IN SENATE

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

S. Adams  S. Felder  S. Kennedy  S. Montgomery  S. Sevino
S. Abaddo  S. Flanagan  S. Klein  S. Montesano  S. Serrano
S. Alvella  S. Fiocchiello  S. Fronger  S. O'Brien  S. Seward
S. Ball  S. Gallagher  S. Laws  S. O'Mara  S. Sherlock
S. Bousquet  S. Gianaris  S. Lake  S. Parker  S. Smith
S. Boyle  S. Gilge  S. Latimer  S. Persaud  S. Squillieri
S. Braun  S. Goodwin  S. LaValle  S. Perkins  S. Stavisky
S. Carlucci  S. Griffin  S. Libuse  S. Reuscher  S. Stewart-
S. DeFrancisco  S. Grisanti  S. Little  S. Ritchie  S. Doussis
S. DiPietro  S. Hannan  S. Marcellino  S. Rivera  S. Tkaczyk
S. DiPisa  S. Nasselrod  S. Marchione  S. Ruback  S. Valecky
S. Enos  S. Parcella  S. Maisano  S. Sanders  S. Seidlin
S. Farley  S. Huylen  S. Mastia  S. Sanders  S. Seidlin

IN ASSEMBLY

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

A. Abate  A. Dinowitz  A. Jones  A. Joyce  A. Schimm
A. Abinanti  A. DiPietro  A. Jordan  A. Joyce  A. Schimmiger
A. Arroyo  A. Duprey  A. Etza  A. Nolan  A. Sapolys
A. Azaria  A. Sengheast  A. Ravenal  A. Oakes  A. Silver
A. Banks  A. Segal  A. Kozma  A. O'Donnell  A. Simonsway
A. Barrett  A. Pehy  A. Kelner  A. Ortiz  A. Siliciano
A. Barron  A. Perrelli  A. Ems  A. Otis  A. Skartados
A. Benedetto  A. Pinch  A. Kub  A. Palumbo  A. Skriscis
A. Badenes  A. Palumbo  A. Leader  A. Paulin  A. Solages
A. Borelli  A. Pellegrino  A. Levine  A. Peoplechin  A. Steck
A. Boyland  A. Sabatino  A. Lenzol  A. Stokes  A. Steck
A. Bresnahan  A. Baier  A. Lifton  A. Perry  A. Stevenson
A. Brennan  A. Santulli  A. Loper  A. Pavlov  A. Stipes
A. Brindisi  A. Segarino  A. Lopez  A. Pratt  A. Sweeney
A. Bronson  A. Gibson  A. Lupardo  A. Ra  A. Tedesco
A. Brock-Krysztof  A. Giglio  A. Lupinacci  A. Rabbit  A. Tenney
A. Burch  A. Gjonaj  A. Nigro  A. Rala  A. Thalia
A. Butler  A. Glick  A. Magnarelli  A. Rojas  A. Titone
A. Cahill  A. Goldfeder  A. Mainello  A. Wadlich  A. Tittus
A. Camara  A. Goodell  A. Melillo  A. River  A. Walter
A. Carrozza  A. Gotlieb  A. Markey  A. Roberts  A. Walzens
A. Clark  A. Graf  A. Rinaldi  A. Robinson  A. Weilbacher
A. Colton  A. Gunther  A. McDonald  A. Rodriguez  A. Wigram
A. Cook  A. Heap  A. McDonough  A. Ross  A. Wright
A. Corwin  A. Katin  A. McKevitt  A. Rosenblatt  A. Zawrowski
A. Crespo  A. Hennessey  A. McLaughlin  A. Ronic  A. Zepos
A. Croucher  A. Neveu  A. Miller  A. Russell  A. Zweifel
A. Curry  A. Hinds  A. Millerman  A. Ryan  A. Zweifel
A. Cusick  A. Hooper  A. Montesano  A. Saldino  A. Zweifel
A. Cymbalits  A. Jacobs  A. Moralis  A. Santabarbara
A. Denomme  A. Jaffee  A. Moseley  A. Scarborough

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

--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)

--C.P.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 establishing the crime of corrupting the government, requires the intent to influence within the crime of

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).

L1BE 04/08/13
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:
Section 1. This act shall be known as the "Public Trust Act".

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

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

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

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

The following definitions are applicable to this article:

1. "Immunity." Based upon the subject matter of the legal proceeding in which a person gives evidence, such person may receive either "transactional" or "use" immunity.

