

PROGRAM BILL # 3

S.

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

CRIMIPLA

(Enacts provisions of the "Public
Trust Act" relating to prosecution
of misconduct by public officials
and providing for pension forfeiture
for certain public officials;
repealer)

CP L. ethics reform

AN ACT

to amend the criminal procedure law,
in relation to the prosecution of
misconduct by public servants, and
in relation to including corrupting
the government within the definition
of a designated offense; to amend
the penal law, in relation to estab-
lishing the crime of corrupting the
government, requires the intent to
influence within the crime of

IN SENATE

Senate introducer's signature

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

s23 Adams	s17 Falder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Kicin	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlincci	s47 Griffo	s52 Libous	s61 Ranssenhofer	s35 Stewart-
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	Cousing
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s46 Tkaczyk
s18 Dilen	s36 Haasell-	s43 Marchione	s56 Robach	s53 Valesky
s31 Espallat	Thompson	s07 Martins	s19 Sampson	s57 Young
s49 Farley	s27 Hoylman	s62 Marlarz	s10 Sanders	s03 Ealdin

IN ASSEMBLY

Assembly introducer's signature

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

a049 Abbate	a081 Dinowitz	a135 Johns	a039 Moya	a016 Schmel
a092 Abinanti	a147 DiPietro	a113 Jordan	a133 Nojey	a140 Schiaminger
a084 Arroyo	a115 Duprey	a094 Kats	a037 Nolan	a087 Sepulveda
a035 Aubry	a004 Englebright	a074 Kavanagh	a130 Oaks	a065 Silver
a120 Barclay	a054 Espinal	a142 Kearns	a069 O'Donnell	a027 Sikanowitz
a106 Barrett	a109 Fahy	a076 Kellner	a051 Ortiz	a036 Simotas
a060 Barron	a071 Farrell	a040 Kim	a091 Otis	a104 Skartados
a082 Benedetto	a126 Finch	a131 Kolb	a132 Palmesano	a099 Skoufis
a117 Blankenbush	a008 Fitzpatrick	a105 Lalor	a088 Paulin	a022 Solages
a062 Borelli	a124 Friend	a013 Lavine	a141 Peoples-	a124 Stac
a055 Boyland	a143 Gabryszak	a050 Lentol	Stokes	a110 Steck
a026 Braunstein	a095 Galef	a125 Lifton	a058 Perry	a079 Stevenson
a044 Brennan	a137 Gantt	a102 Lopez, F.	a089 Pretlow	a127 Stirpe
a119 Brindisi	a007 Garbarino	a053 Lopez, V.	a073 Quart	a011 Sweeney
a138 Bronson	a077 Gibson	a123 Lupardo	a019 Ra	a112 Todisco
a046 Brook-Krasny	a146 Giglio	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a093 Buchwald	a080 Gjonej	a121 Magee	a012 Raia	a001 Thiele
a118 Butler	a056 Glick	a129 Magnarelli	a006 Ramos	a061 Titone
a105 Cahill	a023 Goldfeder	a059 Maisel	a134 Reillich	a031 Titus
a043 Camara	a150 Goodell	a054 Malliotakis	a078 Rivera	a146 Walter
a145 Ceretto	a075 Gottfried	a030 Markey	a128 Roberts	a041 Weinstein
a033 Clerk	a005 Graf	a090 Mayer	a056 Robinson	a020 Weisenberg
a047 Colton	a100 Gunther	a108 McDonald	a068 Rodriguez	a024 Weprin
a022 Cook	a139 Hawley	a014 McDonough	a072 Rosa	a070 Wright
a144 Corwin	a083 Henastie	a017 McKevitt	a067 Rosenthal	a096 Zebrowski
a085 Crespo	a003 Hennessey	a107 McLaughlin	a025 Roxie	a002
a122 Crouch	a028 Hevesi	a038 Miller	a116 Russell	a086
a021 Curran	a048 Hiking	a052 Millman	a149 Ryan	
a063 Cusick	a018 Hooper	a015 Montesano	a009 Saladino	
a046 Cymbrowitz	a042 Jacobs	a136 Morelle	a111 Santabarbara	
a034 DenDekker	a097 Jaffee	a057 Mosley	a029 Scarborough	

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

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

bribery, and expands the crime of bribe receiving; to amend the legislative law, in relation to lobbying; to amend the state finance law, in relation to cancellation and disqualification of certain contracts; to amend the civil practice law and rules, in relation to including the crime of public corruption within the term of pre-conviction forfeiture crime; to amend the public officers law, in relation to persons deemed incapable of holding a civil office; to amend the real property tax law, in relation to certain exemption limitations; to amend the general municipal law, in relation to limitations on empire zone designation; to amend the tax law, in relation to certain tax credit limitations; and to repeal section 195.20 of the penal law relating to defrauding the government

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

1 Section 1. This act shall be known as the "Public Trust Act".

2 § 2. Paragraph (b) of subdivision 3 of section 30.10 of the criminal
3 procedure law is amended to read as follows:

4 (b) A prosecution for any offense involving misconduct in public
5 office by a public servant including, without limitation, an offense
6 defined in article four hundred ninety-six of the penal law, may be
7 commenced against a public servant, or any other person acting in
8 concert with such public servant at any time during [the defendant's]
9 such public servant's service in such office or within five years after
10 the termination of such service; provided however, that in no event
11 shall the period of limitation be extended by more than five years
12 beyond the period otherwise applicable under subdivision two of this
13 section.

14 § 3. Section 50.10 of the criminal procedure law is amended to read as
15 follows:

16 § 50.10 Compulsion of evidence by offer of immunity; definitions of
17 terms.

