is true, correct and complete and that the
3 employee or officer has not transferred and will not transfer any asset,
4 interest or property for the purpose of concealing it from disclosure
5 while retaining an equitable interest therein.

6
7 7. (New section) a. Within 120 days from the effective date of
8 this act, each filing employee and filing officer who has not already
9 done so shall file the original signed statement required herein with the
10 commission. The statement shall contain a certification in lieu of oath
11 and shall be notarized. In furtherance of its duties under the "New
12 Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et
13 seq.) and pursuant to this act, the commission shall review each
14 statement to determine its internal conformity with the provisions of
15 this act and other applicable provisions of the law. Upon accepting
16 such statement for filing, the commission shall file and maintain a copy
17 of it for public inspection and copying in accordance with the
18 procedures set forth in P.L.1963, c.73 (C.47:1A-1 et seq.).

19 b. Each prospective filing employee and filing officer shall, before
20 assuming the office to which the employee or officer has been
21 appointed, satisfy the filing requirements of this act.

22 c. Updated statements shall be filed on the May 15 next succeeding
23 the submission of the original statement and each May 15 thereafter.

24
25 8. (New section) The commission shall keep the approved
26 statements on file for so long as the person submitting such statements
27 is a filing employee or filing officer of this State, and for five years
28 thereafter.

29
30 9. (New section) a. A filing employee shall not be permitted to
31 maintain or retain any interest in any closely held business entity doing
32 business with a government instrumentality except as provided in
33 subsections c. and d. below.

34 b. After the effective date of this act, a State agency shall not hire
35 a filing employee who holds any interest in any closely held business
36 entity doing business with a government instrumentality except as
37 provided in subsections c. and d. below. An individual seeking
38 employment in such a position shall not divest a covered asset in a
39 manner otherwise prohibited by this act for the purpose of satisfying
40 the provisions of this act. A filing employee shall not obtain any
41 prohibited interest in a closely held business entity during the filing
42 employee's tenure.

43 c. The provisions of subsections a. and b. shall not apply to any
44 purchase, sale, contract, or agreement with a government
45 instrumentality, other than a State agency, which is made or awarded
46 after public notice and competitive bidding as provided by the "Local

1 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), or
2 similar public bidding laws or regulations, provided that any such
3 purchase, sale, contract or agreement, including a change in orders and
4 amendments thereto, shall receive the prior approval of the
5 commission.

6 d. The provisions of this section may be waived in whole or in part
7 by the commission if, in the judgment of the commission, the filing
8 employee's interest in a closely held business entity doing business with
9 a government instrumentality will not interfere with the responsibilities
10 of the filing employee and will not give rise to a present or potential
11 conflict of interest or a present or potential appearance of a conflict of
12 interest.

13 e. A filing employee may only maintain an interest in a closely held
14 business entity covered by this section while and until the commission
15 makes a final determination on the status of such interest. A person
16 seeking employment or appointment in a State agency shall disclose to
17 the commission the person's interest, and the interest of the person's
18 spouse, in any such business entity as soon as practicable, and the
19 commission shall render a determination no later than 30 days after
20 receiving such disclosure, or at its next regularly scheduled meeting,
21 whichever shall occur later. An individual seeking employment or
22 appointment in a State agency shall not divest a covered asset in a
23 manner otherwise prohibited by this act for the purpose of satisfying
24 the provisions of this act.

25

26 10. (New section) The commission shall review all financial
27 disclosure statements as they may from time to time be submitted by
28 filing employees and filing officers to determine whether the covered
29 persons have obtained ownership or interest in any assets that give rise
30 to a present or potential conflict of interest, or a present or potential
31 appearance of a conflict of interest, within the meaning of this act.

32

33 11. (New section) Each filing employee or filing officer shall
34 amend the employee's or officer's financial disclosure statement within
35 30 days of gaining knowledge of: a. the acquisition by the employee
36 or officer or the spouse thereof of any interest in any closely held
37 business entity; or b. the commencement of any business activity
38 covered by the provisions of this act.

39

40 12. (New section) Any filing employee or filing officer subject to
41 this act who acquires an interest prohibited under this act by way of
42 inheritance, bequest or similar circumstances beyond the employee's
43 or officer's control shall follow the procedures for disclosure and
44 disposition set forth in sections 11 and 13 of this act. The commission
45 may adopt rules and regulations governing the disposition of such
46 interests pending compliance with the procedures for disclosure and

1 disposition set forth in this act. These rules and regulations may
2 provide a reasonable period of time for divestiture of an interest,
3 considering the nature of the filing employee's or filing officer's duties
4 and the nature and marketability of the interest.

5
6 13. (New section) All required divestiture shall be subject to the
7 following conditions:

8 a. ownership or control of the asset may not be transferred to a
9 member of the filing employee's or filing officer's immediate family;

10 and

11 b. the terms and conditions of any conveyance of ownership and
12 control of the asset shall not contain any provisions regarding the
13 return of the asset to the filing employee or filing officer subsequent
14 to the employee's or officer's State service.

15
16 14. This act shall take effect immediately, but any increased penalty
17 shall apply only to violations occurring on and after the effective date.

18
19
20 STATEMENT

21
22 The bill reconstitutes the Executive Commission on Ethical
23 Standards in order to incorporate public members and to clarify the
24 enforcement powers of the commission. The bill also renames the
25 commission as the Executive Commission on Conflicts of Interest.

26 At present, all seven commission members are State officers or
27 employees. Under this bill, five commission members would be public
28 members, no more than three of whom shall be of the same political
29 party. The other six members shall be appointed by the Governor from
30 among State officers or employees and special State officers or
31 employees serving in the Executive Branch. Except for those first
32 appointed, public members shall serve for terms of four years. None
33 of the public members shall be State officers or employees or special
34 State officers or employees except by reason of their service on the
35 commission.

36 The commission is authorized to initiate, receive, hear and review
37 complaints regarding violations of any executive order in which the
38 Governor has granted the commission jurisdiction and to render
39 advisory opinions as to whether there has been a violation of such
40 executive orders.

41 The bill increases from \$500 to \$1,500 the maximum fine for a
42 violation by a State officer or employee or special State officer or
43 employee in the Executive Branch of the ethics law, a code of ethics
44 promulgated pursuant to that law, or any executive order in which the
45 Governor has granted the commission jurisdiction.

46 This bill also requires that certain State officers and employees and

1 certain special State officers and employees file financial disclosure
2 statements and dispose of certain prohibited interests.
3
4
5 _____
6
7 Reconstitutes Executive Commission on Ethical Standards as
8 Executive Commission on Conflicts of Interest with public members;
9 requires certain public officers and employees to file financial
10 disclosure statements and dispose of certain prohibited interests.