(a) "Transactiona1 immunity." A person who has been a witness in a legal proceeding, and who cannot, except as otherwise provided in this subdivision, be convicted of any offense or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he gave evidence therein, possesses ["immunity"] "transactional immunity" from any such conviction, penalty or forfeiture.
(b) "Use immunity." A person who has been a witness in a legal proceeding, and neither the evidence given by that witness nor any evidence derived directly or indirectly therefrom may be used against the witness in the same or any other criminal proceeding or in the imposition of any penalty or forfeiture possesses "use immunity".

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

2. "Legal proceeding" means a proceeding in or before any court or grand jury, or before any body, agency or person authorized by law to conduct the same and to administer the oath or to cause it to be administered.

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

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

3. A witness who is ordered to give evidence pursuant to subdivision two of this section and who complies with such order receives either transactional immunity or use immunity. [Such] In a legal proceeding involving, in whole or in part, any misconduct, nonfeasance or neglect in public office by a public servant, whether criminal or otherwise, or any fraud upon the state, a political subdivision of the state or a governmental instrumentality within the state such witness receives use immunity. A witness in a legal proceeding involving any other subject
matter receives transactional immunity. In either case, such witness is
not deprived of such immunity because such competent authority did not
comply with statutory provisions requiring notice to a specified public
servant of intention to confer immunity.
§ 5. Paragraph (b) of subdivision 1 of section 170.30 of the criminal
procedure law is amended, and a new subdivision 4 is added to read as
follows:
(b) The defendant has received immunity from prosecution as defined
in paragraph (a) of subdivision one of section 50.10 of this chapter for
the offense charged, pursuant to sections 50.20 or 190.40, or allega-
tions in the information, simplified information, prosecutor's informa-
tion or misdemeanor complaint are based on evidence protected by use
immunity as defined in paragraph (b) of subdivision one of section 50.10
of this chapter; or
4. Where the defendant establishes in his or her motion that use immu-
nity has been conferred upon him or her, the people must then establish,
by a preponderance of the evidence, that such evidence was not derived,
directly or indirectly, from the evidence as to which such immunity was
conferred.
§ 6. Subdivision 2 of section 190.40 of the criminal procedure law,
paragraph (c) as added by chapter 454 of the laws of 1975, is amended to
read as follows:
2. A witness who gives evidence in a grand jury proceeding involving,
in whole or in part, any misconduct, nonfeasance or neglect in public
office by a public servant, whether criminal or otherwise, or any fraud
upon the state, a political subdivision of the state or a governmental
instrumentality within the state receives use immunity. A witness in a
grand jury proceeding involving any other subject matter receives tran-
sactional immunity. In either case, such witness receives such immunity unless:

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

(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive[.]

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

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

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

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

4-a. Evidence protected by use immunity was used to obtain the indictment; or

§ 8. The opening paragraph and subdivisions 6 and 7 of section 710.20 of the criminal procedure law, the opening paragraph and subdivision 6 as amended by chapter 8 of the laws of 1976, subdivision 7 as added by chapter 744 of the laws of 1988, and subdivision 6 as renumbered by
chapter 481 of the laws of 1983, are amended and a new subdivision 8 is added to read as follows:

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

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

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

8. Consists of potential evidence as to the use of which the defendant possesses immunity. Where the defendant establishes that use immunity has been conferred upon him or her, the people must then establish, by a preponderance of the evidence, that such evidence was not derived, directly or indirectly, from the evidence as to which such immunity was conferred.
§ 9. Subdivision 8 of section 700.05 of the criminal procedure law is amended by adding a new paragraph (u) to read as follows:

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

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

(f) Bribery in the third degree, bribery in the second degree, bribery in the first degree, bribe receiving in the third degree, bribe receiving in the second degree, bribe receiving in the first degree, bribe giving for public office, failure to report bribery, and bribe receiving for public office, as defined in article two hundred of the penal law;

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

4. If the court does not determine the motion pursuant to subdivision two or three, it must conduct a hearing and make findings of fact essential to the determination thereof. All persons giving factual information at such hearing must testify under oath, except that unsworn evidence pursuant to subdivision two of section 60.20 of this chapter may also be received. Upon such hearing, hearsay evidence is admissible to establish any material fact. A hearing granted under this subdivision pursuant to a motion to suppress evidence described in subdivision eight of section 710.20 of this article may, in the discretion of the court, be conducted after the trial of the matter.
§ 11. Section 195.20 of the penal law is REPEALED.

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

§ 195.00 Official misconduct in the third degree.