18 The following definitions are applicable to this article:

19 1. "Immunity." Based upon the subject matter of the legal proceeding
20 in which a person gives evidence, such person may receive either "tran-
21 sactional" or "use" immunity.

22 (a) "Transactional immunity." A person who has been a witness in a
23 legal proceeding, and who cannot, except as otherwise provided in this
24 subdivision, be convicted of any offense or subjected to any penalty or
25 forfeiture for or on account of any transaction, matter or thing
26 concerning which he gave evidence therein, possesses ["immunity"] "tran-
27 sactional immunity" from any such conviction, penalty or forfeiture.

1 **(b) "Use immunity."** A person who has been a witness in a legal
2 proceeding, and neither the evidence given by that witness nor any
3 evidence derived directly or indirectly therefrom may be used against
4 the witness in the same or any other criminal proceeding or in the im-
5 sition of any penalty or forfeiture possesses "use immunity".

6 **(c)** A person who possesses [such] transactional immunity or use immu-
7 nity may nevertheless be convicted of perjury as a result of having
8 given false testimony in such legal proceeding, and may be convicted of
9 or adjudged in contempt as a result of having contumaciously refused to
10 give evidence therein, and the evidence given by the person at the
11 proceeding at which the person possessed either transactional immunity
12 or use immunity may be used against such person in any such prosecution
13 for perjury or prosecution or judgment for contempt.

14 2. "Legal proceeding" means a proceeding in or before any court or
15 grand jury, or before any body, agency or person authorized by law to
16 conduct the same and to administer the oath or to cause it to be admin-
17 istered.

18 3. "Give evidence" means to testify or produce physical evidence.

19 § 4. Subdivision 3 of section 50.20 of the criminal procedure law is
20 amended to read as follows:

21 3. A witness who is ordered to give evidence pursuant to subdivision
22 two of this section and who complies with such order receives either
23 transactional immunity or use immunity. [Such] In a legal proceeding
24 involving, in whole or in part, any misconduct, nonfeasance or neglect
25 in public office by a public servant, whether criminal or otherwise, or
26 any fraud upon the state, a political subdivision of the state or a
27 governmental instrumentality within the state such witness receives use
28 immunity. A witness in a legal proceeding involving any other subject

1 matter receives transactional immunity. In either case, such witness is
2 not deprived of such immunity because such competent authority did not
3 comply with statutory provisions requiring notice to a specified public
4 servant of intention to confer immunity.

5 § 5. Paragraph (b) of subdivision 1 of section 170.30 of the criminal
6 procedure law is amended, and a new subdivision 4 is added to read as
7 follows:

8 (b) The defendant has received immunity from prosecution as defined
9 in paragraph (a) of subdivision one of section 50.10 of this chapter for
10 the offense charged, pursuant to sections 50.20 or 190.40, or allega-
11 tions in the information, simplified information, prosecutor's informa-
12 tion or misdemeanor complaint are based on evidence protected by use
13 immunity as defined in paragraph (b) of subdivision one of section 50.10
14 of this chapter; or

15 4. Where the defendant establishes in his or her motion that use immu-
16 nity has been conferred upon him or her, the people must then establish,
17 by a preponderance of the evidence, that such evidence was not derived,
18 directly or indirectly, from the evidence as to which such immunity was
19 conferred.

20 § 6. Subdivision 2 of section 190.40 of the criminal procedure law,
21 paragraph (c) as added by chapter 454 of the laws of 1975, is amended to
22 read as follows:

23 2. A witness who gives evidence in a grand jury proceeding involving,
24 in whole or in part, any misconduct, nonfeasance or neglect in public
25 office by a public servant, whether criminal or otherwise, or any fraud
26 upon the state, a political subdivision of the state or a governmental
27 instrumentality within the state receives use immunity. A witness in a
28 grand jury proceeding involving any other subject matter receives tran-

1 sectional immunity. In either case, such witness receives such immunity
2 unless;

3 (a) He or she has effectively waived such immunity pursuant to
4 section 190.45; or

5 (b) Such evidence is not responsive to any inquiry and is gratuitous-
6 ly given or volunteered by the witness with knowledge that it is not
7 responsive[.] or

8 (c) The evidence given by the witness consists only of books, papers,
9 records or other physical evidence of an enterprise, as defined in
10 subdivision one of section 175.00 of the penal law, the production of
11 which is required by a subpoena duces tecum, and the witness does not
12 possess a privilege against self-incrimination with respect to the
13 production of such evidence. Any further evidence given by the witness
14 entitles the witness to immunity except as provided in [subparagraph]
15 paragraphs (a) and (b) of this subdivision.

16 § 7. Paragraph (d) of subdivision 1 of section 210.20 of the criminal
17 procedure law is amended to read as follows:

18 (d) The defendant has transactional immunity, as defined in paragraph
19 (a) of subdivision one of section 50.10 of this chapter, with respect to
20 the offense charged, pursuant to section 50.20 or 190.40; or

21 § 7-a. Section 210.35 of the criminal procedure law is amended by
22 adding a new subdivision 4-a to read as follows:

23 4-a. Evidence protected by use immunity was used to obtain the indict-
24 ment; or

25 § 8. The opening paragraph and subdivisions 6 and 7 of section 710.20
26 of the criminal procedure law, the opening paragraph and subdivision 6
27 as amended by chapter 8 of the laws of 1976, subdivision 7 as added by
28 chapter 744 of the laws of 1988, and subdivision 6 as renumbered by

1 chapter 481 of the laws of 1983, are amended and a new subdivision 8 is
2 added to read as follows:

