

**LAWS = NEW JERSEY  
2003**

**New Jersey State Library**



**ACTS**  
OF THE  
**Second Annual Session**  
OF THE  
**Two Hundred and Tenth Legislature**  
OF THE  
STATE OF NEW JERSEY



**2003**





The following laws, enacted by the Second Annual Session of the Two Hundred and Tenth Legislature, and an index of the laws are published in accordance with R.S. 1:3-1 et seq.

Legislative Services Commission



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<sup>1</sup>Resigned 5/28/03

<sup>2</sup>Sworn in 5/29/03

<sup>3</sup>Resigned 1/15/03

<sup>4</sup>Sworn in 1/23/03

<sup>5</sup>Resigned 8/18/03

<sup>6</sup>Sworn in 11/24/03

<sup>7</sup>Resigned 5/8/03

<sup>8</sup>Sworn 5/19/03

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(Part of Bergen)  
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(Parts of Bergen, Essex, Passaic)  
KEVIN J. O'TOOLE  
DAVID C. RUSSO

<sup>1</sup>Resigned 5/16/03

<sup>2</sup>Sworn in 5/22/03

<sup>3</sup>Resigned 5/29/03

<sup>4</sup>Sworn in 6/5/03

<sup>5</sup>Resigned 6/17/03

<sup>6</sup>Sworn in 6/23/03

<sup>7</sup>Resigned 1/23/03

<sup>8</sup>Sworn in 2/24/03

<sup>9</sup>Sworn in 2/4/03

<sup>10</sup>Resigned 5/19/03

<sup>11</sup>Sworn in 5/22/03





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# **LAWS**

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**ACTS**  
ENACTED BY THE  
**Second Annual Session**  
OF THE  
**Two Hundred and Tenth Legislature**

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CHAPTER 1

AN ACT concerning the administration of epinephrine, amending P.L.1992, c.143 and supplementing chapter 2K of Title 26 of the Revised Statutes.

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

**C.26:2K-47.1 Definitions relative to administration of epinephrine.**

1. As used in this act:

"Commissioner" means the Commissioner of Health and Senior Services;

"Emergency medical service" means a program in a hospital staffed 24 hours-a-day by a licensed physician trained in emergency medicine;

"Emergency medical technician" means a person trained in basic life support services as defined in section 1 of P.L.1985, c.351 (C.26:2K-21) and who is certified by the Department of Health and Senior Services to provide that level of care.

**C.26:2K-47.2 Administration, maintenance, disposal of auto-injector device; certification; training, fee.**

2. a. An emergency medical technician who has been certified by the commissioner pursuant to subsection b. of this section to administer an epinephrine auto-injector device shall administer, maintain and dispose of the device in accordance with rules and regulations adopted by the commissioner.

Each administration of an auto-injector device pursuant to this act shall be reported to the Department of Health and Senior Services in a manner determined by the commissioner.

b. The commissioner shall establish written standards and application procedures which an emergency medical technician shall meet in order to obtain certification. The commissioner shall certify a candidate who: provides evidence of satisfactory completion of an educational program which is

approved by the commissioner and includes training in the administration of epinephrine auto-injector devices; and passes an examination in the administration of the devices which is approved by the commissioner.

c. The commissioner shall maintain a registry of all persons certified pursuant to this section, which shall include, but not be limited to:

- (1) the person's name and residence; and
- (2) the date that certification was granted.

d. The commissioner shall annually compile a list of emergency medical technicians who have obtained certification to administer an epinephrine auto-injector device pursuant to this section, which shall be available to the public.

e. A fee may be charged to a person enrolled in an educational program approved by the department which includes training in the administration of an epinephrine auto-injector device in order to cover the cost of training and testing for certification pursuant to this section, if the entity that provides the educational program is not reimbursed for the cost of that training and testing from the "Emergency Medical Technician Training Fund" established pursuant to section 3 of P.L. 1992, c. 143 (C.26:2K-56).

**C.26:2K-47.3 Purchasing, storing, transporting devices.**

3. Notwithstanding the provisions of any other law to the contrary, an emergency medical technician, first aid, ambulance or rescue squad, or other entity employing the services of an emergency medical technician certified to administer an epinephrine auto-injector device pursuant to section 2 of this act may purchase, store or transport the devices pursuant to an agreement with an emergency medical service, a hospital or a State licensed physician trained in emergency medicine, for the purpose of providing basic life support services as defined in section 1 of P.L. 1985, c. 351 (C.26:2K-21).