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

1. He or she commits an act relating to his or her office but constituting an unauthorized exercise of his or her official functions, knowing that such act is unauthorized; or

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

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

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

§ 195.01 Official misconduct in the second degree.

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

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

§ 195.02 Official misconduct in the first degree.

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

§ 14. The penal law is amended by adding a new title Y-2 to read as follows:

TITLE Y-2

CORRUPTING THE GOVERNMENT

ARTICLE 496

CORRUPTING THE GOVERNMENT

Section 496.01 Definitions.

496.02 Corrupting the government in the fourth degree.

496.03 Corrupting the government in the third degree.

496.04 Corrupting the government in the second degree.

496.05 Corrupting the government in the first degree.

496.06 Public corruption.

496.07 Sentencing.

§ 496.01 Definitions.

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

§ 496.02 Corrupting the government in the fourth degree.

A person is guilty of corrupting the government in the fourth degree when he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state, or to obtain property, services or other resources from any such state, political subdivision or governmental instrumentality by false or fraudulent pretenses, representations or promises.
Corrupting the government in the fourth degree is a class E felony.

§ 496.03 Corrupting the government in the third degree.

A person is guilty of corrupting the government in the third degree when he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state, or to obtain property, services or other resources from any such state, political subdivision or governmental instrumentality by false or fraudulent pretenses, representations or promises, and so obtains property, services or other resources with a value in excess of one thousand dollars.

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

§ 496.04 Corrupting the government in the second degree.

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

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

§ 496.05 Corrupting the government in the first degree.

A person is guilty of corrupting the government in the first degree when he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state, or to obtain property, services or other resources from any such state, political subdivision or governmental instrumentality by false or fraudulent pretenses, representations or promises, and so obtains property, services or other resources with a value in excess of one hundred thousand dollars.
talities within the state, or to obtain property, services or other
resources from any such state, political subdivision or governmental
instrumentality by false or fraudulent pretenses, representations or
promises, and so obtains property, services or other resources with a
value in excess of ten thousand dollars.

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

§ 496.06 Public corruption.

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

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

§ 496.07 Sentencing.
1. When a person is convicted of the crime of public corruption pursuant to section 496.06 of this article and the specified offense is a misdemeanor or a class C, D or E felony, the crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.

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

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

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

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

4. A statement in each count that the grand jury, or, where the accusatory instrument is a superior court information, the district attorney, accuses the defendant or defendants of a designated offense, provided that in any prosecution under article four hundred eighty-five of the penal law, the designated offense shall be the specified offense, as defined in subdivision three of section 485.05 of the penal law, followed by the phrase "as a hate crime", and provided further that in any prosecution under section 490.25 of the penal law, the designated offense shall be the specified offense, as defined in subdivision three
of section 490.05 of the penal law, followed by the phrase "as a crime of terrorism"; and provided further that in any prosecution under section 130.91 of the penal law, the designated offense shall be the specified offense, as defined in subdivision two of section 130.91 of the penal law, followed by the phrase "as a sexually motivated felony," and provided further that in any prosecution under section 496.06 of the penal law, the designated offense shall be the specified offense, as defined in subdivision two of such section, followed by the phrase "as a public corruption crime"; and

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

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; section 135.35 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
176.30 relating to insurance fraud; sections 178.20 and 178.25 relating
to criminal diversion of prescription medications and prescriptions;
sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 195.00, 195.01,
195.02, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22,
200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections
187.10, 187.15, 187.20 and 187.25 relating to residential mortgage
fraud, sections 190.40 and 190.42 relating to criminal usury; section
190.65 relating to schemes to defraud; any offense defined in article
four hundred ninety-six; sections 205.60 and 205.65 relating to hinder-
ing prosecution; sections 210.10, 210.15, and 215.51 relating to perjury
and contempt; section 215.40 relating to tampering with physical
evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,
220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60 and 220.77 relating
to controlled substances; sections 225.10 and 225.20 relating to
gambling; sections 230.25, 230.30, and 230.32 relating to promoting
prostitution; section 230.34 relating to sex trafficking; sections
235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10
and 263.15 relating to promoting a sexual performance by a child;
sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
provisions of section 265.10 which constitute a felony relating to
firearms and other dangerous weapons; [and] sections 265.14 and 265.16
relating to criminal sale of a firearm; [and] section 275.10, 275.20,
275.30, or 275.40 relating to unauthorized recordings; and sections
470.05, 470.10, 470.15 and 470.20 relating to money laundering; or
§ 17. Section 200.00 of the penal law, as amended by chapter 833 of
the laws of 1986, is amended to read as follows:
§ 200.00 Bribery in the third degree.
A person is guilty of bribery in the third degree when he or she confers, or offers or agrees to confer, any benefit upon a public servant [upon an agreement or understanding that] with the intent to influence, in whole or in part, such public servant's vote, opinion, judgment, action, decision or exercise of discretion as a public servant [will thereby be influenced].