3 Upon motion of a defendant who (a) is aggrieved by unlawful or improv-
4 er acquisition of evidence and has reasonable cause to believe that such
5 may be offered against him in a criminal action, or (b) claims that
6 improper identification testimony may be offered against him in a crimi-
7 nal action, or (c) claims that evidence as to the use of which he or she
8 possesses immunity, as defined in paragraph (b) of subdivision one of
9 section 50.10 of this chapter, may be offered against him in a criminal
10 action, a court may, under circumstances prescribed in this article,
11 order that such evidence be suppressed or excluded upon the ground that
12 it:

13 6. Consists of potential testimony regarding an observation of the
14 defendant either at the time or place of the commission of the offense
15 or upon some other occasion relevant to the case, which potential testi-
16 mony would not be admissible upon the prospective trial of such charge
17 owing to an improperly made previous identification of the defendant by
18 the prospective witness[.]; or

19 7. Consists of information obtained by means of a pen register or trap
20 and trace device installed or used in violation of the provisions of
21 article seven hundred five of this chapter[.]; or

22 8. Consists of potential evidence as to the use of which the defendant
23 possesses immunity. Where the defendant establishes that use immunity
24 has been conferred upon him or her, the people must then establish, by a
25 preponderance of the evidence, that such evidence was not derived,
26 directly or indirectly, from the evidence as to which such immunity was
27 conferred.

1 § 9. Subdivision 8 of section 700.05 of the criminal procedure law is
2 amended by adding a new paragraph (u) to read as follows:

3 (u) Any offense defined in article four hundred ninety-six of the
4 penal law, official misconduct in the third degree as defined in section
5 195.00 of the penal law, official misconduct in the second degree as
6 defined in section 195.01 of the penal law, and official misconduct in
7 the first degree as defined in section 195.02 of the penal law.

8 § 10. Paragraph (f) of subdivision 8 of section 700.05 of the criminal
9 procedure law, as amended by chapter 154 of the laws of 1990, is amended
10 to read as follows:

11 (f) Bribery in the third degree, bribery in the second degree, bribery
12 in the first degree, bribe receiving in the third degree, bribe receiv-
13 ing in the second degree, bribe receiving in the first degree, bribe
14 giving for public office, failure to report bribery, and bribe receiving
15 for public office, as defined in article two hundred of the penal law;

16 § 10-a. Subdivision 4 of section 710.60 of the criminal procedure law,
17 as amended by chapter 39 of the laws of 1975, is amended to read as
18 follows:

19 4. If the court does not determine the motion pursuant to [subdivi-
20 sions] subdivision two or three, it must conduct a hearing and make
21 findings of fact essential to the determination thereof. All persons
22 giving factual information at such hearing must testify under oath,
23 except that unsworn evidence pursuant to subdivision two of section
24 60.20 of this chapter may also be received. Upon such hearing, hearsay
25 evidence is admissible to establish any material fact. A hearing grant-
26 ed under this subdivision pursuant to a motion to suppress evidence
27 described in subdivision eight of section 710.20 of this article may, in
28 the discretion of the court, be conducted after the trial of the matter.

1 § 11. Section 195.20 of the penal law is REPEALED.

2 § 12. Section 195.00 of the penal law, as amended by chapter 906 of
3 the laws of 1990, is amended to read as follows:

4 § 195.00 Official misconduct in the third degree.

5 A public servant is guilty of official misconduct in the third degree
6 when, with intent to obtain a benefit or deprive another person of a
7 benefit:

8 1. He or she commits an act relating to his or her office but consti-
9 tuting an unauthorized exercise of his or her official functions, know-
10 ing that such act is unauthorized; or

11 2. He or she knowingly refrains from performing a duty which is
12 imposed upon him or her by law or is clearly inherent in the nature of
13 his or her office.

14 Official misconduct in the third degree is a class [A misdemeanor] E
15 felony.

16 § 13. The penal law is amended by adding two new sections 195.01 and
17 195.02 to read as follows:

18 § 195.01 Official misconduct in the second degree.

19 A public servant is guilty of official misconduct in the second degree
20 when he or she commits the crime of official misconduct in the third
21 degree and he or she obtains any benefit or deprives another person of a
22 benefit valued in excess of one thousand dollars.

23 Official misconduct in the second degree is a class D felony.

24 § 195.02 Official misconduct in the first degree.

25 A public servant is guilty of official misconduct in the first degree
26 when he or she commits the crime of official misconduct in the third
27 degree and he or she obtains any benefit or deprives another person of a
28 benefit valued in excess of three thousand dollars.

1 Official misconduct in the first degree is a class C felony.
2 § 14. The penal law is amended by adding a new title Y-2 to read as
3 follows:

4 TITLE Y-2

5 CORRUPTING THE GOVERNMENT

6 ARTICLE 496

7 CORRUPTING THE GOVERNMENT

8 Section 496.01 Definitions.

9 496.02 Corrupting the government in the fourth degree.

10 496.03 Corrupting the government in the third degree.

11 496.04 Corrupting the government in the second degree.

12 496.05 Corrupting the government in the first degree.

13 496.06 Public corruption.

14 496.07 Sentencing.

15 § 496.01 Definitions.

16 For the purposes of this article, "scheme" means any plan, pattern,
17 device, contrivance, or course of action.

18 § 496.02 Corrupting the government in the fourth degree.

19 A person is guilty of corrupting the government in the fourth degree
20 when he or she engages in a scheme constituting a systematic ongoing
21 course of conduct with intent to defraud the state or one or more poli-
22 tical subdivisions of the state or one or more governmental instrumen-
23 talities within the state, or to obtain property, services or other
24 resources from any such state, political subdivision or governmental
25 instrumentality by false or fraudulent pretenses, representations or
26 promises.