**C.26:2K-47.4 Revocation of certification.**

4. The commissioner, after notice and hearing, may revoke the certification granted pursuant to section 2 of this act for a violation of any provision of this act or any rule or regulation adopted by the commissioner pursuant to this act.

**C.26:2K-47.5 Authorization for advertising, disseminating information.**

5. A person shall not advertise or disseminate information to the public that the person is certified to use an epinephrine auto-injector device unless the person is authorized to do so pursuant to this act.

**C.26:2K-47.6 Immunity from civil liability.**

6. An emergency medical technician certified to administer an epinephrine auto-injector device pursuant to section 2 of this act, licensed physician, hospital or its board of trustees, officers and members of the medical staff, nurses, paramedics or other employees of the hospital, or officers and members of

a first aid, ambulance or rescue squad shall not be liable for any civil damages as the result of an act or the omission of an act committed while in training to administer, or in the administration of, the device in good faith and in accordance with the provisions of this act.

**C.26:2K-47.7 Violations, penalties.**

7. A person who violates the provisions of this act is liable to a penalty of \$200 for the first offense and \$500 for each subsequent offense. If the violation of this act is of a continuing nature, each day during which it continues shall constitute a separate offense for the purposes of this section. The penalty shall be collected and enforced by summary proceedings under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

**C.26:2K-47.8 Construction of act.**

8. Nothing in this act shall be construed to:
- permit a person certified to administer an epinephrine auto-injector device pursuant to section 2 of this act to perform the duties or fill the position of another health care professional employed by a hospital;
  - interfere with an emergency service training program authorized and operated under the provisions of the "New Jersey Highway Traffic Safety Act of 1987," P.L.1987, c.284 (C.27:5F-18 et seq.);
  - prohibit the administration of an epinephrine auto-injector device by a person acting pursuant to a lawful prescription; or
  - prevent a licensed and qualified member of a health care profession from administering an epinephrine auto-injector device if the duties are consistent with the accepted standards of the member's profession.

9. Section 4 of P.L.1992, c.143 (C.26:2K-57) is amended to read as follows:

**C.26:2K-57 Reimbursement of certified agency, organization, entity.**

4. The commissioner, in accordance with recommendations adopted by the council, and within the limits of those monies in the fund, shall annually reimburse any private agency, organization or entity which is certified by the commissioner to provide training and testing for volunteer ambulance, first aid and rescue squad personnel who are seeking emergency medical technician-ambulance, or EMT-A, or emergency medical technician-defibrillation, or EMT-D, certification or recertification, or an entity which provides an educational program in the administration of epinephrine auto-injector devices that is approved by the commissioner pursuant to P.L.2003, c.1 (C.26:2K-47.1 et al.), and for which that entity is not otherwise reimbursed.

The priority for reimbursement from the fund to an agency, organization or entity for training and testing of volunteer ambulance, first aid and rescue

squad personnel shall be in the following order: EMT-A certification, EMT-A recertification, EMT-D certification, EMT-D recertification and certification to administer epinephrine auto-injector devices pursuant to P.L.2003, c.1 (C.26:2K-47.1 et al.).

**C.26:2K-47.9 Rules, regulations.**

10. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health and Senior Services shall adopt rules and regulations to effectuate the purposes of this act, including medical protocols for the administration of epinephrine auto-injector devices, in consultation with the State mobil intensive care advisory council and the New Jersey State First Aid Council, Inc. The rules and regulations shall address age appropriateness in the administration of epinephrine.

11. This act shall take effect on the 120th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 27, 2003.

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CHAPTER 2

AN ACT requiring the Department of Transportation to conduct an emergency response priority control system study program.

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

1. The Department of Transportation shall establish an emergency response priority control system study program. The study program shall employ computer-assisted techniques to simulate a priority control system capable of sending a communication from an authorized emergency vehicle to a traffic control signal to cause the traffic control signal to display a green light to permit the authorized emergency vehicle to travel through the traffic control signal when the authorized emergency vehicle is responding to an emergency. The study shall design and test a configuration for a priority control system that would allow an authorized emergency vehicle to pass expeditiously through a traffic control signal once a communication has been received from the authorized emergency vehicle. The department may use such resources

as may be available for the support of the study, but the cost of the study shall not exceed \$100,000.

2. The Department of Transportation shall design the study program established pursuant to section 1 of this act for the municipalities served by the North Hudson Regional Fire and Rescue, a regionalized fire department.

