

SENATE, No. 1630

STATE OF NEW JERSEY

INTRODUCED OCTOBER 28, 1996

By Senators CODEY and ADLER

1 AN ACT concerning ethical standards applicable to certain State  
2 officials and employees, amending and supplementing P.L.1971,  
3 c.182 (C.52:13D-12 et seq.), supplementing Title 2C of the New  
4 Jersey Statutes, and making an appropriation.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. Section 10 of P.L.1971, c.182 (C.52:13D-21) is amended to  
10 read as follows:

11 10. (a) The Executive Commission on Ethical Standards created  
12 pursuant to P.L.1967, chapter 229 is continued and established in the  
13 Department of Law and Public Safety and shall constitute the first  
14 commission under this act.

15 (b) The commission shall be composed of seven members appointed  
16 by the Governor from among State officers and employees serving in  
17 the Executive Branch. Each member shall serve at the pleasure of the  
18 Governor during the term of office of the Governor appointing him  
19 and until his successor is appointed and qualified. The Governor shall  
20 designate one member to serve as chairman and one member to serve  
21 as vice-chairman of the commission.

22 (c) Each member of the said commission shall serve without  
23 compensation but shall be entitled to be reimbursed for all actual and  
24 necessary expenses incurred in the performance of his duties.

25 (d) The Attorney General shall act as legal adviser and counsel to  
26 the said commission. He shall upon request advise the commission in  
27 the rendering of advisory opinions by the commission, in the approval  
28 and review of codes of ethics adopted by State agencies in the  
29 Executive Branch and in the recommendation of revisions in codes of  
30 ethics or legislation relating to the conduct of State officers and  
31 employees in the Executive Branch.

32 (e) The said commission may, within the limits of funds  
33 appropriated or otherwise made available to it for the purpose, employ  
34 such other professional, technical, clerical or other assistants,

**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 excepting legal counsel, and incur such expenses as may be necessary  
2 for the performance of its duties.

3 (f) The said commission, in order to perform its duties pursuant to  
4 the provisions of this act, shall have the power to conduct  
5 investigations, hold hearings, compel the attendance of witnesses and  
6 the production before it of such books and papers as it may deem  
7 necessary, proper and relevant to the matter under investigation. The  
8 members of the said commission and the persons appointed by the  
9 commission for such purpose are hereby empowered to administer  
10 oaths and examine witnesses under oath.

11 (g) The said commission is authorized to render advisory opinions  
12 as to whether a given set of facts and circumstances would, in its  
13 opinion, constitute a violation of the provisions of this act [or of], a  
14 code of ethics promulgated pursuant to the provisions of this act, or  
15 an Executive Order in which the Governor has granted the commission  
16 jurisdiction over the provisions of the Executive Order.

17 (h) The said commission shall have jurisdiction to initiate, receive,  
18 hear and review complaints regarding violations, by any State officer  
19 or employee or, special State officer or employee in the Executive  
20 Branch, of the provisions of this act or of any code of ethics  
21 promulgated pursuant to the provisions of this act, or of any  
22 Executive Order in which the Governor has granted the commission  
23 jurisdiction over the provisions of the Executive Order. Any  
24 complaint regarding a violation of a code of ethics or an executive  
25 order may be referred by the commission for disposition in accordance  
26 with subsection 12(d) of this act.

27 (i) The commission shall prepare and publish, prior to May 1 in  
28 each year, an annual report to the Governor and the Legislature which  
29 describes its activities during the preceding year.

30 (j) The commission shall conduct an ethics orientation program for  
31 the following officers and employees within 30 days of commencement  
32 of their duties: the head of a principal department, the assistant or  
33 deputy heads of a principal department, including an assistant  
34 commissioner or deputy commissioner, as well as any officer or  
35 employee of a principal department having responsibilities for ethics  
36 matters. Attendance by these officials and employees shall be  
37 mandatory.

38 (k) The commission shall require a State officer or employee or  
39 special State officer or employee in the Executive Branch to provide  
40 a written delegation of decision-making responsibility to another  
41 appropriate officer or employee whenever the commission determines  
42 that the potential exists for ethical violations in regard to certain  
43 matters.

44 [(i)] (L) Any State officer or employee or special State officer or  
45 employee in the Executive Branch found [guilty by the commission of  
46 violating] by the commission to have violated any provision of this act

1 [or of], a code of ethics promulgated pursuant to the provisions of  
2 this act, or an Executive Order in which the Governor has granted the  
3 commission jurisdiction over the provisions of the Executive Order  
4 shall be fined not less than ~~[\$100.00]~~\$500 nor more than  
5 ~~[\$500.00]~~\$1,500, which penalty may be collected in a summary  
6 proceeding pursuant to [the Penalty Enforcement Law (N.J.S.  
7 2A:58-1)] "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and  
8 may be: reprimanded and ordered to pay restitution where appropriate;  
9 suspended from his office or employment by order of the commission  
10 for a period of not in excess of 1 year; or barred from holding any  
11 public office or employment in this State in any capacity whatsoever  
12 for a period not in excess of one year. If the commission finds that the  
13 conduct of such officer or employee constitutes a willful and  
14 continuous disregard of the provisions of this act [or of], a code of  
15 ethics promulgated pursuant to the provisions of this act, or an  
16 Executive Order in which the Governor has granted the commission  
17 jurisdiction over the provisions of the Executive Order, it may order  
18 such person removed from his office or employment and may further  
19 bar such person from holding any public office or employment in this  
20 State in any capacity whatsoever for a period of not exceeding 5 years  
21 from the date on which he was found [guilty] by the commission to  
22 have violated any provision of P.L.1971, c.182, a code, or an  
23 executive order.