1 Corrupting the government in the fourth degree is a class E felony.

2 § 496.03 Corrupting the government in the third degree.

3 A person is guilty of corrupting the government in the third degree
4 when he or she engages in a scheme constituting a systematic ongoing
5 course of conduct with intent to defraud the state or one or more poli-
6 tical subdivisions of the state or one or more governmental instrumen-
7 talities within the state, or to obtain property, services or other
8 resources from any such state, political subdivision or governmental
9 instrumentality by false or fraudulent pretenses, representations or
10 promises, and so obtains property, services or other resources with a
11 value in excess of one thousand dollars.

12 Corrupting the government in the third degree is a class D felony.

13 § 496.04 Corrupting the government in the second degree.

14 A person is guilty of corrupting the government in the second degree
15 when he or she engages in a scheme constituting a systematic ongoing
16 course of conduct with intent to defraud the state or one or more poli-
17 tical subdivisions of the state or one or more governmental instrumen-
18 talities within the state, or to obtain property, services or other
19 resources from any such state, political subdivision or governmental
20 instrumentality by false or fraudulent pretenses, representations or
21 promises, and so obtains property, services or other resources with a
22 value in excess of five thousand dollars.

23 Corrupting the government in the second degree is a class C felony.

24 § 496.05 Corrupting the government in the first degree.

25 A person is guilty of corrupting the government in the first degree
26 when he or she engages in a scheme constituting a systematic ongoing
27 course of conduct with intent to defraud the state or one or more poli-
28 tical subdivisions of the state or one or more governmental instrumen-

1 talities within the state, or to obtain property, services or other
2 resources from any such state, political subdivision or governmental
3 instrumentality by false or fraudulent pretenses, representations or
4 promises, and so obtains property, services or other resources with a
5 value in excess of ten thousand dollars.

6 Corrupting the government in the first degree is a class B felony.

7 § 496.06 Public corruption.

8 1. A person commits the crime of public corruption when he or she
9 commits a specified offense and the state or any political subdivision
10 thereof or any governmental instrumentality within the state is the
11 owner of the property or has control over the services at issue or
12 otherwise has the right to possession of the property or benefit taken,
13 obtained or withheld superior to that person or is otherwise the victim
14 of such offense.

15 2. A "specified offense" is an offense defined by any of the following
16 provisions of this chapter: section 155.25 (petit larceny); section
17 155.30 (grand larceny in the fourth degree); section 155.35 (grand
18 larceny in the third degree); section 155.40 (grand larceny in the
19 second degree); section 155.42 (grand larceny in the first degree);
20 section 156.05 (unauthorized use of a computer); section 165.05 (unau-
21 thorized use of a vehicle in the third degree); 165.06 (unauthorized use
22 of a vehicle in the second degree); 165.08 (unauthorized use of a vehi-
23 cle in the first degree); 470.05 (money laundering in the fourth
24 degree); 470.10 (money laundering in the third degree); 470.15 (money
25 laundering in the second degree); 470.20 (money laundering in the first
26 degree).

27 § 496.07 Sentencing.

1 1. When a person is convicted of the crime of public corruption pursu-
2 ant to section 496.06 of this article and the specified offense is a
3 misdemeanor or a class C, D or E felony, the crime shall be deemed to be
4 one category higher than the specified offense the defendant committed,
5 or one category higher than the offense level applicable to the defend-
6 ant's conviction for an attempt or conspiracy to commit a specified
7 offense, whichever is applicable.

8 2. Notwithstanding any other provision of law, when a person is
9 convicted of the crime of public corruption pursuant to this article and
10 the specified offense is a class B felony:

11 (a) the maximum term of the indeterminate sentence must be at least
12 six years if the defendant is sentenced pursuant to section 70.00 of
13 this chapter; and

14 (b) the maximum term of the indeterminate sentence must be at least
15 ten years if the defendant is sentenced pursuant to section 70.06 of
16 this chapter.

17 § 15. Subdivision 4 of section 200.50 of the criminal procedure law,
18 as amended by chapter 7 of the laws of 2007, is amended to read as
19 follows:

20 4. A statement in each count that the grand jury, or, where the accu-
21 satory instrument is a superior court information, the district attor-
22 ney, accuses the defendant or defendants of a designated offense,
23 provided that in any prosecution under article four hundred eighty-five
24 of the penal law, the designated offense shall be the specified offense,
25 as defined in subdivision three of section 485.05 of the penal law,
26 followed by the phrase "as a hate crime", and provided further that in
27 any prosecution under section 490.25 of the penal law, the designated
28 offense shall be the specified offense, as defined in subdivision three

1 of section 490.05 of the penal law, followed by the phrase "as a crime
2 of terrorism"; and provided further that in any prosecution under
3 section 130.91 of the penal law, the designated offense shall be the
4 specified offense, as defined in subdivision two of section 130.91 of
5 the penal law, followed by the phrase "as a sexually motivated felony";
6 and provided further that in any prosecution under section 496.06 of the
7 penal law, the designated offense shall be the specified offense, as
8 defined in subdivision two of such section, followed by the phrase "as a
9 public corruption crime"; and

10 § 16. Paragraph (a) of subdivision 1 of section 460.10 of the penal
11 law, as amended by chapter 405 of the laws of 2010, is amended to read
12 as follows:

13 (a) Any of the felonies set forth in this chapter: sections 120.05,
14 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-
15 ing to strangulation; sections 125.10 to 125.27 relating to homicide;
16 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
17 135.25 relating to kidnapping; section 135.35 relating to labor traf-
18 ficking; section 135.65 relating to coercion; sections 140.20, 140.25
19 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12
20 relating to criminal mischief; article one hundred fifty relating to
21 arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
22 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
23 care fraud; article one hundred sixty relating to robbery; sections
24 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
25 stolen property; sections 165.72 and 165.73 relating to trademark coun-
26 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
27 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
28 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and

1 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating
2 to criminal diversion of prescription medications and prescriptions;
3 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 195.00, 195.01,
4 195.02, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22,
5 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections
6 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage
7 fraud, sections 190.40 and 190.42 relating to criminal usury; section
8 190.65 relating to schemes to defraud; any offense defined in article
9 four hundred ninety-six; sections 205.60 and 205.65 relating to hinder-
10 ing prosecution; sections 210.10, 210.15, and 215.51 relating to perjury
11 and contempt; section 215.40 relating to tampering with physical
12 evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,
13 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60 and 220.77 relat-
14 ing to controlled substances; sections 225.10 and 225.20 relating to
15 gambling; sections 230.25, 230.30, and 230.32 relating to promoting
16 prostitution; section 230.34 relating to sex trafficking; sections
17 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10
18 and 263.15 relating to promoting a sexual performance by a child;
19 sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
20 provisions of section 265.10 which constitute a felony relating to
21 firearms and other dangerous weapons; [and] sections 265.14 and 265.16
22 relating to criminal sale of a firearm; [and] section 275.10, 275.20,
23 275.30, or 275.40 relating to unauthorized recordings; and sections
24 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or
25 § 17. Section 200.00 of the penal law, as amended by chapter 833 of
26 the laws of 1986, is amended to read as follows:
27 § 200.00 Bribery in the third degree.

1 A person is guilty of bribery in the third degree when he or she
2 confers, or offers or agrees to confer, any benefit upon a public serv-
3 ant [upon an agreement or understanding that] with the intent to influ-
4 ence, in whole or in part, such public servant's vote, opinion, judg-
5 ment, action, decision or exercise of discretion as a public servant
6 [will thereby be influenced].

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

8 § 18. Section 200.03 of the penal law, as amended by chapter 833 of
9 the laws of 1986, is amended to read as follows:

10 § 200.03 Bribery in the second degree.

11 A person is guilty of bribery in the second degree when he or she
12 confers, or offers or agrees to confer, any benefit valued in excess of
13 [ten] five thousand dollars upon a public servant [upon an agreement or
14 understanding that] with the intent to influence, in whole or in part,
15 such public servant's vote, opinion, judgment, action, decision or exer-
16 cise of discretion as a public servant [will thereby be influenced].

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

18 § 19. Section 200.04 of the penal law, as added by chapter 276 of the
19 laws of 1973, is amended to read as follows:

20 § 200.04 Bribery in the first degree.

21 A person is guilty of bribery in the first degree when he or she
22 confers, or offers or agrees to confer[,]: (a) any benefit upon a public
23 servant [upon an agreement or understanding that] with the intent to
24 influence such public servant's vote, opinion, judgment, action, deci-
25 sion or exercise of discretion as a public servant [will thereby be
26 influenced] in the investigation, arrest, detention, prosecution or
27 incarceration of any person for the commission or alleged commission of
28 a class A felony defined in article two hundred twenty of [the penal

1 law] this part or an attempt to commit any such class A felony; or (b)
2 any benefit valued in excess of ten thousand dollars upon a public serv-
3 ant with the intent to influence, in whole or in part, such public serv-
4 ant's vote, opinion, judgment, action, decision or exercise of
5 discretion as a public servant.

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

7 § 20. Section 200.05 of the penal law is amended to read as follows:

8 § 200.05 Bribery; defense; limitations.

9 1. In any prosecution for bribery, it is a defense that the defendant
10 conferred or agreed to confer the benefit involved upon the public serv-
11 ant involved as a result of conduct of the latter constituting larceny
12 committed by means of extortion, or an attempt to commit the same, or
13 coercion, or an attempt to commit coercion;

14 2. In any prosecution pursuant to section 200.00, 200.03, 200.04,
15 200.10, 200.11, 200.12, 200.45 or 200.50 of this article, no person
16 shall be held to have violated such sections where the benefit is a
17 campaign contribution that is permissible under article fourteen of the
18 election law or a comparable applicable provision of federal law, is a
19 lobbying expense that is legal under article one-A of the legislative
20 law or, pursuant to subdivision (j) of section one-c of the legislative
21 law is excludable from the definition of a gift, unless such person
22 confers, or offers or agrees to confer, such benefit upon a public serv-
23 ant upon an agreement or understanding that such public servant's vote,
24 opinion, judgment, action, decision or exercise of discretion as a
25 public servant will thereby be influenced.

26 § 21. Section 200.10 of the penal law, as amended by chapter 833 of
27 the laws of 1986, is amended to read as follows:

28 § 200.10 Bribe receiving in the third degree.

1 A public servant is guilty of bribe receiving in the third degree when
2 he or she:

3 1. solicits, accepts or agrees to accept any benefit from another
4 person upon an agreement or understanding that his or her vote, opinion,
5 judgment, action, decision or exercise of discretion as a public servant
6 will thereby be influenced[.]; or

7 2. solicits, accepts or agrees to accept a gift of more than nominal
8 value from another person for, because of, or as consideration for his
9 or her vote, opinion, judgment, action, decision or exercise of
10 discretion as a public servant.