3. The Commissioner of Transportation shall evaluate the results of the emergency response priority control system study program established by this act and shall report to the Legislature and the Governor within one year of the effective date of P.L.2003, c.2 as to the effectiveness of the system along with recommendations as to whether or not the system should be implemented.

4. This act shall take effect immediately

Approved January 27, 2003.

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### CHAPTER 3

AN ACT concerning the waiver of municipal employee health coverage, amending P.L.1995, c.259 and supplementing chapter 64A of Title 18A of the New Jersey Statutes.

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

1. Section 37 of P.L.1995, c.259 (C.40A:10-17.1) is amended to read as follows:

**C.40A:10-17.1** County, municipal, contracting unit employee permitted to waive benefits coverage under N.J.S.40A:10-16 et seq.

37. Notwithstanding the provisions of any other law to the contrary, a county, municipality or any contracting unit as defined in section 2 of P.L.1971, c.198 (C.40A:11-2) which enters into a contract providing group health care benefits to its employees pursuant to N.J.S.40A:10-16 et seq., may allow any employee who is eligible for other health care coverage to waive coverage under the county's, municipality's or contracting unit's plan to which the employee is entitled by virtue of employment with the county, municipality or contracting unit. The waiver shall be in such form as the county, municipality or contracting unit shall prescribe and shall be filed with the county, municipality or contracting unit. In consideration of filing such a waiver, a county,

municipality or contracting unit may pay to the employee annually an amount, to be established in the sole discretion of the county, municipality or contracting unit, which shall not exceed 50% of the amount saved by the county, municipality or contracting unit because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to resume coverage under the same terms and conditions as apply to initial coverage if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall file a declaration with the county, municipality or contracting unit, in such form as the county, municipality or contracting unit shall prescribe, that the waiver is revoked. The decision of a county, municipality or contracting unit to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

2. Section 36 of P.L.1995, c.259 (C.52:14-17.31a.) is amended to read as follows:

**C.52:14-17.31a Municipal or authority employee permitted to waive benefits coverage under State Health Benefits Program.**

36. Notwithstanding the provisions of any other law to the contrary, a municipality, or a municipal authority created by a municipality pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or P.L.1957, c.183 (C.40:14B-1 et seq.), or a county college which participates in the State Health Benefits Program, established pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), may allow any employee who is eligible for other health care coverage to waive coverage under the State Health Benefits Program to which the employee is entitled by virtue of employment with the municipality, the municipal authority or the county college. The waiver shall be in such form as the Director of the Division of Pensions and Benefits shall prescribe and shall be filed with the division. After such waiver has been filed and for so long as that waiver remains in effect, no premium shall be required to be paid by the municipality, the municipal authority, or the county college as the case may be, for the employee or the employee's dependents. Not later than the 180th day after the date on which the waiver is filed, the division shall refund to the municipality, the municipal authority or the county college the amount of any premium previously paid by the municipality, the municipal authority or the county college with respect to any period of coverage which followed the filing date. In consideration of filing such a waiver, a municipality, a municipal authority or a county college may pay to the employee annually an amount, to be



established in the sole discretion of the municipality, the municipal authority or the county college, which shall not exceed 50% of the amount saved by the municipality, the municipal authority or the county college because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to immediately resume coverage if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received from the municipality, the municipal authority or the county college which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall notify the municipality, the municipal authority or the county college in writing and file a declaration with the division, in such form as the director of the division shall prescribe, that the waiver is revoked. The decision of a municipality, a municipal authority or a county college to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

**C.18A:64A-13.1 County college employee permitted to waive health care coverage.**

3. Notwithstanding the provisions of any other law to the contrary, a county college that enters into a contract providing group health care benefits to its employees may allow any employee who is eligible for other health care coverage to waive coverage under the county college's plan to which the employee is entitled by virtue of employment with the county college. The waiver shall be in such form as the county college shall prescribe and shall be filed with the county college. In consideration of filing such a waiver, a county college may pay to the employee annually an amount, to be established in the sole discretion of the county college, which shall not exceed 50% of the amount saved by the county college because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to resume coverage under the same terms and conditions as apply to initial coverage if the employee ceases to be covered through the other health care coverage for any reason, including, but not limited to, the retirement or death of the employee's spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall file a declaration with the county college in such form as the county college shall prescribe, that the waiver is revoked. The decision of a county college to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

4. This act shall take effect immediately.

Approved January 27, 2003.

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## CHAPTER 4

AN ACT concerning the implementation of school breakfast programs and supplementing Title 18A of the New Jersey Statutes.

