

52:13D-24.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 255
NJSA: 52:13D-24.1 (Regulates receipt of things of value by Legislators)
BILL NO: S1756 (Substituted for A4048)

SPONSOR(S): Lance and others

DATE INTRODUCED: September 12, 2002

COMMITTEE: **ASSEMBLY:** Appropriations
 SENATE: State Government

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 12, 2004
 SENATE: January 12, 2004

DATE OF APPROVAL: January 14, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)
(Amendments during passage denoted by superscript numbers)

S1756

[SPONSOR'S STATEMENT](#): (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A4048

[SPONSOR'S STATEMENT](#): (Begins on page 8 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"Ethics laws put new restrictions on legislators," 1-14-2004 Philadelphia Inquirer, p.B3

"3 ethics bills signed; more are promised," 1-14-2004 Asbury Park Press, p.A1

§2 - C.52:13D-24.1
§3 - C.52:13C-21b
§4 - C.52:13D-28
§§5,6 - C.2C:27-10
& 2C:27-11
§7 - Repealer
§8 - Note to all
sections

P.L. 2003, CHAPTER 255, *approved January 14, 2004*
Senate, No. 1756 (*Second Reprint*)

1 AN ACT ²[restricting the receipt of certain things of value by
2 members or staff of the Legislature and officers or staff members
3 of the Executive Branch and limiting certain gifts thereto and
4 amending and supplementing P.L.1971, c.182 and supplementing
5 P.L.1971, c.183 (C.52:13C-18 et seq.).] restricting the receipt of
6 certain things of value by members and staff of the Legislature and
7 officers and staff of the Executive Branch and concerning certain
8 benefits to public servants, and amending and supplementing
9 P.L.1971, c.182, supplementing P.L.1971, c.183 (C.52:13C-18 et
10 seq.), supplementing Title 2C of the New Jersey Statutes and
11 repealing N.J.S.2C:27-4 and 2C:27-6.²

12

13 **BE IT ENACTED** by the Senate and General Assembly of the State
14 of New Jersey:

15

16 1. Section 13 of P.L.1971, c.182 (C.52:13D-24) is amended to
17 read as follows:

18 13. a. No State officer or employee, special State officer or
19 employee, or member of the Legislature shall solicit, receive or agree
20 to receive, whether directly or indirectly, any compensation, reward,
21 employment, gift, honorarium, out-of-State travel or subsistence
22 expense or other thing of value from any source other than the State
23 of New Jersey, for any service, advice, assistance, appearance, speech
24 or other matter related to ¹[his] the officer, employee, or member's¹
25 official duties, except [reasonable fees for speeches or published
26 works on matters within his official duties and except, in connection
27 therewith, reimbursement of actual expenditures for travel and
28 reasonable subsistence for which no payment or reimbursement is
29 made by the State of New Jersey] as authorized in this section.

30 b. A State officer or employee, special State officer or employee,
31 or member of the Legislature may, in connection with any service,
32 advice, assistance, appearance, speech or other matter related to
33 ¹[his] the officer, employee, or member's¹ official duties, solicit,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSG committee amendments adopted December 4, 2003.

² Assembly AAP committee amendments adopted January 8, 2004.

1 receive or agree to receive, whether directly or indirectly, from
2 sources other than the State, the following:

3 (1) reasonable fees for published books on matters within ¹[his]
4 the officer, employee, or member's¹ official duties;

5 (2) reimbursement or payment of actual and reasonable
6 expenditures for travel or subsistence and allowable entertainment
7 expenses associated with attending an event in New Jersey if
8 expenditures for travel or subsistence and entertainment expenses are
9 not paid for by the State of New Jersey;

10 (3) reimbursement or payment of actual and reasonable
11 expenditures for travel or subsistence outside New Jersey, not to
12 exceed \$500.00 per trip, if expenditures for travel or subsistence and
13 entertainment expenses are not paid for by the State of New Jersey.

14 ²The \$500 per trip limitation shall not apply if the reimbursement or
15 payment is made by (a) a nonprofit organization of which the officer,
16 employee, or member is, at the time of reimbursement or payment, an
17 active member as a result of the payment of a fee or charge for
18 membership to the organization by the State or the Legislature in the
19 case of a member of the Legislature; or (b) a nonprofit organization
20 that does not contract with the State to provide goods, materials,
21 equipment, or services.²

22 Members of the Legislature shall obtain the ²[joint]² approval of
23 the presiding officer ²[and minority leader]² of the member's House
24 before accepting any reimbursement or payment of expenditures for
25 travel or subsistence outside New Jersey.

26 As used in this subsection, "reasonable expenditures for travel or
27 subsistence" means commercial travel rates directly to and from an
28 event and food and lodging expenses which are moderate and neither
29 elaborate nor excessive; and "allowable entertainment expenses" means
30 the costs for a guest speaker, incidental music and other ancillary
31 entertainment at any meal at an event, provided they are moderate and
32 not elaborate or excessive, but does not include the costs of personal
33 recreation, such as being a spectator at or engaging in a sporting or
34 athletic activity which may occur as part of that event.

35 c. This section shall not apply to the solicitation or acceptance of
36 contributions to the campaign of an announced candidate for elective
37 public office, except that campaign contributions may not be accepted
38 if they are known to be given in lieu of a payment prohibited pursuant
39 to this section.

40 ¹d. (1) Notwithstanding any other provision of law, a designated
41 State officer as defined in paragraph (2) of this subsection shall not
42 solicit, receive or agree to receive, whether directly or indirectly, any
43 compensation, salary, honorarium, fee, or other form of income from
44 any source, other than the compensation paid or reimbursed to him or
45 her by the State for the performance of official duties, for any service,
46 advice, assistance, appearance, speech or other matter, except for

1 investment income from stocks, mutual funds, bonds, bank accounts,
2 notes, a beneficial interest in a trust, financial compensation received
3 as a result of prior employment or contractual relationships, and
4 income from the disposition or rental of real property², or any other
5 similar financial instrument² and except for reimbursement for travel as
6 authorized in subsections (2) and (3) of paragraph b. of this section.
7 To receive such income, a designated State officer shall first seek
8 review and approval by the Executive Commission on Ethical
9 Standards to ensure that the receipt of such income does not violate
10 the "New Jersey Conflicts of Interest Law," P.L.1971, c.182
11 (C.52:13D-12 et seq.) or any applicable code of ethics, and does not
12 undermine the full and diligent performance of the designated State
13 officer's duties.

14 (2) For the purposes of this subsection, "designated State officer"
15 shall include: the Governor, the Adjutant General, the Secretary of
16 Agriculture, the Attorney General, the Commissioner of Banking and
17 Insurance, the Secretary and Chief Executive Officer of the Commerce
18 and Economic Growth Commission, the Commissioner of Community
19 Affairs, the Commissioner of Corrections, the Commissioner of
20 Education, the Commissioner of Environmental Protection, the
21 Commissioner of Health and Senior Services, the Commissioner of
22 Human Services, the Commissioner of Labor, the Commissioner of
23 Personnel, the President of the State Board of Public Utilities, the
24 Secretary of State, the Superintendent of State Police, the
25 Commissioner of Transportation, the State Treasurer, the head of any
26 other department in the Executive Branch, and the following members
27 of the staff of the Office of the Governor: Chief of Staff, Chief of
28 Management and Operations, Chief of Policy and Communications,
29 Chief Counsel to the Governor, Director of Communications, Policy
30 Counselor to the Governor, and any deputy or principal administrative
31 assistant to any of the aforementioned members of the staff of the
32 Office of the Governor listed in this subsection.¹

33 ²e. A violation of this section shall not constitute a crime or
34 offense under the laws of this State.²

35
36 2. (New section) Except as expressly authorized in section 13 of
37 P.L.1971, c.182 (C.52:13D-24) or ²[where] when² the lobbyist or
38 legislative agent is a member of the immediate family of the officer or
39 staff member of the Executive Branch or member of the Legislature or
40 legislative staff, no officer or staff member of the Executive Branch or
41 member of the Legislature or legislative staff may accept, directly or
42 indirectly, any compensation, ²[awards,] reward,² employment,
43 ²[gifts ¹, honoraria¹] gift, honorarium² or other ²[things] thing² of
44 value from each lobbyist or legislative agent, as defined in the
45 "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183
46 (C.52:13C-18 et seq.), totaling more than ²[\$100.00] \$250.00² in a
47 calendar year. ² [The \$100.00 limit shall also apply to each member of

1 the immediate family of a member of the Legislature.] The \$250.00
 2 limit on acceptance of compensation, reward, gift, honorarium or other
 3 thing of value shall also apply to each member of the immediate family
 4 of a member of the Legislature, as defined in section 2 of P.L.1971,
 5 c.182 (C.52:13D-13) to be a spouse, child, parent, or sibling of the
 6 member residing in the same household as the member of the
 7 Legislature.