11 Bribe receiving in the third degree is a class D felony.

12 § 22. Section 200.11 of the penal law, as added by chapter 833 of the
13 laws of 1986, is amended to read as follows:

14 § 200.11 Bribe receiving in the second degree.

15 A public servant is guilty of bribe receiving in the second degree
16 when he or she solicits, accepts or agrees to accept any benefit valued
17 in excess of [ten] five thousand dollars from another person [upon an
18 agreement or understanding that], for, because of, or as consideration
19 for his or her vote, opinion, judgment, action, decision or exercise of
20 discretion as a public servant [will thereby be influenced].

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

22 § 23. Section 200.12 of the penal law, as added by chapter 276 of the
23 laws of 1973, is amended to read as follows:

24 § 200.12 Bribe receiving in the first degree.

25 A public servant is guilty of bribe receiving in the first degree when
26 he or she solicits, accepts or agrees to accept: (a) any benefit from
27 another person [upon an agreement or understanding that], for, because
28 of, or as consideration for his or her vote, opinion, judgment, action,

1 decision or exercise of discretion as a public servant [will thereby be
2 influenced] in the investigation, arrest, detention, prosecution or
3 incarceration of any person for the commission or alleged commission of
4 a class A felony defined in article two hundred twenty of [the penal
5 law] this part or an attempt to commit any such class A felony; or (b)
6 any benefit valued in excess of ten thousand dollars from another
7 person, for, because of, or as consideration for his or her vote, opin-
8 ion, judgment, action, decision or exercise of discretion as a public
9 servant.

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

11 § 24. Section 200.45 of the penal law is amended to read as follows:

12 § 200.45 Bribe giving for public office.

13 A person is guilty of bribe giving for public office when he or she
14 confers, or offers or agrees to confer, any money or other property upon
15 a public servant or a party officer [upon an agreement or understanding
16 that] , for, because of, or as consideration that some person will or
17 may be appointed to a public office or designated or nominated as a
18 candidate for public office.

19 Bribe giving for public office is a class D felony.

20 § 25. Section 200.50 of the penal law is amended to read as follows:

21 § 200.50 Bribe receiving for public office.

22 A public servant or a party officer is guilty of bribe receiving for
23 public office when he or she solicits, accepts or agrees to accept any
24 money or other property from another person [upon an agreement or under-
25 standing that] , for, because of, or as consideration that some person
26 will or may be appointed to a public office or designated or nominated
27 as a candidate for public office.

28 Bribe receiving for public office is a class D felony.

1 § 26. The penal law is amended by adding a new section 200.56 to read
2 as follows:

3 § 200.56 Failure to report bribery.

4 A public servant is guilty of failure to report bribery when:

5 1. the public servant knows that another person has attempted to bribe
6 such public servant, as such conduct is defined in this article, or such
7 public servant has witnessed or has knowledge of either (a) a person
8 committing any degree of the crime of bribery or attempting to commit
9 bribery of another public servant, as such conduct is defined in this
10 article or (b) another public servant committing any degree of the crime
11 of bribe receiving, as defined in this article; and

12 2. such public servant does not, as soon as reasonably practicable,
13 report such crime to a district attorney.

14 3. Any public servant who makes a report as required by this section
15 shall not be subject to dismissal, discipline or other adverse personnel
16 action as a result of making such report.

17 Failure to report bribery is a class A misdemeanor.

18 § 27. Subdivision 1 of section 80.00 of the penal law, as amended by
19 chapter 338 of the laws of 1989, is amended to read as follows:

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

22 a. five thousand dollars; or

23 b. double the amount of the defendant's gain from the commission of
24 the crime or, if the defendant is convicted of a crime defined in arti-
25 cle four hundred ninety-six of this chapter, any higher amount not
26 exceeding three times the amount of the defendant's gain from the
27 commission of such offense; or

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

- 4 (i) for A-I felonies, one hundred thousand dollars;
- 5 (ii) for A-II felonies, fifty thousand dollars;
- 6 (iii) for B felonies, thirty thousand dollars;
- 7 (iv) for C felonies, fifteen thousand dollars.

8 When imposing a fine pursuant to the provisions of this paragraph, the
9 court shall consider the profit gained by defendant's conduct, whether
10 the amount of the fine is disproportionate to the conduct in which
11 defendant engaged, its impact on any victims, and defendant's economic
12 circumstances, including the defendant's ability to pay, the effect of
13 the fine upon his or her immediate family or any other persons to whom
14 the defendant owes an obligation of support.

15 § 28. Subdivision 1 of section 80.10 of the penal law is amended to
16 read as follows:

17 1. In general. A sentence to pay a fine, when imposed on a corporation
18 for an offense defined in this chapter or for an offense defined outside
19 this chapter for which no special corporate fine is specified, shall be
20 a sentence to pay an amount, fixed by the court, not exceeding:

- 21 (a) Ten thousand dollars, when the conviction is of a felony;
- 22 (b) Five thousand dollars, when the conviction is of a class A misde-
23 meanor or of an unclassified misdemeanor for which a term of imprison-
24 ment in excess of three months is authorized;
- 25 (c) Two thousand dollars, when the conviction is of a class B misde-
26 meanor or of an unclassified misdemeanor for which the authorized term
27 of imprisonment is not in excess of three months;
- 28 (d) Five hundred dollars, when the conviction is of a violation;

1 (e) Any higher amount not exceeding double the amount of the corpo-
2 ration's gain from the commission of the offense or, if the corporation
3 is convicted of a crime defined in article four hundred ninety-six of
4 this chapter, any higher amount not exceeding three times the amount of
5 the corporation's gain from the commission of such offense.

