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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO CRIMINAL OFFENSES - CRIMES AGAINST PUBLIC TRUST

Introduced By: Representatives Marcello, Blazejewski, Hearn, Hull, and JP O`Neill

Date Introduced: March 03, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 69

4 CRIMES AGAINST THE PUBLIC TRUST

5 **11-69-1. Definitions. -- (a) As used in this chapter:**

6 (1) "Administrative proceeding" means any proceeding, other than a judicial proceeding,  
7 the outcome of which is required to be based on a record or documentation prescribed by law, or  
8 in which law or regulation is particularized in applications to individuals.

9 (2) "Approval" means and includes, but is not limited to, recommendation, failure to  
10 disapprove, or another manifestation of favor or acquiescence.

11 (3) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or  
12 advantage, including benefit to any other person or entity in whose welfare he or she is interested,  
13 but not an advantage promised generally to a group or class of voters as a consequence of public  
14 measures which a candidate engages to support or oppose.

15 (4) "Disapproval" means and includes, but is not limited to, failure to approve, or any  
16 other manifestation of disfavor or nonacquiescence.

17 (5) "Government" means and includes any branch, subdivision or agency of the State of  
18 Rhode Island or any locality within.

19 (6) "Harm" means loss, disadvantage or injury, or anything so regarded by the person

1 affected, including loss, disadvantage or injury to any other person or entity in whose welfare he  
2 or she is interested.

3 (7) "Official proceeding" means a proceeding heard or which may be heard before any  
4 legislative, judicial, administrative or other governmental agency or official authorized to take  
5 evidence under oath, including any referee, hearing examiner, commissioner, notary or other  
6 person taking testimony or deposition in connection with any such proceeding.

7 (8) "Party official" means a person who holds an elective or appointive post in a political  
8 party in the United States by virtue of which he or she directs or conducts, or participates in  
9 directing or conducting party affairs at any level of responsibility.

10 (9) "Pecuniary benefit" means a benefit in the form of money, property, commercial  
11 interests or anything else the primary significance of which is economic gain.

12 (10) "Public servant" means:

13 (i) Any full-time or part-time employee in the classified, nonclassified and unclassified  
14 service of the state or of any city or town employee within the state, any individual serving in any  
15 appointed state or municipal position, any employee of any public or quasi-public state or  
16 municipal board, commission or corporation, and any contractual employee of the state or any  
17 city or town within the state;

18 (ii) Any officer or member of a state or municipal agency as defined in subsection 36-14-  
19 2(8) who is appointed for a term of office specified by the constitution or a statute of this state or  
20 a charter or ordinance of any city or town or who is appointed by or through the governing body  
21 or highest official of state or municipal government; or

22 (iii) Any person holding any elective public office pursuant to a general or special  
23 election.

24 (11) "Services" means labor, professional service, transportation, telephone or other  
25 public service, accommodation in hotels, restaurants or elsewhere, admission to exhibition, use  
26 of vehicles or other movable property. Where compensation for service is ordinarily paid  
27 immediately upon the rendering of such service, as in the case of hotels and restaurants, refusal to  
28 pay or absconding without payment or offer to pay gives rise to a presumption that the service  
29 was obtained by deception as to intention to pay.

30 (12) "Special influence" means power to influence though kinship, friendship or other  
31 relationship, apart from merits of the transaction.

32 **11-69-2. Bribery in official and political matters. --** (a) It is unlawful for a public  
33 servant to offer, confer, agree to confer upon another, solicit, accept or agree to accept from  
34 another:

1           (1) Any pecuniary benefit as consideration for the recipient's decision, opinion,  
2 recommendation, vote or other exercise of discretion as a public servant or party official;

3           (2) Any benefit as consideration for the recipient's decision, vote, recommendation or  
4 other exercise of official discretion in a judicial or administrative proceeding; or

5           (3) Any benefit as consideration for a violation of a known legal duty as a public servant  
6 or party official.

7           (b) Any person convicted of a violation of this section shall be guilty of a felony and  
8 subject to imprisonment of up to ten (10) years or a fine of not more than ten thousand dollars  
9 (\$10,000) or both.