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

25

26 2. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to  
27 read as follows:

28 11. (a) The Joint Legislative Committee on Ethical Standards  
29 created pursuant to the provisions of P.L.1967, chapter 229, as  
30 continued and established pursuant to P.L.1971, c.182, is continued  
31 and established in the Legislative Branch of State Government with the  
32 addition of the public members as set forth in this section.

33 (b) The joint committee shall be composed of 12 members as  
34 follows: four members of the Senate appointed by the President  
35 thereof, no more than two of whom shall be of the same political  
36 party; four members of the General Assembly, appointed by the  
37 Speaker thereof, no more than two of whom shall be of the same  
38 political party; and four public members, one appointed by the  
39 President of the Senate, one appointed by the Speaker of the General  
40 Assembly, one appointed by the Minority Leader of the Senate and one  
41 appointed by the Minority Leader of the General Assembly. No public  
42 member shall be a lobbyist or legislative agent as defined by the  
43 "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183  
44 (C.52:13C-18 et seq.), a full-time State employee or an officer or  
45 director of any entity which is required to file a statement with the  
46 Election Law Enforcement Commission, and no former lobbyist or

1 legislative agent shall be eligible to serve as a public member for one  
2 year following the cessation of all activity by that person as a  
3 legislative agent or lobbyist. The legislative members shall serve until  
4 the end of the two-year legislative term during which the members are  
5 appointed. The public members shall serve for terms of two years and  
6 until the appointment and qualification of their successors. The terms  
7 of the public members shall run from the second Tuesday in January  
8 of an even-numbered year to the second Tuesday in January of the  
9 next even-numbered year, regardless of the original date of  
10 appointment. Notwithstanding the terms of the public members as  
11 established in this section, the public members first appointed shall  
12 serve from their initial appointments, all of which shall be made not  
13 later than the 60th day following the effective date of this act, until the  
14 second Tuesday in January of the next even-numbered year.  
15 Vacancies in the membership of the joint committee shall be filled in  
16 the same manner as the original appointments, but for the unexpired  
17 term only. Public members of the joint committee shall serve without  
18 compensation, but shall be entitled to be reimbursed for all actual and  
19 necessary expenses incurred in the performance of their duties.

20 (c) The joint committee shall organize as soon as may be  
21 practicable after the appointment of its members, by the selection of  
22 a chairman and vice chairman from among its membership and the  
23 appointment of a secretary, who need not be a member of the joint  
24 committee.

25 (d) The Legislative Counsel in the Office of Legislative Services  
26 shall act as legal adviser to the joint committee. He shall, upon  
27 request, assist and advise the joint committee in the rendering of  
28 advisory opinions by the joint committee, in the approval and review  
29 of codes of ethics adopted by State agencies in the Legislative Branch,  
30 and in the recommendation of revisions in codes of ethics or legislation  
31 relating to the conduct of members of the Legislature or State officers  
32 and employees in the Legislative Branch.

33 (e) The joint committee may, within the limits of funds  
34 appropriated or otherwise available to it for the purpose, employ other  
35 professional, technical, clerical or other assistants, excepting legal  
36 counsel, and incur expenses as may be necessary to the performance  
37 of its duties.

38 (f) The joint committee shall have all the powers granted pursuant  
39 to chapter 13 of Title 52 of the Revised Statutes.

40 (g) The joint committee is authorized to render advisory opinions  
41 as to whether a given set of facts and circumstances would, in its  
42 opinion, constitute a violation of the provisions of this act, of a code  
43 of ethics promulgated pursuant to the provisions of this act or of any  
44 rule of either or both Houses which gives the joint committee  
45 jurisdiction and the authority to investigate a matter.

46 (h) The joint committee shall have jurisdiction to initiate, receive,

1 hear and review complaints regarding violations of the provisions of  
2 this act or of a code of ethics promulgated pursuant to the provisions  
3 of this act. It shall further have such jurisdiction as to enforcement of  
4 the rules of either or both Houses of the Legislature governing the  
5 conduct of the members or employees thereof as those rules may  
6 confer upon the joint committee. A complaint regarding a violation of  
7 a code of ethics promulgated pursuant to the provisions of this act may  
8 be referred by the joint committee for disposition in accordance with  
9 subsection 12(d) of this act.

10 (i) Any State officer or employee or special State officer or  
11 employee in the Legislative Branch found guilty by the joint committee  
12 of violating any provisions of this act, of a code of ethics promulgated  
13 pursuant to the provisions of this act or of any rule of either or both  
14 Houses which gives the joint committee jurisdiction and the authority  
15 to investigate a matter shall be fined not less than \$500.00 nor more  
16 than \$1,500.00, which penalty may be collected in a summary  
17 proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1  
18 et seq.), and may be reprimanded and ordered to pay restitution where  
19 appropriate [and may be]; suspended from his office or employment  
20 by order of the joint committee for a period not in excess of 1 year; or  
21 barred from holding any public office or employment in this State in  
22 any capacity whatsoever for a period not in excess of one year. If the  
23 joint committee finds that the conduct of such officer or employee  
24 constitutes a willful and continuous disregard of the provisions of this  
25 act, of a code of ethics promulgated pursuant to the provisions of this  
26 act or of any rule of either or both Houses which gives the joint  
27 committee jurisdiction and the authority to investigate a matter, it may  
28 order such person removed from his office or employment and may  
29 further bar such person from holding any public office or employment  
30 in this State in any capacity whatsoever for a period of not exceeding  
31 5 years from the date on which he was found guilty by the joint  
32 committee.