6 § 29. Subdivision (a) of section 1-c of the legislative law, as added
7 by chapter 2 of the laws of 1999, is amended to read as follows:

8 (a) The term "lobbyist" shall mean every person or organization
9 retained, employed or designated by any client to engage in lobbying.
10 The term "lobbyist" shall not include any officer, director, trustee,
11 employee, counsel or agent of the state, or any municipality or subdivi-
12 sion thereof of New York when discharging their official duties; except
13 those officers, directors, trustees, employees, counsels, or agents of
14 colleges, as defined by section two of the education law. Provided that
15 any individual who stands convicted of a crime defined in article two
16 hundred or four hundred ninety-six or section 195.00, 195.01 or 195.02
17 of the penal law may not be retained, employed or designated by any
18 client to engage in lobbying.

19 § 30. Section 139-a of the state finance law, as amended by chapter
20 268 of the laws of 1971, is amended to read as follows:

21 § 139-a. Ground for cancellation of contract by state. A clause shall
22 be inserted in all specifications or contracts hereafter made or awarded
23 by the state or any public department, agency or official thereof, for
24 work or services performed or to be performed, or goods sold or to be
25 sold, to provide that: (a) upon the refusal by a person, when called
26 before a grand jury, head of a state department, temporary state commis-
27 sion or other state agency, or the organized crime task force in the
28 department of law, which is empowered to compel the attendance of

1 witnesses and examine them under oath, to testify in an investigation,
2 concerning any transaction or contract had with the state, any political
3 subdivision thereof, a public authority or with any public department,
4 agency or official of the state or of any political subdivision thereof
5 or of a public authority, to sign a waiver of immunity against subse-
6 quent criminal prosecution or to answer any relevant question concerning
7 such transaction or contract; or (b) upon the conviction of any person
8 of an offense defined in article two hundred or four hundred ninety-six
9 or section 195.00, 195.01 or 195.02 of the penal law,

10 [(a)] (i) such person, and any firm, partnership or corporation of
11 which he is a member, partner, director or officer shall be disqualified
12 from thereafter selling to or submitting bids to or receiving awards
13 from or entering into any contracts with the state or any public depart-
14 ment, agency or official thereof, for goods, work or services, for a
15 period of five years after such refusal, or upon conviction of any
16 offense defined in article two hundred or four hundred ninety-six or
17 section 195.00, 195.01 or 195.02 of the penal law, for life, and to
18 provide also that

19 [(b)] (ii) any and all contracts made with the state or any public
20 department, agency or official thereof, since the effective date of this
21 law, by such person, and by any firm, partnership or corporation of
22 which he is a member, partner, director or officer may be cancelled or
23 terminated by the state without incurring any penalty or damages on
24 account of such cancellation or termination, but any monies owing by the
25 state for goods delivered or work done prior to the cancellation or
26 termination shall be paid.

27 § 31. Section 139-b of the state finance law, as amended by chapter
28 268 of the laws of 1971, is amended to read as follows:

1 § 139-b. Disqualification to contract with state. 1. Any person who,
2 when called before a grand jury, head of a state department, temporary
3 state commission or other state agency, or the organized crime task
4 force in the department of law, which is empowered to compel the attend-
5 ance of witnesses and examine them under oath, to testify in an investi-
6 gation, concerning any transaction or contract had with the state, any
7 political subdivision thereof, a public authority or with a public
8 department, agency or official of the state or of any political subdivi-
9 sion thereof or of a public authority, refuses to sign a waiver of immu-
10 nity against subsequent criminal prosecution or to answer any relevant
11 question concerning such transaction or contract, and any firm, partner-
12 ship or corporation of which [he] any such person is a member, partner,
13 director or officer shall be disqualified from thereafter selling to or
14 submitting bids to or receiving awards from or entering into any
15 contracts with the state or any public department, agency or official
16 thereof, for goods, work or services, for a period of five years after
17 such refusal or until a disqualification shall be removed pursuant to
18 the provisions of section one hundred thirty-nine-c of this article.

19 It shall be the duty of the officer conducting the investigation
20 before the grand jury, the head of a state department, the chairman of
21 the temporary state commission or other state agency, or the organized
22 crime task force in the department of law before which the refusal
23 occurs to send notice of such refusal, together with the names of any
24 firm, partnership or corporation of which the person so refusing is
25 known to be a member, partner, officer or director, to the state commis-
26 sioner of transportation, except in the event the investigation concerns
27 a public building transaction or contract said notice shall be sent to
28 the state commissioner of general services, and the appropriate depart-

1 ments, agencies and officials of the state, political subdivisions ther-
2 eof or public authorities with whom the person so refusing and any firm,
3 partnership or corporation of which he is a member, partner, director or
4 officer, is known to have a contract. However, when such refusal occurs
5 before a body other than a grand jury, notice of refusal shall not be
6 sent for a period of ten days after such refusal occurs. Prior to the
7 expiration of this ten day period, any person, firm, partnership or
8 corporation which has become liable to the cancellation or termination
9 of a contract or disqualification to contract on account of such refusal
10 may commence a special proceeding at a special term of the supreme
11 court, held within the judicial district in which the refusal occurred,
12 for an order determining whether the questions in response to which the
13 refusal occurred were relevant and material to the inquiry. Upon the
14 commencement of such proceeding, the sending of such notice of refusal
15 to answer shall be subject to order of the court in which the proceeding
16 was brought in a manner and on such terms as the court may deem just. If
17 a proceeding is not brought within ten days, notice of refusal shall
18 thereupon be sent as provided herein.