8 b. The prohibition in subsection a. of this section on accepting any
 9 compensation, reward, gift, honorarium or other thing of value shall
 10 not apply if received in the course of employment, by an employer
 11 other than the State, of an individual covered in subsection a. of this
 12 section or a member of the immediate family. The prohibition in
 13 subsection a. of this section on accepting any compensation, reward,
 14 gift, honorarium or other thing of value shall not apply if acceptance
 15 is from a member of the immediate family when the family member
 16 received such in the course of his or her employment.

17 c. Subsection a. of this section shall not apply if an officer or staff
 18 member of the Executive Branch or member of the Legislature or
 19 legislative staff who accepted any compensation, reward, gift,
 20 honorarium or other thing of value provided by a lobbyist or legislative
 21 agent makes a full reimbursement, within 90 days of acceptance, to the
 22 lobbyist or legislative agent in an amount equal to the money accepted
 23 or the fair market value of that which was accepted if other than
 24 money. As used in this subsection, "fair market value" means the
 25 actual cost of the compensation, reward, gift, honorarium or other
 26 thing of value accepted.

27 d. A violation of this section shall not constitute a crime or offense
 28 under the laws of this State.²

29
 30 3. (New section) Except as expressly authorized in section 13 of
 31 P.L.1971, c.182 (C.52:13D-24) or ²[where] when² the lobbyist or
 32 legislative agent is a member of the immediate family of the officer or
 33 staff member of the Executive Branch or member of the Legislature or
 34 legislative staff, no lobbyist or legislative agent shall offer or give or
 35 agree to offer or give, directly or indirectly, any compensation,
 36 ²[awards] reward, ²employment, [gifts , honoraria] gift,
 37 honorarium² or other ²[things] thing² of value to an officer or staff
 38 member of the Executive Branch or member of the Legislature or
 39 legislative staff, totaling more than ²[\$100.00]\$250.00² in a calendar
 40 year. ²[The \$100.00 limit shall also apply to each member of the
 41 immediate family of a member of the Legislature.] The \$250.00 limit
 42 on any compensation, reward, gift, honorarium or other thing of value
 43 shall also apply to each member of the immediate family of a member
 44 of the Legislature, as defined in section 2 of P.L.1971, c.182
 45 (C.52:13D-13) to be a spouse, child, parent, or sibling of the member
 46 residing in the same household as the member of the Legislature.

1 b. The prohibition in subsection a. of this section on offering or
2 giving, or agreeing to offer or give, any compensation, reward, gift,
3 honorarium or other thing of value shall not apply if it is in the course
4 of employment, by an employer other than the State, of an individual
5 covered in subsection a. of this section or a member of the immediate
6 family. The prohibition in subsection a. of this section on offering or
7 giving, or agreeing to offer or give, any compensation, reward, gift,
8 honorarium or other thing of value shall not apply if receipt is from a
9 member of the immediate family when the family member received
10 such in the course of his or her employment.

11 c. Subsection a. of this section shall not apply if an officer or staff
12 member of the Executive Branch or member of the Legislature or
13 legislative staff who accepted any compensation, reward, gift,
14 honorarium or other thing of value offered or given by a lobbyist or
15 legislative agent makes a full reimbursement, within 90 days of
16 acceptance, to the lobbyist or legislative agent in an amount equal to
17 the money accepted or the fair market value of that which was
18 accepted if other than money. As used in this subsection, "fair market
19 value" means the actual cost of the compensation, reward, gift,
20 honorarium or other thing of value accepted.

21 d. A violation of this section shall not constitute a crime or offense
22 under the laws of this State.²

23

24 4. (New section) The Legislature shall provide a program on
25 legislative ethics for its members and State officers or employees and
26 special State officers or employees in the Legislative Branch of
27 government no later than April 1 of every even-numbered year.

28

29 ²5. (New section) Acceptance or receipt of unlawful benefit by
30 public servant for official behavior.

31 a. A public servant commits a crime if, under color of office and in
32 connection with any official act performed or to be performed by the
33 public servant, the public servant directly or indirectly, knowingly
34 solicits, accepts or agrees to accept any benefit, whether the benefit
35 inures to the public servant or another person, to influence the
36 performance of an official duty or to commit a violation of an official
37 duty.

38 b. A public servant commits a crime if, under color of office and in
39 connection with any official act performed or to be performed by the
40 public servant, the public servant directly or indirectly, knowingly
41 receives any benefit, whether the benefit inures to the public servant
42 or another person, to influence the performance of an official duty or
43 to commit a violation of an official duty.

44 c. In addition to the definition set forth in N.J.S. 2C:27-1, "benefit"
45 as used in this act includes any benefit from or by reason of a contract
46 or agreement for goods, property or services if the contract or
47 agreement is awarded, made or paid by the branch, subdivision, or

1 agency of the government that employs the public servant.

2 d. The provisions of this section shall not apply to:

3 (1) Fees prescribed by law to be received by a public servant or any
4 other benefit to which the public servant is otherwise legally entitled
5 if these fees or benefits are received in the manner legally prescribed
6 and not bartered for another benefit to influence the performance of an
7 official duty or to commit a violation of an official duty;

8 (2) Gifts or other benefits conferred on account of kinship or other
9 personal, professional or business relationship independent of the
10 official status of the recipient if these gifts or benefits are within
11 otherwise legally permissible limits and are not bartered for another
12 benefit to influence the performance of an official duty or to commit
13 a violation of an official duty; or

14 (2) Trivial benefits the receipt of which involve no risk that the
15 public servant would perform official duties in a biased or partial
16 manner.

17 e. An offense proscribed by this section is a crime of the second
18 degree. If the benefit solicited, accepted, agreed to be accepted or
19 received is of a value of \$200.00 or less, any offense proscribed by this
20 section is a crime of the third degree.²

21

22 ²6. (New section) Offer of unlawful benefit to public servant for
23 official behavior.

24 a. A person commits a crime if the person offers, confers or
25 agrees to confer any benefit, whether the benefit inures to the public
26 servant or another person, to influence a public servant in the
27 performance of an official duty or to commit a violation of an official
28 duty.

29 b. A person commits a crime if the person, directly or indirectly,
30 confers or agrees to confer any benefit not allowed by law to a public
31 servant.

32 c. In addition to the definition set forth in N.J.S. 2C:27-1, "benefit"
33 as used in this act includes any benefit from or by reason of a contract
34 or agreement for goods, property or services if the contract or
35 agreement is awarded, made or paid by the branch, subdivision, or
36 agency of the government that employs the public servant.

37 d. The provisions of this section shall not apply to:

38 (1) Fees prescribed by law to be received by a public servant or any
39 other benefit to which the public servant is otherwise legally entitled
40 if these fees or benefits are received in the manner legally prescribed
41 and not bartered for another benefit to influence the performance of an
42 official duty or to commit a violation of an official duty;

43 (2) Gifts or other benefits conferred on account of kinship or other
44 personal, professional or business relationship independent of the
45 official status of the recipient if these gifts or benefits are within
46 otherwise legally permissible limits and are not bartered for another
47 benefit to influence the performance of an official duty or to commit

1 a violation of an official duty; or

2 (3) Trivial benefits the receipt of which involve no risk that the
3 public servant would perform official duties in a biased or partial
4 manner.