33 (j) A member of the Legislature who shall be found guilty by the  
34 joint committee of violating the provisions of this act, of a code of  
35 ethics promulgated pursuant to the provisions of this act or of any rule  
36 of either or both Houses which gives the joint committee jurisdiction  
37 and the authority to investigate a matter shall be fined not less than  
38 \$500.00 nor more than \$1,500.00, which penalty may be collected in  
39 a summary proceeding pursuant to "the penalty enforcement law"  
40 (N.J.S.2A:58-1 et seq.), and shall be subject to such further action as  
41 may be determined by the House of which he is a member. In such  
42 cases the joint committee shall report its findings to the appropriate  
43 House and shall recommend to the House such further action as the  
44 joint committee deems appropriate, but it shall be the sole  
45 responsibility of the House to determine what further action, if any,

1 shall be taken against such member.

2 (cf: P.L.1991, c.505, s.1)

3

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

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

23 (b) A code of ethics formulated pursuant to this section to govern  
24 and guide the conduct of the State officers and employees or the  
25 special State officers and employees in any State agency in the  
26 Executive Branch, or any portion of such a code, shall not be effective  
27 unless it has first been approved by the Executive Commission on  
28 Ethical Standards. When a proposed code is submitted to the said  
29 commission it shall be accompanied by an opinion of the Attorney  
30 General as to its compliance with the provisions of this act and any  
31 other applicable provision of law. Nothing contained herein shall  
32 prevent officers of State agencies in the Executive Branch from  
33 consulting with the Attorney General or with the Executive  
34 Commission on Ethical Standards at any time in connection with the  
35 preparation or revision of such codes of ethics.

36 (c) A code of ethics formulated pursuant to this section to govern  
37 and guide the conduct of the members of the Legislature, State officers  
38 and employees or special State officers and employees in any State  
39 agency in the Legislative Branch, or any portion of such code, shall  
40 not be effective unless it has first been approved by the Legislature by  
41 concurrent resolution. When a proposed code is submitted to the  
42 Legislature for approval it shall be accompanied by an opinion of the  
43 chief counsel as to its compliance with the provisions of this act and  
44 any other applicable provisions of law. Nothing contained herein shall  
45 prevent officers of State agencies in the Legislative Branch from  
46 consulting with the Chief Legislative Counsel or the Joint Legislative

1 Committee on Ethical Standards at any time in connection with the  
2 preparation or revision of such codes of ethics.

3 (d) Violations of a code of ethics promulgated pursuant to this  
4 section shall be cause for removal, suspension, demotion or other  
5 disciplinary action by the State officer or agency having the power of  
6 removal or discipline. When a person who is in the classified civil  
7 service is charged with a violation of such a code of ethics, the  
8 procedure leading to such removal or discipline shall be governed by  
9 any applicable provisions of the Civil Service Law and the Rules of the  
10 Department of Civil Service. No action for removal or discipline shall  
11 be taken under this subsection except upon the referral or with the  
12 approval of the Executive Commission on Ethical Standards or the  
13 Joint Legislative Committee on Ethical Standards, whichever is  
14 authorized to exercise jurisdiction with respect to the complaint upon  
15 which such action for removal or discipline is to be taken.

16 (e) A code of ethics for officers and employees of a State agency  
17 shall conform to the following general standards:

18 (1) No State officer or employee or special State officer or  
19 employee should have any interest, financial or otherwise, direct or  
20 indirect, or engage in any business or transaction or professional  
21 activity, which is in substantial conflict with the proper discharge of  
22 his duties in the public interest.

23 (2) No State officer or employee or special State officer or  
24 employee should engage in any particular business, profession, trade  
25 or occupation which is subject to licensing or regulation by a specific  
26 agency of State Government without promptly filing notice of such  
27 activity with the Executive Commission on Ethical Standards, if he is  
28 an officer or employee in the Executive Branch, or with the Joint  
29 Legislative Committee on Ethical Standards, if he is an officer or  
30 employee in the Legislative Branch. A State officer or employee or a  
31 special State officer or employee who possesses a license issued by a  
32 State agency which entitles the officer or employee to engage in a  
33 particular business, profession, trade or occupation shall file notice of  
34 that fact with the Executive Commission or the Joint Committee, as  
35 appropriate.

36 (3) No State officer or employee or special State officer or  
37 employee should use or attempt to use his official position, or permit  
38 another to use an official position, to secure unwarranted privileges or  
39 advantages for [himself or others] any person.

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

44 (5) No State officer or employee or special State officer or  
45 employee should undertake any employment or service, whether  
46 compensated or not, which might reasonably be expected to impair his

1 objectivity and independence of judgment in the exercise of his official  
2 duties.

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

8 (7) No State officer or employee or special State officer or  
9 employee should knowingly act in any way that might reasonably be  
10 expected to create an impression or suspicion among the public having  
11 knowledge of his acts that he may be engaged in conduct violative of  
12 his trust as a State officer or employee or special State officer or  
13 employee.