19 2. Any person who stands convicted of an offense defined in article
20 two hundred or four hundred ninety-six or section 195.00, 195.01 or
21 195.02 of the penal law, and any firm, partnership or corporation of
22 which any such person is a member, partner, director or officer shall be
23 disqualified, for life, from thereafter selling to or submitting bids to
24 or receiving awards from or entering into any contracts with the state
25 or any public department, agency or official thereof, for goods, work or
26 services. In the event a person or firm, partnership or corporation is
27 so convicted, the office responsible for prosecuting such offense shall
28 send notice of such conviction together with the names of any firm,

1 partnership or corporation of which the person is known to be a member,
2 partner, officer or director, to the state commissioner of general
3 services, and such appropriate departments, agencies and officials of
4 the state, political subdivisions thereof or public authorities with
5 whom the person and any firm, partnership or corporation of which he is
6 a member, partner, director or officer, is known to have a contract.

7 § 32. Subdivision 6 of section 1310 of the civil practice law and
8 rules, as added by chapter 669 of the laws of 1984, is amended to read
9 as follows:

10 6. "Pre-conviction forfeiture crime" means only a felony defined in
11 article two hundred twenty or four hundred ninety-six or section 195.00,
12 195.01, 195.02, 221.30 or 221.55 of the penal law.

13 § 33. Section 3 of the public officers law is amended by adding a new
14 subdivision 1-a to read as follows:

15 1-a. No person shall be capable of holding a civil office who shall
16 stand convicted of a crime defined in article two hundred or four
17 hundred ninety-six or section 195.00, 195.01 or 195.02 of the penal law.

18 § 34. The real property tax law is amended by adding a new section 493
19 to read as follows:

20 § 493. Limitations. 1. Notwithstanding any provision of law to the
21 contrary, any real property which would otherwise be eligible for an
22 exemption, credit, abatement, rebate or other reduction or offset of
23 real property tax liability authorized by law shall not be so eligible
24 if any person who stands to benefit from the exemption, credit, abate-
25 ment, rebate or other reduction or offset stands convicted of an offense
26 defined in article two hundred or four hundred ninety-six or section
27 195.00, 195.01 or 195.02 of the penal law.

1 2. For purposes of this section, a person shall be deemed to stand to
2 benefit from an exemption, credit, abatement, rebate or other reduction
3 or offset of real property tax liability if the person is:

4 (a) an owner or beneficial owner thereof, or

5 (b) in the case of residential real property owned by a cooperative
6 apartment corporation, a tenant-stockholder residing therein, or

7 (c) in the case of a partnership that has legal title to property, or
8 is obligated to make payments in lieu of taxes thereon, a partner there-
9 of, or

10 (d) in the case of a limited liability company that has legal title to
11 property, or is obligated to make payments in lieu of taxes thereon, a
12 manager or member thereof, or

13 (e) in the case of a corporation that has legal title to property or
14 is obligated to make payments in lieu of taxes thereon, a director or
15 officer thereof.

16 3. In the event a person or firm, partnership or corporation is
17 convicted of an offense defined in article two hundred or four hundred
18 ninety-six or section 195.00, 195.01 or 195.02 of the penal law, the
19 office responsible for prosecuting such offense shall send notice of
20 such conviction, together with the names of any firm, partnership or
21 corporation of which the person is known to be a member, partner, offi-
22 cer or director, to the assessor of any assessing unit in which such
23 person or such firm, partnership or corporation is known to own proper-
24 ty.

25 § 35. Section 960 of the general municipal law is amended by adding a
26 new subdivision (f) to read as follows:

27 (f) Notwithstanding any other provision of this article, a business
28 enterprise shall not be eligible for any benefits pursuant to this arti-

1 cle if such enterprise stands convicted of an offense defined in article
2 two hundred or four hundred ninety-six or section 195.00, 195.01 or
3 195.02 of the penal law, or if any member, partner, director or officer
4 of such enterprise stands convicted of any such offense.

5 § 36. The tax law is amended by adding a new section 39 to read as
6 follows:

7 § 39. Limitations on tax credit eligibility. Any taxpayer who stands
8 convicted, or who is a shareholder of an S corporation or partner in a
9 partnership which is convicted, of an offense defined in article two
10 hundred or four hundred ninety-six or section 195.00, 195.01 or 195.02
11 of the penal law shall not be eligible for any tax credit allowed under
12 article nine, nine-A, thirty-two or thirty-three of this chapter or any
13 business tax credit allowed under article twenty-two of this chapter.
14 For purposes of this section, a business tax credit allowed under arti-
15 cle twenty-two of this chapter is a tax credit allowed to taxpayers
16 under article twenty-two which is substantially similar to a tax credit
17 allowed to taxpayers under article nine-A of this chapter. In the event
18 a person or firm, partnership or corporation is convicted of an offense
19 defined in article two hundred or four hundred ninety-six or section
20 195.00, 195.01 or 195.02 of the penal law, the office responsible for
21 prosecuting such offense shall send notice of such conviction, together
22 with the names of any firm, partnership or corporation of which the
23 person is known to be a member, partner, officer or director, to the
24 commissioner.

25 § 37. Severability. If any clause, sentence, paragraph, section or
26 part of this act shall be adjudged by any court of competent jurisdic-
27 tion to be invalid, such judgment shall not affect, impair, or invali-
28 date the remainder thereof, but shall be confined in its operation to

1 the clause, sentence, paragraph, section or part thereof directly
2 involved in the controversy in which such judgment shall have been
3 rendered.

4 § 38. This act shall take effect on the thirtieth day after it shall
5 have become a law and shall only apply to acts committed on or after
6 such date.