5 e. (1) An offense proscribed by subsection a. of this section is a
6 crime of the second degree. If the benefit solicited, accepted or
7 agreed to be accepted is of a value of \$200.00 or less, any offense
8 proscribed by subsection a. of this section is a crime of the third
9 degree.

10 (2) An offense proscribed by subsection b. of this section is a crime
11 of the third degree. If the gift or other benefit is of a value of \$200.00
12 or less, an offense proscribed by subsection b. of this section is a
13 crime of the fourth degree.²

14

15 ²7. N.J.S.2C:27-4 and N.J.S.2C:27-6 are repealed.²

16

17 ²[5.] 8. ²This act shall take effect on ²[January 1] the 90th day²
18 next following enactment ²except that sections 5, 6 and 7 shall take
19 effect immediately ².

20

21

22

23

24 Regulates receipt of things of value by members and staff of
25 Legislature and officers and staff of Executive Branch; recodifies
26 criminal provisions concerning acceptance or offer or receipt of
27 unlawful benefit by public servant.

SENATE, No. 1756

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED SEPTEMBER 12, 2002

Sponsored by:

Senator LEONARD LANCE

District 23 (Warren and Hunterdon)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

Co-Sponsored by:

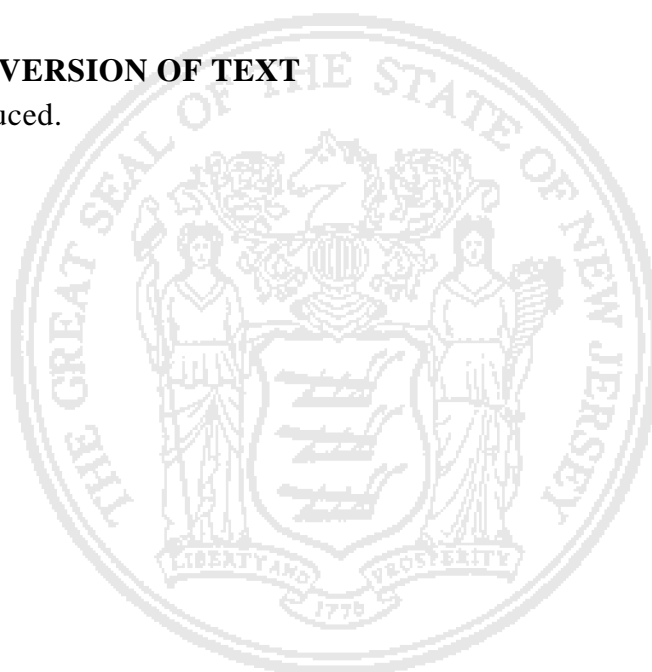
Senator Geist

SYNOPSIS

Restricts the receipt of certain things of value by legislators or legislative staff and officers and staff members of the Executive Branch and limits certain gifts thereto.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/5/2003)

1 AN ACT restricting the receipt of certain things of value by members
2 or staff of the Legislature and officers or staff members of the
3 Executive Branch and limiting certain gifts thereto and amending
4 and supplementing P.L.1971, c.182 and supplementing P.L.1971,
5 c.183 (C.52:13C-18 et seq.).

6

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

9

10 1. Section 13 of P.L.1971, c.182 (C.52:13D-24) is amended to
11 read as follows:

12 13. a. No State officer or employee, special State officer or
13 employee, or member of the Legislature shall solicit, receive or agree
14 to receive, whether directly or indirectly, any compensation, reward,
15 employment, gift, honorarium, out-of-State travel or subsistence
16 expense or other thing of value from any source other than the State
17 of New Jersey, for any service, advice, assistance, appearance, speech
18 or other matter related to his official duties, except [reasonable fees
19 for speeches or published works on matters within his official duties
20 and except, in connection therewith, reimbursement of actual
21 expenditures for travel and reasonable subsistence for which no
22 payment or reimbursement is made by the State of New Jersey] as
23 authorized in this section.

24 b. A State officer or employee, special State officer or employee,
25 or member of the Legislature may, in connection with any service,
26 advice, assistance, appearance, speech or other matter related to his
27 official duties, solicit, receive or agree to receive, whether directly or
28 indirectly, from sources other than the State, the following:

29 (1) reasonable fees for published books on matters within his
30 official duties;

31 (2) reimbursement or payment of actual and reasonable
32 expenditures for travel or subsistence and allowable entertainment
33 expenses associated with attending an event in New Jersey if
34 expenditures for travel or subsistence and entertainment expenses are
35 not paid for by the State of New Jersey;

36 (3) reimbursement or payment of actual and reasonable
37 expenditures for travel or subsistence outside New Jersey, not to
38 exceed \$500.00 per trip, if expenditures for travel or subsistence and
39 entertainment expenses are not paid for by the State of New Jersey.
40 Members of the Legislature shall obtain the joint approval of the
41 presiding officer and minority leader of the member's House before
42 accepting any reimbursement or payment of expenditures for travel or
43 subsistence outside New Jersey.

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

Matter underlined thus is new matter.

1 As used in this subsection, "reasonable expenditures for travel or
2 subsistence" means commercial travel rates directly to and from an
3 event and food and lodging expenses which are moderate and neither
4 elaborate nor excessive; and "allowable entertainment expenses" means
5 the costs for a guest speaker, incidental music and other ancillary
6 entertainment at any meal at an event, provided they are moderate and
7 not elaborate or excessive, but does not include the costs of personal
8 recreation, such as being a spectator at or engaging in a sporting or
9 athletic activity which may occur as part of that event.

10 c. This section shall not apply to the solicitation or acceptance of
11 contributions to the campaign of an announced candidate for elective
12 public office, except that campaign contributions may not be accepted
13 if they are known to be given in lieu of a payment prohibited pursuant
14 to this section.

15 (cf: P.L.1971, c.182, s.13)

16
17 2. (New section) Except as expressly authorized in section 13 of
18 P.L.1971, c.182 (C.52:13D-24) or where the lobbyist or legislative
19 agent is a member of the immediate family of the officer or staff
20 member of the Executive Branch or member of the Legislature or
21 legislative staff, no officer or staff member of the Executive Branch or
22 member of the Legislature or legislative staff may accept, directly or
23 indirectly, any compensation, awards, employment, gifts or other
24 things of value from each lobbyist or legislative agent, as defined in the
25 "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183
26 (C.52:13C-18 et seq.), totaling more than \$100.00 in a calendar year.
27 The \$100.00 limit shall also apply to each member of the immediate
28 family of a member of the Legislature.

29
30 3. (New section) Except as expressly authorized in section 13 of
31 P.L.1971, c.182 (C.52:13D-24) or where the lobbyist or legislative
32 agent is a member of the immediate family of the officer or staff
33 member of the Executive Branch or member of the Legislature or
34 legislative staff, no lobbyist or legislative agent shall offer or give or
35 agree to offer or give, directly or indirectly, any compensation,
36 awards, employment, gifts or other things of value to an officer or
37 staff member of the Executive Branch or member of the Legislature or
38 legislative staff, totaling more than \$100.00 in a calendar year. The
39 \$100.00 limit shall also apply to each member of the immediate family
40 of a member of the Legislature.

41
42 4. (New section) The Legislature shall provide a program on
43 legislative ethics for its members and State officers or employees and
44 special State officers or employees in the Legislative Branch of
45 government no later than April 1 of every even-numbered year.

1 5. This act shall take effect on January 1 next following enactment.

2

3

4

STATEMENT

5

6 This bill amends and supplements the "New Jersey Conflicts of
7 Interest Law" and supplements the "Legislative Activities Disclosure
8 Act of 1971."

9 The bill prohibits legislators, State officers or employees or special
10 State officers or employees from soliciting or receiving honoraria from
11 sources other than the State for matters related to their official duties.
12 The bill also limits the receipt of travel or subsistence expenses related
13 to official duties from sources other than the State. Legislators, State
14 officers or employees and special State officers or employees would
15 be allowed to receive reimbursement or payment of reasonable
16 expenditures for travel or subsistence in New Jersey from sources
17 other than the State for official appearances. Reimbursement or
18 payment of expenditures for travel or subsistence outside New Jersey
19 from sources other than the State for official appearances would be
20 limited to \$500.00 per trip. Legislators would have to receive joint
21 approval from the presiding officer and minority leader of their House
22 before accepting reimbursement or payment of expenditures for travel
23 or subsistence outside New Jersey.