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

25 (f) The code of ethics for members of the Legislature shall conform  
26 to subsection (e) hereof as nearly as may be possible.

27 (cf: P.L.1987, c.432, s.6)

28

29 4. (New section) As used in sections 4 through 9 of P.L. , c. (C. )  
30 (now pending before the Legislature as this bill):

31 "public employee" means any person holding any of the following  
32 offices in the Executive Branch of State government:

33 the Governor;

34 the head of a principal department;

35 the assistant or deputy heads of a principal department including all  
36 assistant and deputy commissioners of such department;

37 the head and assistant heads of a division of a principal department,  
38 or any person exercising substantially similar authority for any board  
39 or commission which is organized as in, but not of, a principal  
40 department or any independent authority;

41 the executive or administrative head of any board or commission  
42 which is organized as in, but not of, a principal department or any  
43 independent authority;

44 the following members of the staff of the Office of the Governor:

45 Chief of Staff;

46 Chief Policy Advisor;

1 Director of Communications;  
2 Counsel to the Governor;  
3 Executive Assistant to the Governor;  
4 any deputy or principal administrative assistant to any of the  
5 aforesaid;  
6 members of the State Board of Agriculture;  
7 members of the State Board of Education;  
8 members of the Commission on Higher Education;  
9 members of the State Parole Board; and  
10 presidents of the State colleges and universities.  
11 "public officer" means a member of any of the following boards,  
12 commissions, independent authorities or public corporations:  
13 Atlantic City Convention Center Authority;  
14 New Jersey Building Authority;  
15 Capital City Redevelopment Corporation;  
16 Casino Reinvestment Development Authority;  
17 Educational Facilities Authority;  
18 New Jersey Economic Development Authority;  
19 New Jersey Highway Authority;  
20 New Jersey Transportation Trust Fund Authority;  
21 New Jersey Turnpike Authority;  
22 North Jersey District Water Supply Commission;  
23 Passaic Valley Sewerage Commission;  
24 Passaic Valley Water Commission;  
25 New Jersey Public Broadcasting Authority;  
26 South Jersey Port Corporation;  
27 New Jersey Sports and Exposition Authority;  
28 Pinelands Commission;  
29 Hackensack Meadowlands Development Commission;  
30 Council on Affordable Housing;  
31 Agriculture Development Committee;  
32 Health Care Facilities Financing Authority;  
33 Election Law Enforcement Commission;  
34 Hazardous Waste Facilities Siting Commission;  
35 Health Care Administration Board;  
36 Hospital Rate Setting Commission;  
37 Low-Level Radioactive Waste Disposal Facility Siting Board;  
38 Merit System Board;  
39 New Jersey State Council on the Arts;  
40 New Jersey Housing and Mortgage Finance Agency;  
41 New Jersey Commission on Science and Technology;  
42 New Jersey Racing Commission;  
43 New Jersey Transit Corporation;  
44 New Jersey Urban Enterprise Zone Authority;  
45 Public Employment Relations Commission;  
46 South Jersey Food Distribution Authority;

1 South Jersey Transportation Authority;  
2 State Lottery Commission;  
3 State Planning Commission;  
4 Tidelands Resource Council;  
5 Urban Development Corporation;  
6 Wastewater Treatment Trust;  
7 Water Supply Authority; and  
8 State Athletic Control Board;

9 "public officer" also means any New Jersey member of the  
10 following interstate agencies:

11 Atlantic States Marine Fisheries Commission;  
12 The Delaware River and Bay Authority;  
13 Delaware River Basin Commission;  
14 Delaware River Joint Toll Bridge Commission;  
15 Delaware River Port Authority;  
16 Delaware Valley Regional Planning Commission;  
17 Interstate Sanitation Commission;  
18 Northeast Interstate Low Level Radioactive Waste Commission;  
19 Palisades Interstate Park Commission;  
20 Port Authority of New York and New Jersey;  
21 The Port Authority Trans-Hudson Corporation;  
22 South Jersey Port Corporation; and  
23 Waterfront Commission of New York Harbor.

24 "government instrumentality" means the Legislative, Judicial and  
25 Executive Branches of State government, including any office,  
26 department, division, bureau, board, commission, council, authority or  
27 agency therein and any county, municipality, district, public authority,  
28 public agency or other political subdivision or public body in the State.

29 "State agency" means any of the principal departments in the  
30 Executive Branch of State government, and any division, board, office,  
31 commission or other instrumentality within or created by such  
32 department, and any independent State authority, commission,  
33 instrumentality or agency.

34 "relative" means a son, daughter, grandson, granddaughter, father,  
35 mother, grandfather, grandmother, great-grandfather,  
36 great-grandmother, brother, sister, nephew, niece, uncle, or aunt;  
37 relatives by adoption, half-blood, marriage or re-marriage shall be  
38 treated as relatives of the whole kinship.