10           (c) It is no defense to prosecution under this section that a person whom the actor sought  
11 to influence was not qualified to act in the desired way whether because he or she had not yet  
12 assumed the office, lacked jurisdiction, or for any other reason.

13           **11-69-3. Selling political endorsements - Special influence.** – (a) It shall be unlawful  
14 for a public servant to:

15           (1) Solicit, receive, agree to receive, or agree that any political party or other person shall  
16 receive, any pecuniary benefit as consideration for approval or disapproval of an appointment or  
17 advancement in public service, or for approval or disapproval of any person or transaction for any  
18 benefit conferred by any public servant or agency of government;

19           (2) Solicit, receive or agree to receive any pecuniary benefit as consideration for exerting  
20 special influence upon a public servant or procuring another to do so; or

21           (3) Offer, confer to agree to confer any pecuniary benefit, receipt of which is in violation  
22 of this section.

23           (b) Any person convicted of a violation of this section shall be guilty of a felony and  
24 subject to imprisonment of up to ten (10) years or a fine of not more than ten thousand dollars  
25 (\$10,000) or both.

26           **11-69-4. Speculating or wagering on official action or information.** – (a) It is unlawful  
27 for a public servant, in contemplation of official action by himself or herself or by a governmental  
28 unit with which he or she is associated, or in reliance on information to which he or she has  
29 access in his or her official capacity and which has not been made public, to:

30           (1) Acquire a pecuniary interest in any property, transaction or enterprise which may be  
31 affected by such information of official action;

32           (2) Speculate or wager on the basis of such information or official action; or

33           (3) Aid another to do any of the foregoing.

34           (b) Any person convicted of a violation of this section shall be guilty of a felony and

1 subject to imprisonment of up to ten (10) years or a fine of not more than ten thousand dollars  
2 (\$10,000) or both.

3 **11-69-5. Theft of honest services.** -- (a) A public servant commits theft of honest  
4 services if, having control over the disposition of services of others, to which he or she is not  
5 entitled, he or she knowingly diverts such services to his or her own benefit or to the benefit of  
6 another not entitled thereto.

7 (b) Any person convicted of a violation of this section shall be guilty of a felony and  
8 subject to imprisonment of up to ten (10) years or a fine of not more than one hundred fifty  
9 thousand dollars (\$150,000) or both.

10 **11-69-6. Civil damages for engaging in illegal acts.** -- In addition to any criminal  
11 penalties, a public servant convicted of a misdemeanor or felony or attempted felony or  
12 misdemeanor under the laws of the United States, the State of Rhode Island or any other  
13 jurisdiction knowingly committed in his or her official capacity shall be liable for the restitution  
14 of anything of value received by him or her in the course of such violation. Action for recovery  
15 of amounts under this section shall be brought in the superior court of any county in which any  
16 element of the crime occurred. The actions shall be brought in the name of the state by the  
17 attorney general for the benefit and use of the state.

18 SECTION 2. Chapter 17-27 of the General Laws entitled "Reporting of Political  
19 Contributions by State Vendors" is hereby amended by adding thereto the following sections:

20 **17-27-6. Prohibition of political contributions.** -- (a) Any state vendor who contracts  
21 with state agencies, in the aggregate, annually total more than five thousand dollars (\$5,000), and  
22 any affiliated entities of such state vendor, are prohibited from making any contributions to any  
23 political committees established to promote the candidacy of: (1) The officeholder responsible for  
24 awarding the contracts; or (2) Any other declared candidate for that office. This prohibition shall  
25 be effective for the duration of the term of office of the incumbent officeholder awarding the  
26 contracts or for a period of two (2) years following the expiration or termination of the contracts,  
27 whichever is longer.

28 (b) Any state vendor whose aggregate pending bids and proposals for contract with state  
29 agencies total more than five thousand dollars (\$5,000), or whose aggregate pending bids and  
30 proposals for contract with state agencies combined with the state vendor's aggregate annual total  
31 value of state contracts exceed twenty-five thousand dollars (\$25,000), and any affiliated entities  
32 of such state vendor, are prohibited from making any contributions to any political committee  
33 established to promote the candidacy of the officeholder responsible for awarding the contract on  
34 which the business entity has submitted a bid or proposal during the period beginning on the date

1 the invitation for bids or request for proposals is issued and ending on the day after the date the  
2 contract is awarded.