24 In addition, the bill permits legislators, State officers or employees
25 or special State officers or employees to be reimbursed for allowable
26 entertainment expenses associated with attending an event in New
27 Jersey if entertainment expenses are not paid for by the State. The bill
28 defines "allowable entertainment expenses" as the costs for a guest
29 speaker, incidental music and other ancillary entertainment at any meal
30 at an event, provided they are moderate and not elaborate or
31 excessive, but does not include the costs of personal recreation, such
32 as being a spectator at or engaging in a sporting or athletic activity
33 which may occur as part of that event.

34 Except for the travel or subsistence expenses so authorized,
35 legislators and legislative staff, and officers and staff members of the
36 Executive Branch, would be prohibited from accepting from a lobbyist
37 or legislative agent, and lobbyists or legislative agents would be
38 prohibited from giving to legislators and legislative staff and officers
39 and staff members of the Executive Branch, things of value totaling
40 more than \$100.00 in a calendar year. Where a lobbyist or legislative
41 agent is a member of the immediate family of a legislator or a
42 legislative staffer or officer or staff member of the Executive Branch,
43 the restriction would not apply. The \$100.00 limit would also apply
44 to things of value given to each member of the immediate family of a
45 member of the Legislature.

46 The bill also requires the Legislature to provide on a biennial basis

S1756 LANCE, KYRILLOS

5

- 1 a program on legislative ethics for legislators and officers and
- 2 employees in the Legislative Branch of State government.

[Corrected Copy]

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1756

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 8, 2004

The Assembly Appropriations Committee reports favorably Senate Bill No. 1756 (1R), with committee amendments.

Senate Bill No. 1756 (1R), as amended, amends and supplements the "New Jersey Conflicts of Interest Law" and supplements the "Legislative Activities Disclosure Act of 1971."

The bill restricts legislators, State officers or employees or special State officers or employees from soliciting or receiving any compensation, reward, employment, gift, honorarium, or other thing of value from sources other than the State for matters related to their official duties. The bill also limits the receipt of travel or subsistence expenses related to official duties from sources other than the State. The bill allows legislators, State officers or employees and special State officers or employees to receive reimbursement or payment of reasonable expenditures for travel or subsistence in New Jersey from sources other than the State for official appearances. Reimbursement or payment of expenditures for travel or subsistence outside New Jersey from sources other than the State for official appearances is limited to \$500.00 per trip. The \$500 per trip limitation will not apply if the reimbursement or payment is made by a not-for-profit organization of which the officer, employee or member is, at the time of reimbursement or payment, an active member as a result of the payment of a fee or charge for membership to the organization by the State or by the Legislature in the case of a member of the Legislature; or a nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services. The bill requires legislators to receive approval from the presiding officer of their House before accepting reimbursement or payment of expenditures for travel or subsistence outside New Jersey.

In addition, the bill permits legislators, State officers or employees or special State officers or employees to be reimbursed for allowable

entertainment expenses associated with attending an event in New Jersey if entertainment expenses are not paid for by the State. The bill defines "allowable entertainment expenses" as the costs for a guest speaker, incidental music and other ancillary entertainment at any meal at an event, provided they are moderate and not elaborate or excessive, but does not include the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may occur as part of that event.

Except for the travel or subsistence expenses so authorized, legislators and legislative staff, and officers and staff members of the Executive Branch, are prohibited from accepting from a lobbyist or legislative agent, and lobbyists or legislative agents would be prohibited from giving to legislators and legislative staff and officers and staff members of the Executive Branch, any compensation, reward, employment, gift, honorarium or other thing of value totaling more than \$250.00 in a calendar year. When a lobbyist or legislative agent is a member of the immediate family of a legislator or a legislative staff member or officer or staff member of the Executive Branch, the restriction does not apply. The \$250.00 limit on any compensation, reward, gift, honorarium or other thing of value also applies to each member of the immediate family of a member of the Legislature residing in the same household. However, the prohibition does not apply to an individual or immediate family member for any compensation, reward, gift, honorarium or other thing of value received from an employer as a result of non-State employment; the prohibition also does not apply if a family member in turn gives that compensation, award, gift, honoraria or other thing of value to another family member.

The bill specifies additional restrictions on the receipt of outside income for certain Executive branch employees, including the Governor, certain members of the Governor's staff and the heads of departments, referred to in the bill as a "designated State officer." The bill bars these individuals from accepting any compensation, salary, honorarium, fee, or other form of income from any source, other than the salary received from the State for the performance of their official duties. Exceptions to the outside income ban are made for certain types of investment income, financial compensation received as a result of prior employment or contractual relationships, and income from the disposition or rental of real property. Additionally, these designated State officers are permitted to receive the reimbursement for travel from outside sources that is permitted to all State officers and employees under the bill, because these reimbursements are not income for the purposes of this bill. To receive these permitted forms of income, designated State officers are required first to seek review and approval by the Executive Commission on Ethical Standards to ensure that the receipt of such income does not violate the "New Jersey Conflicts of Interest Law," or any applicable code of ethics, and does not undermine the full and diligent performance of the designated

State officer's duties.

Under the bill, no violation of the bill's provisions constitutes a crime or offense under the laws of this State.

Additionally, the bill requires the Legislature to provide on a biennial basis a program on legislative ethics for legislators and officers and employees in the Legislative Branch of State government.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note to be prepared.

COMMITTEE AMENDMENTS:

The amendments: remove joint approval for travel by presiding officer and the minority leader of their House, and allow for approval by the presiding officer only; change the \$100 limit from lobbyists for a reward, gift, honorarium, etc. to \$250 in a calendar year; create two exceptions to the \$500 per trip limit for payment or reimbursement of travel and subsistence outside of the State; add provision to insure a violation of the bill's provision would not constitute a crime or offense; create exception for sections 2 and 3 for the receipt of compensation, reward, gift, honorarium or other thing of value received in the course of employment or from a family member; provide for reimbursement of compensation, reward, gift, honorarium or other thing of value; add sections 5 and 6 concerning the acceptance, receipt, or offer, of an unlawful benefit by or to public servant for official behavior. Repeals N.J.S.2C:27-4 and 6; change effective date; and other technical changes.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1756

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2003

The Senate State Government Committee reports favorably and with committee amendments Senate, No. 1756.

This bill amends and supplements the "New Jersey Conflicts of Interest Law" and supplements the "Legislative Activities Disclosure Act of 1971."

The bill restricts legislators, State officers or employees or special State officers or employees from soliciting or receiving any compensation, reward, employment, gift, honoraria, or other things of value from sources other than the State for matters related to their official duties. The bill also limits the receipt of travel or subsistence expenses related to official duties from sources other than the State. Legislators, State officers or employees and special State officers or employees would be allowed to receive reimbursement or payment of reasonable expenditures for travel or subsistence in New Jersey from sources other than the State for official appearances. Reimbursement or payment of expenditures for travel or subsistence outside New Jersey from sources other than the State for official appearances would be limited to \$500.00 per trip. Legislators would have to receive joint approval from the presiding officer and minority leader of their House before accepting reimbursement or payment of expenditures for travel or subsistence outside New Jersey.

In addition, the bill permits legislators, State officers or employees or special State officers or employees to be reimbursed for allowable entertainment expenses associated with attending an event in New Jersey if entertainment expenses are not paid for by the State. The bill defines "allowable entertainment expenses" as the costs for a guest speaker, incidental music and other ancillary entertainment at any meal at an event, provided they are moderate and not elaborate or excessive, but does not include the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may occur as part of that event.

Except for the travel or subsistence expenses so authorized, legislators and legislative staff, and officers and staff members of the Executive Branch, would be prohibited from accepting from a lobbyist

or legislative agent, and lobbyists or legislative agents would be prohibited from giving to legislators and legislative staff and officers and staff members of the Executive Branch, things of value totaling more than \$100.00 in a calendar year. When a lobbyist or legislative agent is a member of the immediate family of a legislator or a legislative staff member or officer or staff member of the Executive Branch, the restriction would not apply. The \$100.00 limit would also apply to things of value given to each member of the immediate family of a member of the Legislature.