Bribery in the third degree is a class D felony.

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

§ 200.03 Bribery in the second degree.

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

Bribery in the second degree is a class C felony.

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

§ 200.04 Bribery in the first degree.

A person is guilty of bribery in the first degree when he or she confers, or offers or agrees to confer[,], (a) any benefit upon a public servant [upon an agreement or understanding that] with the intent to influence such public servant's vote, opinion, judgment, action, decision or exercise of discretion as a public servant [will thereby be influenced] in the investigation, arrest, detention, prosecution or incarceration of any person for the commission or alleged commission of a class A felony defined in article two hundred twenty of [the penal
law) this part or an attempt to commit any such class A felony; or (b) any benefit valued in excess of ten thousand dollars upon a public serv-
ant with the intent to influence, in whole or in part, such public serv-
ant's vote, opinion, judgment, action, decision or exercise of discretion as a public servant.

Bribery in the first degree is a class B felony.

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

§ 200.05 Bribery; defense; limitations.

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

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

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

§ 200.10 Bribe receiving in the third degree.
A public servant is guilty of bribe receiving in the third degree when he or she:

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

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

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

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

§ 200.11 Bribe receiving in the second degree.

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

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

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

§ 200.12 Bribe receiving in the first degree.

A public servant is guilty of bribe receiving in the first degree when he or she solicits, accepts or agrees to accept: (a) any benefit from another person [upon an agreement or understanding that], for, because of, or as consideration for his or her vote, opinion, judgment, action,
decision or exercise of discretion as a public servant [will thereby be
influenced] in the investigation, arrest, detention, prosecution or
incarceration of any person for the commission or alleged commission of
a class A felony defined in article two hundred twenty of [the penal
law] this part or an attempt to commit any such class A felony; or (b)
any benefit valued in excess of ten thousand dollars from another
person, for, because of, or as consideration for his or her vote, opin-
ion, judgment, action, decision or exercise of discretion as a public
servant.

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

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

§ 200.45 Bribe giving for public office.

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

Bribe giving for public office is a class D felony.

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

§ 200.50 Bribe receiving for public office.

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

Bribe receiving for public office is a class D felony.
§ 26. The penal law is amended by adding a new section 200.56 to read as follows:

§ 200.56 Failure to report bribery.

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

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

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

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

Failure to report bribery is a class A misdemeanor.

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

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

   a. five thousand dollars; or

   b. double the amount of the defendant's gain from the commission of the crime or, if the defendant is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the defendant's gain from the commission of such offense; or
c. if the conviction is for any felony defined in article two hundred twenty or two hundred twenty-one of this chapter, according to the following schedule:

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

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

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

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

(a) Ten thousand dollars, when the conviction is of a felony;
(b) Five thousand dollars, when the conviction is of a class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment in excess of three months is authorized;
(c) Two thousand dollars, when the conviction is of a class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not in excess of three months;
(d) Five hundred dollars, when the conviction is of a violation;
(e) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense or, if the corporation is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the corporation's gain from the commission of such offense.

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

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

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

§ 139-a. Ground for cancellation of contract by state. A clause shall be inserted in all specifications or contracts hereafter made or awarded by the state or any public department, agency or official thereof, for work or services performed or to be performed, or goods sold or to be sold, to provide that: (a) upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, or the organized crime task force in the department of law, which is empowered to compel the attendance of
witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract; or (b) upon the conviction of any person of an offense defined in article two hundred or four hundred ninety-six or section 195.00, 195.01 or 195.02 of the penal law, [(a)] (i) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the state or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, or upon conviction of any offense defined in article two hundred or four hundred ninety-six or section 195.00, 195.01 or 195.02 of the penal law, for life, and to provide also that [(b)] (ii) any and all contracts made with the state or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the state without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the state for goods delivered or work done prior to the cancellation or termination shall be paid.