3 (c) All contracts between state agencies and a state vendor that violate subsection (a) or  
4 (b) shall be voidable. If a state vendor violates subsection (a) three (3) or more times within a  
5 thirty-six (36) month period, then all contracts between state agencies and that state vendor shall  
6 be void, and that state vendor shall not bid or respond to any invitation to bid or request for  
7 proposals from any state agency or otherwise enter into any contract with any state agency for  
8 three (3) years from the date of the last violation. A notice of each violation and the penalty  
9 imposed shall be published on the website of the board of elections.

10 (d) Any political committee that has received a contribution in violation of subsection (a)  
11 or (b) shall pay an amount equal to the value of the contribution to the state no more than thirty  
12 (30) days after notice of the violation from the board of elections. Payments received by the state  
13 pursuant to this subsection shall be deposited into the general revenue fund.

14 **17-27-7. Severability. --** If the provisions of this act or its application to any person or  
15 circumstance are held invalid, the invalidity of that provision or application does not affect the  
16 other provisions or applications of this act that can be given effect without the invalid provision  
17 or application.

18 SECTION 3. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
19 GOVERNMENT" is hereby amended by adding thereto the following chapter:

20 CHAPTER 42-9.4

21 PUBLIC CORRUPTION AND WHITE COLLAR CRIME UNIT

22 **42-9.4-1. Legislative findings. --** The general assembly finds and declares that:

23 (1) Government integrity is the backbone of efficient and effective state and municipal  
24 governments.

25 (2) Abuse of the public trust erodes the public's confidence in public servants, as well as,  
26 undermines the ability of government to work towards the public good.

27 (3) Recent and historical cases of the abuse of public trust has had a negative impact on  
28 the operation of state and municipal government and the state's economy.

29 (4) All citizens of Rhode Island have the right to open, honest and ethical government.

30 (5) The public needs an advocate to ensure that the policy goals and laws established to  
31 protect Rhode Islanders from abuse of the public trust are enforced.

32 (6) In order to provide a safeguard against abuses of the public trust by public servants,  
33 the general assembly finds it necessary to establish a public corruption and white collar crime unit  
34 within the department of attorney general.

1           **42-9.4-2. Definitions.** – As used in this chapter:

2           (1) "Public servant" means:

3           (i) Any full-time or part-time employees in the classified, non-classified and unclassified  
4 service of the state or of any city or town within the state, any individuals serving in any  
5 appointed state or municipal position, any employees of any public or quasi-public state or  
6 municipal board, commission or corporation, and any contractual employees of the state or of any  
7 city of town within the state;

8           (ii) Any officer or member of a state or municipal agency as defined in subsection 36-14-  
9 2(8) who is appointed for a term of office specified by the constitution or a statute of this state or  
10 a charter or ordinance of any city or town or who is appointed by or through the governing body  
11 or highest official of state or municipal government; or

12           (iii) Any person holding any elective public office pursuant to a general or special  
13 election.

14           (2) "Abuse of public trust" means any conduct, criminal or unethical in nature, that  
15 deprives the citizens of the State of Rhode Island and its municipalities of a government that  
16 operates in furtherance of the public interest.

17           **42-9.4-3. Establishment.** – There shall be established within the department of attorney  
18 general a public corruption and white collar crime unit. The unit shall consist of at least an  
19 assistant or special assistant attorney general designated by the attorney general. The unit is  
20 authorized to perform the following duties as the attorney general may direct, including, but not  
21 limited to:

22           (1) Investigate potential cases of abuse of the public trust in accordance with the Rhode  
23 Island general laws;

24           (2) Prosecute cases of abuse of the public trust in accordance with the Rhode Island  
25 general laws;

26           (3) Cooperate with the United States Attorney's Office, the Federal Bureau of  
27 Investigation, the Rhode Island State Police and the Rhode Island Ethics Commission on  
28 investigations and prosecutions related to the abuse of the public trust; and

29           (4) Establish a whistleblower hotline for reports of potential violations regarding abuse of  
30 the public trust.