The bill also specifies additional restrictions on the receipt of outside income for certain Executive branch employees, including the Governor, certain members of the Governor's staff and the heads of departments, referred to in the amendments as a "designated State officer." These individuals would be barred from accepting any compensation, salary, honorarium, fee, or other form of income from any source, other than the salary received from the State for the performance of their official duties. Exceptions to the outside income ban would be made for certain types of investment income, financial compensation received as a result of prior employment or contractual relationships, and income from the disposition or rental of real property. Additionally, these designated State officers would be permitted to receive the reimbursement for travel from outside sources that is permitted to all State officers and employees under the bill, because these reimbursements are not income for the purposes of this bill. To receive these permitted forms of income, designated State officers would be required first to seek review and approval by the Executive Commission on Ethical Standards to ensure that the receipt of such income does not violate the "New Jersey Conflicts of Interest Law," or any applicable code of ethics, and does not undermine the full and diligent performance of the designated State officer's duties.

Additionally, the bill requires the Legislature to provide on a biennial basis a program on legislative ethics for legislators and officers and employees in the Legislative Branch of State government.

COMMITTEE AMENDMENTS

The committee amended the bill to create additional restrictions on the receipt of outside income for certain Executive branch employees, including the Governor, certain members of the Governor's staff and the heads of departments, referred to in the amendments as a "designated State officer." These individuals would be barred from accepting any compensation, salary, honorarium, fee, or other form of income from any source, other than the salary received from the State for the performance of their official duties. Exceptions to the outside income ban would be made for certain types of investment income, financial compensation received as a result of prior employment or contractual relationships, and income from the disposition or rental of real property. Additionally, these designated State officers would be permitted to receive the reimbursement for travel from outside sources

that is permitted to all State officers and employees under the bill, because these reimbursements are not income for the purposes of this bill. To receive these permitted forms of income, designated State officers would be required first to seek review and approval by the Executive Commission on Ethical Standards to ensure that the receipt of such income does not violate the "New Jersey Conflicts of Interest Law," or any applicable code of ethics, and does not undermine the full and diligent performance of the designated State officer's duties.

These amendments incorporate some of the provisions of Governor Mc Greevey's Executive Order 10, effective February 28, 2002, which concern these designated officers.

In addition to these substantive amendments, the bill now includes technical changes to clarify that honoraria are included in the list of items that lobbyists and legislative agents are restricted in providing to certain State officers and employees, and updates gender references within the bill.

ASSEMBLY, No. 4048

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JANUARY 8, 2004

Sponsored by:

Assemblyman ALBIO SIRES

District 33 (Hudson)

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Co-Sponsored by:

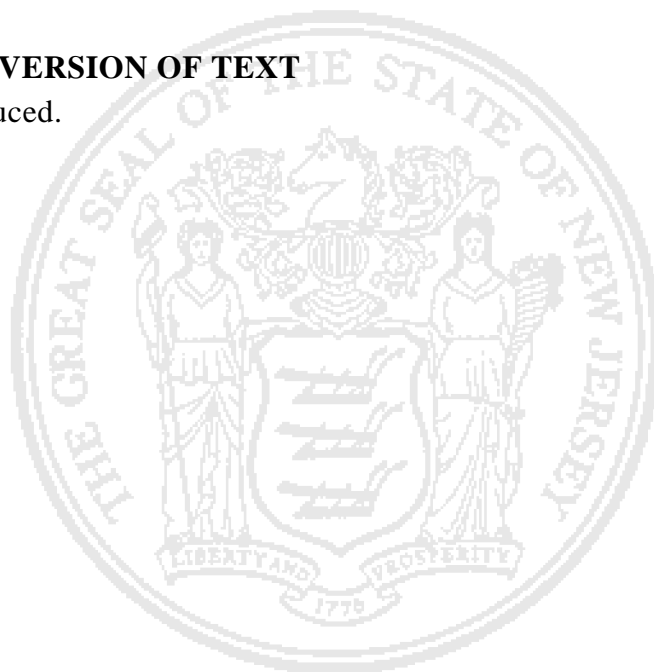
Assemblymen Azzolina, Eagler and Assemblywoman Greenstein

SYNOPSIS

Regulates receipt of things of value by members and staff of Legislature and officers and staff of Executive Branch; recodifies criminal provisions concerning acceptance or offer or receipt of unlawful benefit by public servant.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/13/2004)

1 AN ACT restricting the receipt of certain things of value by members
2 and staff of the Legislature and officers and staff of the Executive
3 Branch and concerning certain benefits to public servants, and
4 amending and supplementing P.L.1971, c.182, supplementing
5 P.L.1971, c.183 (C.52:13C-18 et seq.), supplementing Title 2C of
6 the New Jersey Statutes and repealing N.J.S.2C:27-4 and 2C:27-6.

7

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

10

11 1. Section 13 of P.L.1971, c.182 (C.52:13D-24) is amended to
12 read as follows:

13 13. a. No State officer or employee, special State officer or
14 employee, or member of the Legislature shall solicit, receive or agree
15 to receive, whether directly or indirectly, any compensation, reward,
16 employment, gift, honorarium, out-of-State travel or subsistence
17 expense or other thing of value from any source other than the State
18 of New Jersey, for any service, advice, assistance, appearance, speech
19 or other matter related to **[his]** the officer, employee, or member's
20 official duties, except **[reasonable fees for speeches or published**
21 works on matters within his official duties and except, in connection
22 therewith, reimbursement of actual expenditures for travel and
23 reasonable subsistence for which no payment or reimbursement is
24 made by the State of New Jersey] as authorized in this section.

25 b. A State officer or employee, special State officer or employee,
26 or member of the Legislature may, in connection with any service,
27 advice, assistance, appearance, speech or other matter related to the
28 officer, employee, or member's official duties, solicit, receive or agree
29 to receive, whether directly or indirectly, from sources other than the
30 State, the following:

31 (1) reasonable fees for published books on matters within the
32 officer, employee, or member's official duties;

33 (2) reimbursement or payment of actual and reasonable
34 expenditures for travel or subsistence and allowable entertainment
35 expenses associated with attending an event in New Jersey if
36 expenditures for travel or subsistence and entertainment expenses are
37 not paid for by the State of New Jersey;

38 (3) reimbursement or payment of actual and reasonable
39 expenditures for travel or subsistence outside New Jersey, not to
40 exceed \$500.00 per trip, if expenditures for travel or subsistence and
41 entertainment expenses are not paid for by the State of New Jersey.
42 The \$500 per trip limitation shall not apply if the reimbursement or
43 payment is made by (a) a nonprofit organization of which the officer,

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

Matter underlined thus is new matter.

1 employee, or member is, at the time of reimbursement or payment, an
2 active member as a result of the payment of a fee or charge for
3 membership to the organization by the State or the Legislature in the
4 case of a member of the Legislature; or (b) a nonprofit organization
5 that does not contract with the State to provide goods, materials,
6 equipment, or services.

7 Members of the Legislature shall obtain the approval of the
8 presiding officer of the member's House before accepting any
9 reimbursement or payment of expenditures for travel or subsistence
10 outside New Jersey.

11 As used in this subsection, "reasonable expenditures for travel or
12 subsistence" means commercial travel rates directly to and from an
13 event and food and lodging expenses which are moderate and neither
14 elaborate nor excessive; and "allowable entertainment expenses" means
15 the costs for a guest speaker, incidental music and other ancillary
16 entertainment at any meal at an event, provided they are moderate and
17 not elaborate or excessive, but does not include the costs of personal
18 recreation, such as being a spectator at or engaging in a sporting or
19 athletic activity which may occur as part of that event.

20 c. This section shall not apply to the solicitation or acceptance of
21 contributions to the campaign of an announced candidate for elective
22 public office, except that campaign contributions may not be accepted
23 if they are known to be given in lieu of a payment prohibited pursuant
24 to this section.