39  
40 5. (New section) A public employee or public officer shall file, not  
41 later than May 15 in each calendar year, a sworn and duly notarized  
42 statement which is current as of five days prior to the date of filing.  
43 Each statement shall include the following information:

44 a. the name and position of the public employee or public officer;  
45 b. any occupation, trade, business or profession which the public  
46 employee or public officer, or the spouse or dependent children of the

1 public employee or public officer, is eligible to engage in and which is  
2 subject to licensing or regulation by a State agency, whether or not  
3 this activity is actually engaged in;

4 c. a list of all assets having a value of more than \$1,000, both  
5 tangible and intangible, in which a direct or indirect interest is held by  
6 the public employee or public officer, or by the spouse or dependent  
7 children of the public employee or public officer, valued as of the  
8 statement date; provided, however, that when the value cannot be  
9 determined as of that date, a separate valuation date shall be specified  
10 for the particular asset. Where stocks and bonds are involved, there  
11 shall be included the name of the company, mutual fund, holding  
12 company or government agency issuing them, except that whenever  
13 such interest exists through ownership in a mutual fund or holding  
14 company, the stocks held by such mutual fund or holding company  
15 need not be listed; whenever such interest exists through a beneficial  
16 interest in a trust, the stocks and bonds held in such trust shall be  
17 listed only if the public employee or public officer has knowledge of  
18 what stocks and bonds are so held. Where more than 10 percent of  
19 the stock of a corporation is held, the percentage of ownership shall  
20 be stated. The list shall include any direct or indirect interest, whether  
21 vested or contingent, in any contract made or executed by a  
22 government instrumentality. In the case of real estate interests, there  
23 shall be given the location, size, general nature and acquisition date of  
24 any real property in New Jersey in which any direct, indirect, vested  
25 or contingent interest is held, together with the names of all individuals  
26 or entities who share a direct or indirect interest therein and the name  
27 of any government instrumentality that is a tenant of such property or  
28 that has before it an application, complaint or proceeding directly  
29 affecting such property. Assets of a public employee and the spouse  
30 of the public employee shall be listed according to the following value  
31 categories:

32 greater than \$1,000, but not more than \$5,000;  
33 greater than \$5,000, but not more than \$25,000;  
34 greater than \$25,000, but not more than \$50,000;  
35 greater than \$50,000, but not more than \$100,000;  
36 greater than \$100,000, but not more than \$250,000;  
37 greater than \$250,000.

38 The value of the assets of the dependent children of a public  
39 employee, or of a public officer, or of the spouse or dependent  
40 children of a public officer, need not be disclosed unless specifically  
41 requested by the Governor or the Executive Commission on Ethical  
42 Standards;

43 d. a list of all liabilities of the public employee or public officer,  
44 and the spouse or dependent children of the public employee or public  
45 officer, valued by category in the same manner as required by  
46 subsection c. of this section, except liabilities which are:

1 less than \$10,000 and owed to a relative;  
2 less than \$1,000 and owed to any other person;  
3 loans secured by a personal motor vehicle, household furniture or  
4 appliances where the loan did not exceed the purchase price of the  
5 item and the outstanding balance did not exceed \$10,000 as of the  
6 close of the preceding calendar year; or  
7 revolving charge accounts where the outstanding liability does not  
8 exceed \$10,000 as of the close of the preceding calendar year;

9 e. a list of all liabilities otherwise subject to disclosure pursuant to  
10 subsection d. of this section of the public employee or public officer,  
11 or of the spouse or dependent children of the public employee or  
12 public officer which have been forgiven by the creditor within 12  
13 months of the statement date, including for each forgiven liability the  
14 name of the creditor to whom such liability was owed;

15 f. a list of all sources of income of the public employee or public  
16 officer, and of the spouse or dependent children of the public  
17 employee or public officer, including all compensated employment of  
18 whatever nature, all directorships or other fiduciary positions for  
19 which compensation has or will be claimed, all capital gains including  
20 a description of the individual sources of such gains, all contractual  
21 arrangements producing or expected to produce income, and  
22 honoraria, lecture fees and other miscellaneous sources of income  
23 including, but not limited to interest, dividends, royalties and rents.  
24 Statements filed before July 1 of any year shall disclose sources of  
25 income for the preceding calendar year. Statements filed after July 1  
26 of any year shall provide this information for the twelve-month period  
27 immediately preceding the filing date; the exact amounts of such  
28 income received shall be listed; not required to be reported as a source  
29 of income are:

30 cash gifts in an aggregated amount of less than \$100 received  
31 during the preceding twelve months from a person;  
32 non-cash gifts with an aggregated fair market value of less than  
33 \$200 received during the preceding twelve months from a person; and  
34 gifts with an aggregated cash or fair market value of less than  
35 \$3,000 received during the preceding twelve months from a relative;  
36 and

37 g. a list of any offices, trusteeships, directorships or positions of  
38 any nature, whether compensated or uncompensated, held by the  
39 public employee or public officer, or by the spouse or dependent  
40 children of the public employee or public officer, with any firm,  
41 corporation, association, partnership or business. If any firm,  
42 corporation, association, partnership or business does business with or  
43 is licensed, regulated or inspected by a State agency or does business  
44 with a casino license holder or applicant, the State agency or the  
45 casino license holder or applicant shall be identified.

1       6. (New section) Each statement shall contain a certification by the  
2 public employee or public officer that the public employee or public  
3 officer has read the statement, that to the best knowledge and belief  
4 of the public employee or public officer it is true, correct and complete  
5 and that the public employee or public officer has not and will not  
6 transfer any asset, interest or property for the purpose of concealing  
7 it from disclosure while retaining an equitable interest therein.