31           **42-9.4-4. Whistleblower protections.** – (a) Prohibition against discrimination. No  
32 person may discharge, demote, threaten or otherwise discriminate against any person or employee  
33 with respect to compensation, terms, conditions or privileges of employment as a reprisal because  
34 the person or employee, or any person acting pursuant to the request of the employee, provided or

1 attempted to provide information to the attorney general or his or her designee or other law  
2 enforcement entities regarding possible violations of the Rhode Island general laws by public  
3 servants.

4 (b) Enforcement. Any person or employee or former employee who believes that he or  
5 she has been discharged or discriminated against in violation of subsection (a) may file a civil  
6 action within three (3) years of the date of discharge or discrimination.

7 (c) Remedies. If the court determines that a violation has occurred, the court may order  
8 the person who committed the violation to:

9 (1) Reinstate the employee to the employee's former position;

10 (2) Pay compensatory damages, costs of litigation and attorneys' fees; and/or

11 (3) Take other appropriate actions to remedy any past discrimination.

12 (d) Limitation. The protections of this section shall not apply to any person or employee  
13 who:

14 (1) Deliberately causes or participates in the alleged violation of law or regulation; or

15 (2) Knowingly or recklessly provides substantially false information to the attorney  
16 general or his or her designees.

17 **42-9.4-5. No derogation of attorney general. --** (a) No provision of this chapter shall  
18 derogate from the common law or statutory authority of the attorney general nor shall any  
19 provision be construed as a limitation on the common law or statutory authority of the attorney  
20 general.

21  
22 SECTION 4. Section 12-12-17 of the General Laws in Chapter 12-12 entitled  
23 "Indictments, Informations and Complaints" is hereby amended to read as follows:

24 **12-12-17. Statute of limitations. --** (a) There shall be no statute of limitations for the  
25 following offenses: treason against the state, any homicide, arson, first degree arson, second  
26 degree arson, third degree arson, burglary, counterfeiting, forgery, robbery, rape, first degree  
27 sexual assault, first degree child molestation sexual assault, second degree child molestation  
28 sexual assault, bigamy, manufacturing, selling, distribution or possession with intent to  
29 manufacture, sell or distribute a controlled substance under the Uniform Controlled Substance  
30 Act, chapter 28 of title 21, or any other offense for which the maximum penalty provided is life  
31 imprisonment.

32 (b) The statute of limitations for the following offenses shall be ten (10) years: larceny  
33 under section 11-41-2 (receiving stolen goods), section 11-41-3 (embezzlement and fraudulent  
34 conversion), section 11-41-4 (obtaining property by false pretenses or personation), section 11-

1 41-11 (embezzlement by bank officer or employee), section 11-41-12 (fraudulent conversion by  
2 agent or factor), and section 11-41-13 (obtaining signature by false pretenses), or any larceny  
3 which is punishable as a felony; any violation of chapter 7 of title 11 (bribery); any violation of  
4 section 11-18-1 (giving false document to agent, employee, or public official); perjury; any  
5 violation of chapter 42 of title 11 (threats and extortion); any violation of chapter 15 of title 7  
6 (racketeer influenced and corrupt organizations); any violation of chapter 57 of title 11 (racketeer  
7 violence); or any violation of chapter 36 of title 6 (antitrust law); [any violation of section 11-41-  
8 27 \(wrongful conversion by officer or state or municipal employee\), or any violation of chapter  
9 69 of title 11 \(crimes against the public trust\).](#)

10 (c) The statute of limitations for any other criminal offense shall be three (3) years unless  
11 a longer statute of limitations is otherwise provided for in the general laws.

12 (d) Any person who participates in any offense, either as a principal accessory, or  
13 conspirator shall be subject to the same statute of limitations as if the person had committed the  
14 substantive offense.