25 d. (1) Notwithstanding any other provision of law, a designated
26 State officer as defined in paragraph (2) of this subsection shall not
27 solicit, receive or agree to receive, whether directly or indirectly, any
28 compensation, salary, honorarium, fee, or other form of income from
29 any source, other than the compensation paid or reimbursed to him or
30 her by the State for the performance of official duties, for any service,
31 advice, assistance, appearance, speech or other matter, except for
32 investment income from stocks, mutual funds, bonds, bank accounts,
33 notes, a beneficial interest in a trust, financial compensation received
34 as a result of prior employment or contractual relationships, and
35 income from the disposition or rental of real property, or any other
36 similar financial instrument and except for reimbursement for travel as
37 authorized in subsections (2) and (3) of paragraph b. of this section.
38 To receive such income, a designated State officer shall first seek
39 review and approval by the Executive Commission on Ethical
40 Standards to ensure that the receipt of such income does not violate
41 the "New Jersey Conflicts of Interest Law," P.L.1971, c.182
42 (C.52:13D-12 et seq.) or any applicable code of ethics, and does not
43 undermine the full and diligent performance of the designated State
44 officer's duties.

45 (2) For the purposes of this subsection, "designated State officer"
46 shall include: the Governor, the Adjutant General, the Secretary of

1 Agriculture, the Attorney General, the Commissioner of Banking and
2 Insurance, the Secretary and Chief Executive Officer of the Commerce
3 and Economic Growth Commission, the Commissioner of Community
4 Affairs, the Commissioner of Corrections, the Commissioner of
5 Education, the Commissioner of Environmental Protection, the
6 Commissioner of Health and Senior Services, the Commissioner of
7 Human Services, the Commissioner of Labor, the Commissioner of
8 Personnel, the President of the State Board of Public Utilities, the
9 Secretary of State, the Superintendent of State Police, the
10 Commissioner of Transportation, the State Treasurer, the head of any
11 other department in the Executive Branch, and the following members
12 of the staff of the Office of the Governor: Chief of Staff, Chief of
13 Management and Operations, Chief of Policy and Communications,
14 Chief Counsel to the Governor, Director of Communications, Policy
15 Counselor to the Governor, and any deputy or principal administrative
16 assistant to any of the aforementioned members of the staff of the
17 Office of the Governor listed in this subsection.

18 e. A violation of this section shall not constitute a crime or offense
19 under the laws of this State.

20 (cf: P.L.1971, c.182, s.13)

21

22 2. (New section) a. Except as expressly authorized in section 13
23 of P.L.1971, c.182 (C.52:13D-24) or when the lobbyist or legislative
24 agent is a member of the immediate family of the officer or staff
25 member of the Executive Branch or member of the Legislature or
26 legislative staff, no officer or staff member of the Executive Branch or
27 member of the Legislature or legislative staff may accept, directly or
28 indirectly, any compensation, reward, employment, gift, honorarium
29 or other thing of value from each lobbyist or legislative agent, as
30 defined in the "Legislative Activities Disclosure Act of 1971,"
31 P.L.1971, c.183 (C.52:13C-18 et seq.), totaling more than \$250.00 in
32 a calendar year. The \$250.00 limit on acceptance of compensation,
33 reward, gift, honorarium or other thing of value shall also apply to
34 each member of the immediate family of a member of the Legislature,
35 as defined in section 2 of P.L.1971, c.182 (C.52:13D-13) to be a
36 spouse, child, parent, or sibling of the member residing in the same
37 household as the member of the Legislature.

38 b. The prohibition in subsection a. of this section on accepting any
39 compensation, reward, gift, honorarium or other thing of value shall
40 not apply if received in the course of employment, by an employer
41 other than the State, of an individual covered in subsection a. of this
42 section or a member of the immediate family. The prohibition in
43 subsection a. of this section on accepting any compensation, reward,
44 gift, honorarium or other thing of value shall not apply if acceptance
45 is from a member of the immediate family when the family member
46 received such in the course of his or her employment.

1 c. Subsection a. of this section shall not apply if an officer or staff
2 member of the Executive Branch or member of the Legislature or
3 legislative staff who accepted any compensation, reward, gift,
4 honorarium or other thing of value provided by a lobbyist or legislative
5 agent makes a full reimbursement, within 90 days of acceptance, to the
6 lobbyist or legislative agent in an amount equal to the money accepted
7 or the fair market value of that which was accepted if other than
8 money. As used in this subsection, "fair market value" means the
9 actual cost of the compensation, reward, gift, honorarium or other
10 thing of value accepted.

11 d. A violation of this section shall not constitute a crime or offense
12 under the laws of this State.

13
14 3. (New section) a. Except as expressly authorized in section 13
15 of P.L.1971, c.182 (C.52:13D-24) or when the lobbyist or legislative
16 agent is a member of the immediate family of the officer or staff
17 member of the Executive Branch or member of the Legislature or
18 legislative staff, no lobbyist or legislative agent shall offer or give, or
19 agree to offer or give, directly or indirectly, any compensation,
20 reward, employment, gift, honorarium or other thing of value to an
21 officer or staff member of the Executive Branch or member of the
22 Legislature or legislative staff, totaling more than \$250.00 in a
23 calendar year. The \$250.00 limit on any compensation, reward, gift,
24 honorarium or other thing of value shall also apply to each member of
25 the immediate family of a member of the Legislature, as defined in
26 section 2 of P.L.1971, c.182 (C.52:13D-13) to be a spouse, child,
27 parent, or sibling of the member residing in the same household as the
28 member of the Legislature.

29 b. The prohibition in subsection a. of this section on offering or
30 giving, or agreeing to offer or give, any compensation, reward, gift,
31 honorarium or other thing of value shall not apply if it is in the course
32 of employment, by an employer other than the State, of an individual
33 covered in subsection a. of this section or a member of the immediate
34 family. The prohibition in subsection a. of this section on offering or
35 giving, or agreeing to offer or give, any compensation, reward, gift,
36 honorarium or other thing of value shall not apply if receipt is from a
37 member of the immediate family when the family member received
38 such in the course of his or her employment.

39 c. Subsection a. of this section shall not apply if an officer or staff
40 member of the Executive Branch or member of the Legislature or
41 legislative staff who accepted any compensation, reward, gift,
42 honorarium or other thing of value offered or given by a lobbyist or
43 legislative agent makes a full reimbursement, within 90 days of
44 acceptance, to the lobbyist or legislative agent in an amount equal to
45 the money accepted or the fair market value of that which was
46 accepted if other than money. As used in this subsection, "fair market

1 value" means the actual cost of the compensation, reward, gift,
2 honorarium or other thing of value accepted.

3 d. A violation of this section shall not constitute a crime or offense
4 under the laws of this State.

5
6 4. (New section) The Legislature shall provide a program on
7 legislative ethics for its members and State officers or employees and
8 special State officers or employees in the Legislative Branch of
9 government no later than April 1 of every even-numbered year.

10
11 5. (New section) Acceptance or receipt of unlawful benefit by
12 public servant for official behavior.

13 a. A public servant commits a crime if, under color of office and in
14 connection with any official act performed or to be performed by the
15 public servant, the public servant directly or indirectly, knowingly
16 solicits, accepts or agrees to accept any benefit, whether the benefit
17 inures to the public servant or another person, to influence the
18 performance of an official duty or to commit a violation of an official
19 duty.

20 b. A public servant commits a crime if, under color of office and in
21 connection with any official act performed or to be performed by the
22 public servant, the public servant directly or indirectly, knowingly
23 receives any benefit, whether the benefit inures to the public servant
24 or another person, to influence the performance of an official duty or
25 to commit a violation of an official duty.

26 c. In addition to the definition set forth in N.J.S.2C:27-1, "benefit"
27 as used in this act includes any benefit from or by reason of a contract
28 or agreement for goods, property or services if the contract or
29 agreement is awarded, made or paid by the branch, subdivision, or
30 agency of the government that employs the public servant.