8  
9       7. (New section) a. Within 120 days from the effective date of  
10 P.L. , c. (now pending before the Legislature as this bill), any  
11 public employee or public officer who has not already done so  
12 pursuant to Executive Order of the Governor shall file the signed and  
13 notarized statement required herein with the Office of the Governor  
14 and one copy of that statement bearing an original signature and  
15 notarization with the Executive Commission on Ethical Standards.  
16 The commission shall review each statement to determine its  
17 conformity with the relevant laws and shall file and maintain a copy of  
18 it for public inspection and copying in accordance with the procedures  
19 set forth in P.L.1963, c.73 (C.47:1A-1 et seq.).

20       b. Each prospective public employee and public officer shall,  
21 before assuming the office to which he or she has been appointed,  
22 satisfy the filing requirements of section 5 of P.L. , c. (C. ) (now  
23 pending before the Legislature as this bill), unless the Attorney  
24 General grants to that employee or officer an extension of the filing  
25 deadline. An extension shall not be granted more than twice and shall  
26 not be of more than thirty days each.

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

29  
30       8. (New section) The Executive Commission on Ethical Standards  
31 shall keep the approved statements on file for so long as the person  
32 submitting such statement is a public employee or public officer of this  
33 State and for five years thereafter.

34  
35       9. (New section) The Executive Commission on Ethical Standards  
36 shall have the primary responsibility for assuring the proper  
37 administration and implementation of the financial disclosure  
38 requirements applicable to public employees and public officers and  
39 shall have the power to perform the acts necessary and convenient to  
40 this end, including, but not limited to, preparing and distributing forms  
41 and instructions to be utilized by public employees and public officers.

42  
43       10. (New section) As used in sections 10 through 18 of P.L. c.  
44 (C. ) (now pending before the Legislature as this bill):

45       "member of the immediate family" means a spouse, child, parent or  
46 sibling residing in the same household;

1 "asset" means property of any kind, real and personal, tangible and  
2 intangible, having a value greater than \$1,000;

3 "interest" in closely held corporation, partnership, sole  
4 proprietorship or similar business entity means any ownership or  
5 control of any profits or assets of such business entity;

6 "doing business with any federal, State or local government entity"  
7 means business or commercial transactions involving the sale,  
8 conveyance or rental of any goods or services, and shall not include  
9 such activities as compliance with regulatory procedures; and

10 "State agency" means any of the principal departments of State  
11 government and any entity allocated therein in conformance with N.J.  
12 Const. (1947), Art. V, Sec. IV, para. 1.

13  
14 11. (New section) Whenever the Executive Commission on Ethical  
15 Standards permits a blind trust to be utilized by a State officer or  
16 employee, or by the spouse or dependent child of a State officer or  
17 employee, the trust shall contain the following characteristics:

18 a. the trust shall not contain investments or assets in which the  
19 holder's ownership right or interest is required to be recorded in a  
20 public office or those assets whose permanency makes transfer by the  
21 trustee improbable or impractical; these investments or assets would  
22 include, but not be limited to, businesses, real estate, security interests  
23 in personal property and mortgages;

24 b. the trust shall contain a clear statement of its purpose, namely,  
25 to remove from the grantor control and knowledge of investment of  
26 trust assets so that conflicts between the grantor's responsibilities and  
27 duties as a State officer or employee and the State officer's or  
28 employee's private business or financial interests will be eliminated;

29 c. the trust shall be irrevocable, and shall be terminated only upon  
30 the death of the State officer or employee or upon termination from  
31 State office or employment, whichever shall first occur;

32 d. the trustee shall be directed not to disclose to the grantor any  
33 information about any of the assets in the trust;

34 e. the trustee shall be required either to: prepare and file the  
35 grantor's personal income tax returns, withholding from distribution of  
36 the trust's net income amounts sufficient to pay the grantor's tax; and  
37 further to participate in the audit of the grantor's returns during the  
38 period of the trust with authority to compromise the grantor's tax  
39 liability; or submit to the grantor, for income tax purposes, a  
40 certification of income paid without identifying the assets producing  
41 such income;

42 f. among its other powers, the trustee shall have authority to  
43 determine whether any of the assets originally transferred to the  
44 trustee are to be sold and, if so, when;

45 g. a provision shall be included in the trust agreement prohibiting  
46 the trustee from investing the trust property in corporations or

1 businesses which it knows do a significant amount of business with the  
2 State of New Jersey or from knowingly making any investment in a  
3 corporation, business or venture over which the grantor has regulatory  
4 or supervisory authority by virtue of the grantor's position as a State  
5 officer or employee;

6 h. the grantor shall retain no control over the trustee nor shall the  
7 grantor be permitted to make any recommendations or suggestions as  
8 to the trust property;

9 i. the trustee shall be a commercial trustee and not a natural  
10 person;

11 j. the principal benefit to be retained by the grantor shall be the  
12 right to receive income from the assets transferred to the trust;

13 k. the trust shall not become effective until submitted and approved  
14 by the Executive Commission on Ethical Standards; and

15 l. the trust agreement shall provide that the trustee will give the  
16 Executive Commission on Ethical Standards access to any records or  
17 information related to the trust which is necessary for the performance  
18 of the commission's duties.

19

20 12. (New section) A copy of the executed blind trust agreement  
21 shall be filed with the Executive Commission on Ethical Standards and  
22 with the head of the department in which the State officer or employee  
23 holds office or employment. Attached to such copy shall be a brief  
24 statement outlining the business or financial interests from which the  
25 State officer or employee seeks removal and the actual or potential  
26 conflicts of interest, or appearance of such conflicts, which are sought  
27 to be avoided by use of the trust agreement.