§ 31. Section 139-b of the state finance law, as amended by chapter 268 of the laws of 1971, is amended to read as follows:
§ 139-b. Disqualification to contract with state. 1. Any person who, when called before a grand jury, head of a state department, temporary state commission or other state agency, or the organized crime task force in the department of law, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, refuses to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract, and any firm, partnership or corporation of which [he] any such person is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the state or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal or until a disqualification shall be removed pursuant to the provisions of section one hundred thirty-nine-c of this article.

It shall be the duty of the officer conducting the investigation before the grand jury, the head of a state department, the chairman of the temporary state commission or other state agency, or the organized crime task force in the department of law before which the refusal occurs to send notice of such refusal, together with the names of any firm, partnership or corporation of which the person so refusing is known to be a member, partner, officer or director, to the state commissioner of transportation, except in the event the investigation concerns a public building transaction or contract said notice shall be sent to the state commissioner of general services, and the appropriate depart-
ments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the person so refusing and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract. However, when such refusal occurs before a body other than a grand jury, notice of refusal shall not be sent for a period of ten days after such refusal occurs. Prior to the expiration of this ten day period, any person, firm, partnership or corporation which has become liable to the cancellation or termination of a contract or disqualification to contract on account of such refusal may commence a special proceeding at a special term of the supreme court, held within the judicial district in which the refusal occurred, for an order determining whether the questions in response to which the refusal occurred were relevant and material to the inquiry. Upon the commencement of such proceeding, the sending of such notice of refusal to answer shall be subject to order of the court in which the proceeding was brought in a manner and on such terms as the court may deem just. If a proceeding is not brought within ten days, notice of refusal shall thereupon be sent as provided herein.

2. Any person who stands convicted of an offense defined in article two hundred or four hundred ninety-six or section 195.00, 195.01 or 195.02 of the penal law, and any firm, partnership or corporation of which any such person is a member, partner, director or officer shall be disqualified, for life, from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the state or any public department, agency or official thereof, for goods, work or services. In the event a person or firm, partnership or corporation is so convicted, the office responsible for prosecuting such offense shall send notice of such conviction together with the names of any firm,
partnership or corporation of which the person is known to be a member, partner, officer or director, to the state commissioner of general services, and such appropriate departments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the person and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract.

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

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

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

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

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

§ 493. Limitations. 1. Notwithstanding any provision of law to the contrary, any real property which would otherwise be eligible for an exemption, credit, abatement, rebate or other reduction or offset of real property tax liability authorized by law shall not be so eligible if any person who stands to benefit from the exemption, credit, abatement, rebate or other reduction or offset stands convicted of an offense defined in article two hundred or four hundred ninety-six or section 195.00, 195.01 or 195.02 of the penal law.
2. For purposes of this section, a person shall be deemed to stand to
benefit from an exemption, credit, abatement, rebate or other reduction
or offset of real property tax liability if the person is:

(a) an owner or beneficial owner thereof, or

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

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

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

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

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

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

(f) Notwithstanding any other provision of this article, a business
enterprise shall not be eligible for any benefits pursuant to this arti-
cle if such enterprise stands convicted of an offense defined in article
two hundred or four hundred ninety-six or section 195.00, 195.01 or
195.02 of the penal law, or if any member, partner, director or officer
of such enterprise stands convicted of any such offense.
§ 36. The tax law is amended by adding a new section 39 to read as
follows:
§ 39. Limitations on tax credit eligibility. Any taxpayer who stands
convicted, or who is a shareholder of an S corporation or partner in a
partnership which is convicted, of an offense defined in article two
hundred or four hundred ninety-six or section 195.00, 195.01 or 195.02
of the penal law shall not be eligible for any tax credit allowed under
article nine, nine-A, thirty-two or thirty-three of this chapter or any
business tax credit allowed under article twenty-two of this chapter.
For purposes of this section, a business tax credit allowed under arti-
cle twenty-two of this chapter is a tax credit allowed to taxpayers
under article twenty-two which is substantially similar to a tax credit
allowed to taxpayers under article nine-A of this chapter. In the event
a person or firm, partnership or corporation is convicted of an offense
defined in article two hundred or four hundred ninety-six or section
195.00, 195.01 or 195.02 of the penal law, the office responsible for
prosecuting such offense shall send notice of such conviction, together
with the names of any firm, partnership or corporation of which the
person is known to be a member, partner, officer or director, to the
commissioner.
§ 37. Severability. If any clause, sentence, paragraph, section or
part of this act shall be adjudged by any court of competent jurisdic-
tion to be invalid, such judgment shall not affect, impair, or invali-
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.