31 d. The provisions of this section shall not apply to:

32 (1) Fees prescribed by law to be received by a public servant or any
33 other benefit to which the public servant is otherwise legally entitled
34 if these fees or benefits are received in the manner legally prescribed
35 and not bartered for another benefit to influence the performance of an
36 official duty or to commit a violation of an official duty;

37 (2) Gifts or other benefits conferred on account of kinship or other
38 personal, professional or business relationship independent of the
39 official status of the recipient if these gifts or benefits are within
40 otherwise legally permissible limits and are not bartered for another
41 benefit to influence the performance of an official duty or to commit
42 a violation of an official duty; or

43 (2) Trivial benefits the receipt of which involve no risk that the
44 public servant would perform official duties in a biased or partial
45 manner.

46 e. An offense proscribed by this section is a crime of the second

1 degree. If the benefit solicited, accepted, agreed to be accepted or
2 received is of a value of \$200.00 or less, any offense proscribed by this
3 section is a crime of the third degree.

4
5 6. (New section) Offer of unlawful benefit to public servant for
6 official behavior.

7 a. A person commits a crime if the person offers, confers or agrees
8 to confer any benefit, whether the benefit inures to the public servant
9 or another person, to influence a public servant in the performance of
10 an official duty or to commit a violation of an official duty.

11 b. A person commits a crime if the person, directly or indirectly,
12 confers or agrees to confer any benefit not allowed by law to a public
13 servant.

14 c. In addition to the definition set forth in N.J.S.2C:27-1, "benefit"
15 as used in this act includes any benefit from or by reason of a contract
16 or agreement for goods, property or services if the contract or
17 agreement is awarded, made or paid by the branch, subdivision, or
18 agency of the government that employs the public servant.

19 d. The provisions of this section shall not apply to:

20 (1) Fees prescribed by law to be received by a public servant or any
21 other benefit to which the public servant is otherwise legally entitled
22 if these fees or benefits are received in the manner legally prescribed
23 and not bartered for another benefit to influence the performance of an
24 official duty or to commit a violation of an official duty;

25 (2) Gifts or other benefits conferred on account of kinship or other
26 personal, professional or business relationship independent of the
27 official status of the recipient if these gifts or benefits are within
28 otherwise legally permissible limits and are not bartered for another
29 benefit to influence the performance of an official duty or to commit
30 a violation of an official duty; or

31 (3) Trivial benefits the receipt of which involve no risk that the
32 public servant would perform official duties in a biased or partial
33 manner.

34 e. (1) An offense proscribed by subsection a. of this section is a
35 crime of the second degree. If the benefit solicited, accepted or
36 agreed to be accepted is of a value of \$200.00 or less, any offense
37 proscribed by subsection a. of this section is a crime of the third
38 degree.

39 (2) An offense proscribed by subsection b. of this section is a crime
40 of the third degree. If the gift or other benefit is of a value of \$200.00
41 or less, an offense proscribed by subsection b. of this section is a crime
42 of the fourth degree.

43
44 7. N.J.S.2C:27-4 and N.J.S.2C:27-6 are repealed.

45
46 8. This act shall take effect on the 90th day next following

1 enactment except that sections 5, 6 and 7 shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill amends and supplements the "New Jersey Conflicts of
7 Interest Law" and supplements the "Legislative Activities Disclosure
8 Act of 1971."

9 The bill restricts legislators, State officers or employees or special
10 State officers or employees from soliciting or receiving any
11 compensation, reward, employment, gift, honorarium, or other thing
12 of value from sources other than the State for matters related to their
13 official duties. The bill also limits the receipt of travel or subsistence
14 expenses related to official duties from sources other than the State.
15 Legislators, State officers or employees and special State officers or
16 employees would be allowed to receive reimbursement or payment of
17 reasonable expenditures for travel or subsistence in New Jersey from
18 sources other than the State for official appearances. Reimbursement
19 or payment of expenditures for travel or subsistence outside New
20 Jersey from sources other than the State for official appearances would
21 be limited to \$500.00 per trip. The \$500 per trip limitation will not
22 apply if the reimbursement or payment is made by (a) a not-for-profit
23 organization of which the officer, employee or member is, at the time
24 of reimbursement or payment, an active member as a result of the
25 payment of a fee or charge for membership to the organization by the
26 State or by the Legislature in the case of a member of the Legislature;
27 or (b) a nonprofit organization that does not contract with the State
28 to provide goods, materials, equipment, or services. Legislators
29 would have to receive approval from the presiding officer of their
30 House before accepting reimbursement or payment of expenditures for
31 travel or subsistence outside New Jersey.

32 In addition, the bill permits legislators, State officers or employees
33 or special State officers or employees to be reimbursed for allowable
34 entertainment expenses associated with attending an event in New
35 Jersey if entertainment expenses are not paid for by the State. The bill
36 defines "allowable entertainment expenses" as the costs for a guest
37 speaker, incidental music and other ancillary entertainment at any meal
38 at an event, provided they are moderate and not elaborate or
39 excessive, but does not include the costs of personal recreation, such
40 as being a spectator at or engaging in a sporting or athletic activity
41 which may occur as part of that event.

42 Except for the travel or subsistence expenses so authorized,
43 legislators and legislative staff, and officers and staff members of the
44 Executive Branch, would be prohibited from accepting from a lobbyist
45 or legislative agent, and lobbyists or legislative agents would be
46 prohibited from giving to legislators and legislative staff and officers

1 and staff members of the Executive Branch, any compensation,
2 reward, employment, gift, honorarium or other thing of value totaling
3 more than \$250.00 in a calendar year. When a lobbyist or legislative
4 agent is a member of the immediate family of a legislator or a
5 legislative staff member or officer or staff member of the Executive
6 Branch, the restriction would not apply. The \$250.00 limit on any
7 compensation, reward, gift, honorarium or other thing of value would
8 also apply to each member of the immediate family of a member of the
9 Legislature residing in the same household. However, the prohibition
10 would not apply to an individual or immediate family member for any
11 compensation, reward, gift, honorarium or other thing of value
12 received from an employer as a result of non-State employment; the
13 prohibition also would not apply if a family member in turn gives that
14 compensation, award, gift, honoraria or other thing of value to another
15 family member.

16 The bill also specifies additional restrictions on the receipt of
17 outside income for certain Executive branch employees, including the
18 Governor, certain members of the Governor's staff and the heads of
19 departments, referred to in the bill as a "designated State officer."
20 These individuals would be barred from accepting any compensation,
21 salary, honorarium, fee, or other form of income from any source,
22 other than the salary received from the State for the performance of
23 their official duties. Exceptions to the outside income ban would be
24 made for certain types of investment income, financial compensation
25 received as a result of prior employment or contractual relationships,
26 and income from the disposition or rental of real property.
27 Additionally, these designated State officers would be permitted to
28 receive the reimbursement for travel from outside sources that is
29 permitted to all State officers and employees under the bill, because
30 these reimbursements are not income for the purposes of this bill. To
31 receive these permitted forms of income, designated State officers
32 would be required first to seek review and approval by the Executive
33 Commission on Ethical Standards to ensure that the receipt of such
34 income does not violate the "New Jersey Conflicts of Interest Law," or
35 any applicable code of ethics, and does not undermine the full and
36 diligent performance of the designated State officer's duties.

37 Under the bill, no violation of the bill's provisions would constitute
38 a crime or offense under the laws of this State.

39 Additionally, the bill requires the Legislature to provide on a
40 biennial basis a program on legislative ethics for legislators and
41 officers and employees in the Legislative Branch of State government.

42 This bill recodifies two existing sections of the "Criminal Code"
43 concerning corrupt influence. Specifically the bill repeals
44 N.J.S.2C:27-4 (Compensation for Past Official Behavior) and
45 N.J.S.2C:27-6 (Gifts to Public Servants) and reconstitutes the essence
46 of these sections in a new organizational framework. P.L. 1999, c.

1 440 had amended both of these sections of the "Criminal Code" with
2 some resultant confusion. Prior to the 1999 amendments N.J.S.
3 2C:27-4 addressed compensation for past official behavior but the
4 1999 amendment incorporated reference to "official act performed *or*
5 *to be performed.*" Inclusion of the possibility of future acts to be
6 performed in the provisions of N.J.S.2C:27-4 makes it difficult to
7 reconcile with the current provisions of N.J.S.2C:27-6 which is
8 currently graded as a lesser crime. Presently it is not clear how these
9 two sections interact.