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

**C.18A:33-9 Findings, declarations relative to school breakfast programs.**

1. The Legislature finds and declares that:
  - a. The School Breakfast Program is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions nationwide, and supplying to each participating child at least one-fourth of the nutrients needed daily;
  - b. The School Breakfast Program was established by the federal government in 1966 with the purpose of providing a nutritious, well-balanced breakfast to promote sound eating habits, and fostering good health and academic achievement for school-age children;
  - c. New Jersey ranks fiftieth in the nation for participation in the School Breakfast Program by schools offering school lunch, and has seen only modest increases in participation in recent years;
  - d. Research shows that school breakfast increases attendance and decreases tardiness, improves academic performance both in class and on standardized tests, improves attentiveness, and reduces emotional and behavioral problems among students from all backgrounds; and
  - e. Therefore, it is clearly in the public interest for the State to require that school districts with large populations of students eligible for federally subsidized meals offer the School Breakfast Program and publicize the program in their communities.

**C.18A:33-10 Establishment of School Breakfast Program in certain schools.**

2. a. A public school operated by a local or regional school district of the State in which 20% or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced price meals under the federal School Lunch Program or the federal School Breakfast Program, shall establish a School Breakfast Program in the school.

The school district shall submit a plan for the establishment of school breakfast programs for each school in the district subject to the requirements of this section that is in compliance with and pursuant to the School Breakfast

Program administered by the State Department of Agriculture. The plan for each school shall be submitted to the Department of Agriculture by the date required by subsection b. of this section in a form and manner prescribed by the Secretary of Agriculture.

b. (1) A school district shall submit a plan for all grades of each school that has one or more of the grades pre-K through sixth grade and for which a plan is required by subsection a. of this section on or before November 1, 2003.

(2) A school district shall submit a plan for all grades of each school that is not described in paragraph (1) of this subsection and for which a plan is required by subsection a. of this section on or before November 1, 2004.

c. The Department of Agriculture, in consultation with the Department of Education, shall review each school breakfast plan submitted pursuant to this section and make recommendations, if necessary, on how the school breakfast program can operate within the limits of the federal and State reimbursement rates for the federal School Breakfast Program.

d. The Department of Agriculture shall notify each school district that submits a school breakfast plan pursuant to this section of the completion of the department's review and any recommended changes to the plan, within three months of the receipt of the plan, but no later than the February 1 following the date required for submission of the plan pursuant to subsection b. of this section.

e. A school district subject to the requirements of this section shall establish a school breakfast program in each of its schools, based on the plan submitted by the school district to the Department of Agriculture, by September 1, 2004 for schools for which plans are required to be submitted by paragraph (1) of subsection b. of this section and by September 1, 2005 for schools for which plans are required to be submitted by paragraph (2) of subsection b. of this section.

f. (1) If a school district does not submit a school breakfast plan to the Department of Agriculture pursuant to subsection a. of this section by the date required by subsection b. of this section, it shall establish a school breakfast program in each of its schools in which a program is required pursuant to subsection a. of this section based on a model plan provided by the department.

(2) The model plan shall include recommendations on how the school breakfast program can operate within the limits of the federal and State reimbursement rates for the federal School Breakfast Program.

(3) The Department of Agriculture shall provide the model plan to the school district no later than March 1, 2004 for schools for which plans are required to be submitted by paragraph (1) of subsection b. of this section and by March 1, 2005 for schools for which plans are required to be submitted by paragraph (2) of subsection b. of this section and the school district shall

establish the school breakfast program in each of its schools based on the plan by September 1, 2004 for schools for which plans are required to be submitted by paragraph (1) of subsection b. of this section and by September 1, 2005 for schools for which plans are required to be submitted by paragraph (2) of subsection b. of this section.

**C.18A:33-11 Implementation of school breakfast program by district.**

3. In implementing a school breakfast program under this act, a school district shall:

- a. publicize the availability of the school breakfast program to parents and students;
- b. make every effort to ensure that income-eligible students are not recognized as program participants by the student body, faculty, or staff in a manner distinct from student participants who are not income-eligible. Such efforts shall include, but not be limited to, the establishment of a meal plan or voucher system under which students receiving subsidized breakfasts are not distinguished from students receiving non-subsidized breakfasts; and
- c. make every effort to encourage students who are not income-eligible to participate in the program.