28

29 13. (New section) a. A State officer or employee who is required  
30 by law to submit financial disclosure statements to the Executive  
31 Commission on Ethical Standards shall not retain any interest in any  
32 closely-held corporation, partnership, sole proprietorship, or similar  
33 business entity doing business with any federal, State, interstate or  
34 local government entity, except as provided in subsection d. of this  
35 section.

36 b. Any State officer or employee who is employed on the effective  
37 date of P.L. , c. (now pending before the Legislature as this bill),  
38 and who retains any interest in any closely-held corporation,  
39 partnership, sole proprietorship, or similar business entity doing  
40 business with any federal, State, interstate or local government entity,  
41 shall notify the Executive Commission on Ethical Standards as to the  
42 interest, and interest of the spouse of the State officer or employee, in  
43 such a business entity within 120 days of that effective date, unless the  
44 officer or employee has already done so pursuant to Executive Order  
45 of the Governor. The Executive Commission on Ethical Standards  
46 shall review this disclosure statement to determine whether a business

1 entity in which the State officer or employee has an interest is engaged  
2 in government-related business and whether the holdings are in  
3 compliance with the applicable law. The Executive Commission on  
4 Ethical Standards shall notify the State officer or employee of its  
5 findings as soon as possible. The State officer or employee shall be  
6 afforded 120 days after the date of notification to effectuate the  
7 orderly disposition of any asset, or to demonstrate to the Executive  
8 Commission on Ethical Standards that the business entity has ceased  
9 to do business with a government entity in a prohibited manner.

10 c. No State agency shall employ a State officer or employee who  
11 holds any interest in any closely-held corporation, partnership, sole  
12 proprietorship or similar business entity doing business with any  
13 federal, State, interstate, or local government entity, except as  
14 provided in subsection d. of this section. An individual seeking  
15 employment in such a position shall divest a covered asset only in the  
16 manner provided herein. No State officer or employee shall obtain any  
17 prohibited interest in a business entity during the officer's or  
18 employee's tenure.

19 d. The provisions of subsections a., b. and c. of this section shall  
20 not apply to any purchase, sale, contract, or agreement with any  
21 government entity other than a State agency, which is made or  
22 awarded after public notice and competitive bidding as provided by the  
23 Local Government Contracts Law, P.L.1971, c.198 (C.40A:11-1 et  
24 seq.), or such similar provisions contained in the public bidding laws  
25 or regulations applicable to any government entity in this State or any  
26 other jurisdiction, provided that any such purchase, sale, contract or  
27 agreement, including a change in orders and amendments thereto, shall  
28 receive the prior approval of the Executive Commission on Ethical  
29 Standards. The provisions of subsections a., b. and c. of this section  
30 shall apply where the purchase, sale, contract or agreement is  
31 authorized by any of the exceptions provided in section 5 of P.L.1971,  
32 c.198 (C.40A:11-5), or such similar provisions contained in the public  
33 bidding laws or regulations of any other jurisdiction.

34  
35 14. (New section) No State officer or employee or special State  
36 officer or employee who is required by law to submit a financial  
37 disclosure statement to the Executive Commission on Ethical  
38 Standards shall retain any interest in any closely-held corporation,  
39 partnership, sole proprietorship or similar business entity unless the  
40 Executive Commission on Ethical Standards shall have first determined  
41 that the employee or officer may retain such an interest in such  
42 business entity.

43 Each State officer or employee or special State officer or employee  
44 who was employed or appointed prior to the effective date of P.L. ,  
45 c. (now pending before the Legislature as this bill) shall notify the  
46 Executive Commission on Ethical Standards as to an interest held by

1 the officer or employee, or by the spouse of the officer or employee in  
2 any such business entity, within 120 days of that effective date, unless  
3 the officer or employee has already done so pursuant to Executive  
4 Order of the Governor. The Executive Commission on Ethical  
5 Standards shall review the disclosure statement and shall determine,  
6 as soon as possible, whether the employee or officer may retain such  
7 interest in the business entity. The employee or officer shall be  
8 afforded 120 days after the date of notification to effectuate the  
9 orderly disposition of any asset or to demonstrate that the business  
10 entity has ceased the business activity in question.

11 After the effective date of P.L. , c. (now pending before the  
12 Legislature as this bill), no State agency shall employ or appoint any  
13 State officer or employee or special State officer or employee to a  
14 position if the officer or employee holds any interest in any closely-  
15 held corporation, partnership, sole proprietorship or similar business  
16 entity, unless the Executive Commission on Ethical Standards has  
17 reviewed such interest and determined that the officer or employee  
18 may retain such an interest. A person seeking such employment or  
19 appointment shall disclose to the Executive Commission on Ethical  
20 Standards the person's interest, or the interest of the person's spouse,  
21 in any such business entity as soon as practicable, and the Executive  
22 Commission on Ethical Standards shall render a determination no later  
23 than 30 days after receiving such disclosure, or at its next regularly  
24 scheduled meeting. No person seeking employment or appointment to  
25 a position shall divest a covered asset in a manner other than as  
26 permitted herein.

27

28 15. (New section) The Executive Commission on Ethical Standards  
29 shall review all financial disclosure statements as they may from time  
30 to time be submitted by State officers or employees and special State  
31 officers or employees to determine whether the covered persons have  
32 obtained ownership or interest in any assets that give rise to a present  
33 or potential conflict of interest, or a present or potential appearance  
34 of a conflict of interest.