10 Additionally N.J.S.2C:27-6 currently provides for certain
11 exceptions. These exceptions appear to be applicable also to the
12 behavior proscribed in N.J.S.2C:27-4 but they are not included in that
13 section at this time. Furthermore, two of the three exceptions
14 themselves may be problematic as currently written as leaving an
15 unintended loophole. That section as enacted states that the "section
16 shall not apply to" these exceptions. The first exception is for fees
17 prescribed by law to be received by a public servant or any other
18 benefit to which the public servant is otherwise legally entitled.
19 However there may exist circumstances involving criminal influence
20 involving fees or benefits that are otherwise legal. This bill closes this
21 gap by including the caveat that the fees or benefit are received in the
22 manner legally prescribed and not bartered for another benefit to
23 influence the performance of an official duty or to commit a violation
24 of an official duty. Likewise this caveat is attached to the second
25 exception for gifts or other benefits conferred on account of kinship
26 or other personal, professional or business relationship independent of
27 the official status of the recipient. This approach will retain what can
28 only be assumed to have been the obvious intent of the exceptions
29 while forestalling an argument that the exceptions carved out the
30 criminalizing of activities that should not be overlooked. For example,
31 if a public servant were permitted certain fees by law but the public
32 servant was waiving those fees in exchange for a different benefit, the
33 criminalizing of that activity arguably may not be covered under the
34 law as currently written.

35 This bill separates the two classes of offenses by the status of the
36 actor. Section 5 of the bill would pertain to actions by a public
37 servant (both solicitation and receipt) and section 6 of the bill would
38 pertain to actions by any person attempting to influence a public
39 servant. Presently N.J.S.2C:27-4 and N.J.S.2C:27-6 each apply to
40 both the public servant whether as the one soliciting or accepting, or
41 as the one receiving the benefit and to the person who offers or
42 confers the benefit to the public servant.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4048

STATE OF NEW JERSEY

DATED: JANUARY 8, 2004

The Assembly Appropriations Committee reports favorably Assembly Bill No.4048.

Assembly Bill No.4048 amends and supplements the "New Jersey Conflicts of Interest Law" and supplements the "Legislative Activities Disclosure Act of 1971."

The bill restricts legislators, State officers or employees or special State officers or employees from soliciting or receiving any compensation, reward, employment, gift, honorarium, or other thing of value from sources other than the State for matters related to their official duties. The bill also limits the receipt of travel or subsistence expenses related to official duties from sources other than the State. Legislators, State officers or employees and special State officers or employees would be allowed to receive reimbursement or payment of reasonable expenditures for travel or subsistence in New Jersey from sources other than the State for official appearances. The bill limits reimbursement or payment of expenditures for travel or subsistence outside New Jersey from sources other than the State for official appearances to \$500 per trip. The \$500 per trip limitation will not apply if the reimbursement or payment is made by (a) a not-for-profit organization of which the officer, employee or member is, at the time of reimbursement or payment, an active member as a result of the payment of a fee or charge for membership to the organization by the State or by the Legislature in the case of a member of the Legislature; or (b) a nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services. The bill requires legislators to receive approval from the presiding officer of their House before accepting reimbursement or payment of expenditures for travel or subsistence outside New Jersey.

In addition, the bill permits legislators, State officers or employees or special State officers or employees to be reimbursed for allowable entertainment expenses associated with attending an event in New Jersey if entertainment expenses are not paid for by the State. The bill defines "allowable entertainment expenses" as the costs for a guest speaker, incidental music and other ancillary entertainment at any meal at an event, provided they are moderate and not elaborate or excessive, but does not include the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may occur as part of that event.

Except for the travel or subsistence expenses so authorized, the bill prohibits legislators and legislative staff, and officers and staff members of the Executive Branch, from accepting from a lobbyist or legislative agent, and lobbyists or legislative agents would be prohibited from giving to legislators and legislative staff and officers and staff members of the Executive Branch, any compensation, reward, employment, gift, honorarium or other thing of value totaling more than \$250 in a calendar year. When a lobbyist or legislative agent is a member of the immediate family of a legislator or a legislative staff member or officer or staff member of the Executive Branch, the restriction would not apply. The \$250 limit on any compensation, reward, gift, honorarium or other thing of value also applies to each member of the immediate family of a member of the Legislature residing in the same household. However, the prohibition does not apply to an individual or immediate family member for any compensation, reward, gift, honorarium or other thing of value received from an employer as a result of non-State employment; the prohibition also does not apply if a family member in turn gives that compensation, award, gift, honoraria or other thing of value to another family member.

The bill specifies additional restrictions on the receipt of outside income for certain Executive branch employees, including the Governor, certain members of the Governor's staff and the heads of departments, referred to in the bill as a "designated State officer." The bill bars these individuals from accepting any compensation, salary, honorarium, fee, or other form of income from any source, other than the salary received from the State for the performance of their official duties. Exceptions to the outside income ban are made for certain types of investment income, financial compensation received as a result of prior employment or contractual relationships, and income from the disposition or rental of real property. Additionally, the bill permits these designated State officers to receive the reimbursement for travel from outside sources that is permitted to all State officers and employees under the bill, because these reimbursements are not income for the purposes of this bill. To receive these permitted forms of income, the bill requires that designated State officers first seek review and approval by the Executive Commission on Ethical Standards to ensure that the receipt of such income does not violate the "New Jersey Conflicts of Interest Law," or any applicable code of ethics, and does not undermine the full and diligent performance of the designated State officer's duties.

Under the bill, no violation of the bill's provisions would constitute a crime or offense under the laws of this State.

Additionally, the bill requires the Legislature to provide on a biennial basis a program on legislative ethics for legislators and officers and employees in the Legislative Branch of State government.

This bill recodifies two existing sections of the "Criminal Code" concerning corrupt influence. Specifically the bill repeals

N.J.S.2C:27-4 (Compensation for Past Official Behavior) and N.J.S.2C:27-6 (Gifts to Public Servants) and reconstitutes the essence of these sections in a new organizational framework. P.L.1999, c.440 had amended both of these sections of the "Criminal Code" with some resultant confusion. Prior to the 1999 amendments N.J.S.2C:27-4 addressed compensation for past official behavior but the 1999 amendment incorporated reference to "official act performed *or to be performed*." Inclusion of the possibility of future acts to be performed in the provisions of N.J.S.2C:27-4 makes it difficult to reconcile with the current provisions of N.J.S.2C:27-6 which is currently graded as a lesser crime. Presently it is not clear how these two sections interact.

Additionally N.J.S.2C:27-6 currently provides for certain exceptions. These exceptions appear to be applicable also to the behavior proscribed in N.J.S.2C:27-4, but they are not included in that section at this time. Furthermore, two of the three exceptions themselves may be problematic as currently written as leaving an unintended loophole. That section now states that the "section shall not apply to" these exceptions. The first exception is for fees prescribed by law to be received by a public servant or any other benefit to which the public servant is otherwise legally entitled. However there may exist circumstances involving criminal influence involving fees or benefits that are otherwise legal. This bill closes this gap by including the caveat that the fees or benefit are received in the manner legally prescribed and not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty. Likewise this caveat is attached to the second exception for gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the recipient. This approach will retain what can only be assumed to have been the obvious intent of the exceptions while forestalling an argument that the exceptions carved out the criminalizing of activities that should not be overlooked. For example, if a public servant were permitted certain fees by law but the public servant was waiving those fees in exchange for a different benefit, the criminalizing of that activity arguably may not be covered under the law as currently written.

This bill separates the two classes of offenses by the status of the actor. Section 5 of the bill pertains to actions by a public servant (both solicitation and receipt) and section 6 of the bill pertains to actions by any person attempting to influence a public servant. Presently N.J.S.2C:27-4 and N.J.S.2C:27-6 each apply to both the public servant whether as the one soliciting or accepting, or as the one receiving, the benefit and to the person who offers or confers the benefit to the public servant.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note to be prepared.