15 (e) The statute of limitations for any violation of chapter 18.9 of title 23 (refuse  
16 disposal), chapter 19 of title 23 (solid waste management corporation), chapter 19.1 of title 23  
17 (hazardous waste management), chapter 12 of title 46 (water pollution), and chapter 13 of title 46  
18 (public drinking water supply) shall be seven (7) years from the time that the facts constituting  
19 the offense or violation shall have become known to law enforcement authorities, unless a longer  
20 statute of limitations is otherwise provided for in the general laws.

21 SECTION 5. Section 17-27-1 of the General Laws in Chapter 17-27 entitled "Reporting  
22 of Political Contributions by State Vendors" is hereby amended to read as follows:

23 **17-27-1. Definitions.** -- As used in this chapter:

24 (1) "Aggregate amount" means the total of all contributions made to a particular general  
25 officer, candidate for general office, or political party within the time period set forth;

26 (2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding  
27 company, joint stock company, receivership, trust, or any other entity recognized in law through  
28 which business for profit is conducted;

29 (3) "Contribution" means a transfer of money, paid personal services, or other thing of  
30 value reportable under the terms of chapter 25 of this title;

31 (4) "Executive officer" means any person who is appointed or elected as an officer of a  
32 business entity by either the incorporators, stockholders, or directors of the business entity who is  
33 in charge of a principal business unit, division, or function of the business entity, or participates  
34 or has authority to participate other than in the capacity of a director in major policymaking



1 functions of the business entity or who is actively engaged in soliciting business from the state or  
2 conducting, other than in a ministerial capacity, business with the state; ~~provided, that officers of~~  
3 ~~the business entity who are located outside the state, are not residents of the state, and do not~~  
4 ~~participate in the business of the business entity within this state shall be exempted from the~~  
5 ~~requirements of this chapter;~~

6 (5) "Goods or services" shall ~~not include services provided to a state agency by:~~ include,  
7 but not be limited to, cost reimbursement contracts or contingency fee contracts;

- 8 ~~(i) Any public utility company; or~~
- 9 ~~–(ii) A federal or state banking institution or other depository institution solely in~~  
10 ~~connection with depository accounts held by the institution on behalf of a state agency;~~

11 (6) "State agency" means a branch, department, division, agency, commission, board,  
12 office, bureau, or authority of the government of the state of Rhode Island;

13 (7) (i) "State vendor" means:

14 (A) A person or business entity that sells goods or provides services to any state agency,

15 (B) A person or business entity which has an ownership interest of ten (10%) percent or  
16 more in a business entity that sells goods or provides services to any state agency, or

17 (C) A person who is an executive officer of a business entity that sells goods or provides  
18 services to any state agency,

19 (D) The spouse or minor child of a person qualifying as a state vendor under the terms of  
20 subparagraphs (A), (B) or (C) of this paragraph, ~~unless the spouse works for a vendor in~~  
21 ~~competition for state business with the reporting business entity, or~~

22 (E) A business of the business entity that is a parent or subsidiary of a business entity  
23 that sells goods or provides services to any state agency; or

24 (F) A person or business entity that bids to sell goods or provide services to any state  
25 agency.

26 (ii) "State vendor" does not mean:

27 (A) A municipality,

28 ~~(B) A corporation established pursuant to Section 501(c)(3) of the Internal Revenue~~  
29 ~~Code, 26 U.S.C. section 501(c)(3),~~

30 ~~(C) A hospital,~~

31 ~~(D)~~(B) A state or federal agency, or

32 ~~(E)~~(C) A person receiving reimbursement for an approved state expense. ~~The director of~~  
33 ~~administration is authorized to provide as a public record a list of further exemptions consistent~~  
34 ~~with the purposes of this chapter.~~

1           (8) "Officeholder" means the governor, lieutenant governor, attorney general, secretary  
2 of state, treasurer, and members of the joint committee on legislative services or candidate for the  
3 forementioned offices. The governor shall be considered the officeholder responsible for  
4 awarding all contracts by all officers and employees of, and vendors and others doing business  
5 with, executive branch state agencies not within the jurisdiction of lieutenant governor, the  
6 attorney general, the secretary of state, the treasurer or members of the joint committee on  
7 legislative services.