35

36 16. (New section) Each State officer or employee or special State  
37 officer or employee shall amend the officer's or employee's financial  
38 disclosure statement within 30 days of gaining knowledge: a. that the  
39 officer's or employee's spouse's has acquired an interest in any closely-  
40 held corporation, partnership, sole proprietorship or similar business  
41 entity; or b. of the commencement of any business activity covered by  
42 the provisions of P.L. , c. (now pending before the Legislature as  
43 this bill) and as determined by the Executive Commission on Ethical  
44 Standards, including, for example, a change in business plan  
45 authorizing business activity with a federal, State, interstate or local  
46 government entity by a business in which the officer or employee or

1 the employee's or officer's spouse has an interest.

2

3 17. (New section) Any State officer or employee or special State  
4 officer or employee who acquires a prohibited interest by way of  
5 inheritance, bequest or similar circumstances beyond the control of the  
6 officer or employee shall follow the procedures for disclosure and  
7 disposition set forth in P.L. , c. (now pending before the  
8 Legislature as this bill).

9

10 18. (New section) All required divestitures shall be subject to the  
11 following conditions:

12 divestiture must occur within the time periods prescribed above;  
13 ownership or control of the asset may not be transferred to a  
14 member of the immediate family of the State officer or employee or  
15 special State officer or employee; and

16 the terms and conditions of any conveyance of ownership and  
17 control of the asset shall not contain any provisions regarding the  
18 return of the asset to the State officer or employee or special State  
19 officer or employee subsequent to leaving State service.

20

21 19. (New section) It shall be a crime of the third degree for a  
22 public servant to:

23 a. knowingly make, or cause or permit another public servant to  
24 make, a false entry in, or false alteration of, any record, document or  
25 thing belonging to, or received or kept by, the government for  
26 information or record, or required by law to be kept by others for  
27 information of the government;

28 b. make, present, offer for filing, or use any record, document or  
29 thing, or cause or permit another public servant to do so, knowing it  
30 to be false, and with purpose that it be taken as a genuine part of  
31 information or records referred to in subsection a. of this section; or

32 c. purposely and unlawfully destroy, conceal, remove, mutilate, or  
33 otherwise impair the verity or availability of any such record,  
34 document or thing, or purposely and unlawfully cause or permit  
35 another public servant to do so.

36

37 20. (New section) The first annual report submitted by the  
38 Executive Commission on Ethical Standards to the Governor and the  
39 Legislature, pursuant to subsection (i) of section 10 of P.L.1971,  
40 c.182 (C.52:13D-21), shall include the commission's recommendations  
41 as to whether legislation should be enacted which prohibits the spouse  
42 or other family member of a State officer or employee or of a special  
43 State officer or employee from holding employment in an industry over  
44 which the officer or employee has regulatory responsibility.

45

46 21. There is appropriated from the General Fund of the State

1 \$300,000 to the Executive Commission on Ethical Standards to  
2 effectuate the purposes of this act.

3  
4 22. This act shall take effect immediately.

5  
6  
7 STATEMENT

8  
9 This bill implements certain recommendations regarding the ethical  
10 standards applicable to certain State officials and employees which  
11 were made by the State Commission of Investigation in its report  
12 entitled "Insurance Interests and Licensure of Former Insurance  
13 Commissioner Andrew J. Karpinski", issued in October, 1996.  
14 Specifically, the bill:

15 (1) gives the Executive Commission the authority to issue advisory  
16 opinions on, and enforce, certain Executive Orders;

17 (2) directs the Executive Commission to submit an annual report  
18 to the Governor and the Legislature;

19 (3) establishes an ethics orientation program for new, high-level  
20 State officers;

21 (4) provides that certain State officer or employees must delegate  
22 certain decision-making responsibilities, in writing, to avoid conflicts  
23 of interest;

24 (5) makes the penalties which may be imposed upon officers and  
25 employees of the Executive Branch for ethics violations consistent  
26 with the penalties which currently may be applied to officers and  
27 employees of the Legislative Branch by increasing fines and  
28 authorizing the Executive Commission to reprimand violators and  
29 order restitution, where appropriate;

30 (6) allows both the Executive Commission and the Joint Committee  
31 on Ethical Standards to bar an officer or employee from public office  
32 or employment for up to one year;

33 (7) requires officers and employees to report to the Executive  
34 Commission the possession of any license issued by a State agency;

35 (8) codifies the provisions of Executive Order No. 2 (Whitman) of  
36 1994 concerning financial disclosure, use of blind trusts, divestiture of  
37 assets and interest in a closely-held corporation by officers and  
38 employees;

39 (9) requires financial disclosure statements filed with the Executive  
40 Commission to include exact amounts of income from each source;

41 (10) provides that it shall be a crime of the third degree for a public  
42 servant to tamper with public records;

43 (11) directs the Executive Commission to include in its next annual  
44 report its recommendations on the need for legislation regulating  
45 employment by the spouse or other family members of a high level  
46 State officer in an industry over which that officer has regulatory

1 responsibilities; and

2 (12) appropriates \$300,000 to the Executive Commission to offset  
3 the additional expenses associated with complying with the bill.

4

5

6

7

8 Implements certain recommendations of the State Commission of  
9 Investigation concerning ethical standards applicable to certain State  
10 officials and employees; appropriates \$300,000.