8           (9) "Affiliated entity" means:

9           (i) Any subsidiary of the bidding or contracting business entity;

10           (ii) Any member of the same unitary business group as the bidding or contracting  
11 business entity;

12           (iii) Any organization recognized by the United States Internal Revenue Service as a tax-  
13 exempt organization described in section 501(c) of the Internal Revenue Code of 1986 (or any  
14 successor provision of federal tax law) established by the bidding or contracting business entity;

15 or

16           (iv) any political committee for the bidding or contracting business entity.

17           SECTION 6. Section 36-10.1-2 of the General Laws in Chapter 36-10.1 entitled "Rhode  
18 Island Public Employee Pension Revocation and Reduction Act" is hereby amended to read as  
19 follows:

20           **36-10.1-2. Definitions.** -- (a) "Crime related to public office or public employment" shall  
21 mean any of the following criminal offenses:

22           (1) The committing, aiding, or abetting of an embezzlement of public funds;

23           (2) The committing, aiding, or abetting of any felonious theft by a public officer or  
24 employee from his or her employer;

25           (3) Bribery in connection with employment of a public officer or employee; and

26           (4) The committing of any felony by a public officer or employee ~~who, willfully and~~  
27 ~~with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain, or~~  
28 ~~advantage for himself or herself or for some other person~~ through the use or attempted use of the  
29 power, rights, privileges, duties, or position of his or her public office or employment position.

30           (b) "Public official" or "public employee" shall mean any current or former state or  
31 municipal elected official as defined in section 36-14-2(10), state or municipal appointed official  
32 as defined in section 36-14-2(4), and any employee of state or local government, of boards,  
33 commissions or agencies as defined in section 36-14-2(8)(i), (ii), who is otherwise entitled to  
34 receive or who is receiving retirement benefits under this title, under title 16, under title 45, under

1 title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42,  
2 whether that person is acting on a permanent or temporary basis and whether or not compensated  
3 on a full-time or part-time basis. For the purposes of this chapter, all these persons are deemed to  
4 be engaged in public employment.

5 (c) As used in this chapter, the phrase "pleads guilty or nolo contendere" shall not  
6 include any plea of nolo contendere which does not constitute a conviction by virtue of section  
7 12-10-12 or 12-18-3.

8 (d) For purposes of this chapter, "domestic partner" shall be defined as a person who,  
9 prior to the decedent's death, was in an exclusive, intimate and committed relationship with the  
10 decedent, and who certifies by affidavit that their relationship met the following qualifications:

11 (1) Both partners were at least eighteen (18) years of age and were mentally competent  
12 to contract;

13 (2) Neither partner was married to anyone else;

14 (3) Partners were not related by blood to a degree which would prohibit marriage in the  
15 state of Rhode Island;

16 (4) Partners resided together and had resided together for at least one year at the time of  
17 death; and

18 (5) Partners were financially interdependent as evidenced by at least two (2) of the  
19 following:

20 (i) Domestic partnership agreement or relationship contract;

21 (ii) Joint mortgage or joint ownership of primary residence;

22 (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C)  
23 joint credit account; (D) joint lease; and/or

24 (iv) The domestic partner had been designated as a beneficiary for the decedent's will,  
25 retirement contract or life insurance.

26 SECTION 7. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES - CRIMES AGAINST PUBLIC TRUST

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1           This act would create a new chapter within title 11, entitled "crimes against the public  
2 trust" defining and punishing specific criminal offenses. Further, the act would provide that  
3 public servants who are convicted of any felony or misdemeanor or attempted felony or  
4 misdemeanor that was knowingly committed by them while in their official capacity would be  
5 liable for the restitution to the state or municipality, as appropriate, of anything of value received  
6 by them in the course of such violation.

7           The act would codify a public corruption and white collar crime unit within the  
8 department of attorney general.

9           The act would also amend section 12-12-17 to extend the statute of limitations of ten (10)  
10 years for violations of this new chapter and section 11-41-27, wrongful conversion by officer or  
11 state or municipal employee.

12           This act would also amend various provisions relative to state vendors who are  
13 disqualified from making political contributions based on their business with the state.

14           This act would take effect upon passage.

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