**C.18A:33-12 One-year waiver permitted under certain circumstances.**

4. a. The Department of Agriculture may grant a one-year waiver of the requirements of this act to a school in a school district subject to the requirements of this act that lacks the staff, facilities or equipment to offer a school breakfast program, or the means to finance the hiring or acquisition of such staff, facilities or equipment, if the district submits a school breakfast plan to the department pursuant to the requirements of section 2 of P.L.2003, c.4 (C.18A:33-10) and requests a waiver for the specific school.

b. A school district that requests a waiver pursuant to this section shall provide such information as the Department of Agriculture shall specify pursuant to regulation to justify the request. The information shall include, but not be limited to, a description of the specific impediments to implementing the program, the specific actions that will be taken to remove those impediments, and the specific steps required to successfully implement the program in the following school year.

**C.18A:33-13 Construction of act.**

5. Nothing in this act shall be construed to prevent a school district not subject to this act from implementing a school breakfast program pursuant to section 2 of this act.

**C.18A:33-14 Rules, regulations.**

6. The Department of Agriculture, in consultation with the Department of Education, shall adopt rules and regulations, pursuant to the "Administrative

Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the revision of school breakfast plans for schools that have a participation rate of less than 50% of eligible students in a school breakfast program during any year of the program, and other matters necessary to effectuate the purposes of this act

7. This act shall take effect immediately.

Approved January 27, 2003.

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## CHAPTER 5

AN ACT concerning election districts and amending R.S.19:4-10.

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

1. Section 1 of P.L.1976, c.83 (C.19:4-10) is amended to read as follows:

**C.19:4-10 Geographical composition.**

1. As nearly as practicable, each election district shall be composed of contiguous and compact areas having clearly definable boundaries and shall be contained wholly within only one ward, only one municipality, only one county freeholder district, one State legislative district, and only one other district from which any public official is elected, except that for the purpose of establishing Congressional districts pursuant to Article II, Section II of the New Jersey Constitution, an election district may be split between two such districts. The election districts within each municipality shall be numbered consecutively. If any election district is split between two Congressional districts, one of the districts shall also be assigned the letter "a" and the other district shall be assigned the letter "b".

2. This act shall take effect on January 1 following enactment.

Approved January 27, 2003.

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## CHAPTER 6

AN ACT concerning urban enterprise zones impacted by fiscal year 2003 transfers from the enterprise zone assistance fund accounts, supplementing P.L.1983, c.303 (C.52:27H-60 et seq.) and amending P.L.2002, c.38.

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

**C.52:27H-66.6a UEZ reimbursed for municipal account moneys.**

1. Notwithstanding the provisions of section 7 of P.L.1983, c.303 (C.52:27H-66), section 21 of P.L.1983, c.303 (C.52:27H-80), section 11 of P.L.2001, c.347 (C.52:27H-66.6) or any provision of law to the contrary, any designated enterprise zone that has a separate municipal account in the enterprise zone assistance fund that is reduced by the transfer from that fund made pursuant to section 69 of P.L.2002, c.38, shall have extended any designated five-year period under which it is operating on July 1, 2002 for such period of time as is necessary for the higher percentage rate of separate enterprise zone assistance fund deposits to yield such additional sums as is necessary to fully compensate for the amount transferred, except that any zone beginning an extension of designation pursuant to section 11 of P.L.2001, c.347 (C.52:27H-66.6) within twelve months following the effective date of this section shall have extended the first five-year period of its extension of designation for such period of time as is necessary to fully compensate for the amount transferred.

2. Notwithstanding the provisions of any law to the contrary, each municipality in which an urban enterprise zone is designated whose separate account in the enterprise zone assistance fund is reduced by the transfer from that fund made pursuant to section 69 of P.L.2002, c.38, shall be allowed during State fiscal year 2003 to borrow without interest an amount up to an amount equal to its annual account payment in State fiscal year 2000, 2001 or 2002, whichever is greatest, from amounts on deposit in various separate municipal accounts in the enterprise zone assistance fund that would not otherwise be utilized in State fiscal year 2003 for projects for the designated municipality. The amount borrowed shall be repaid by the borrowing municipality to the respective project accounts within the enterprise zone assistance fund in annual payments of at least 25% of the amount borrowed during State fiscal years 2004 through 2007.

3. Section 69 of P.L.2002, c.38 is amended to read as follows:

69. Notwithstanding the provisions of any law to the contrary, \$46,000,000 deposited in the Urban Enterprise Assistance Fund on or after July 1, 2002 is transferred to the General Fund as State revenue. Provided, however, that no money shall be transferred to the General Fund from project funds for municipalities whose account receipts in FY 2001 were less than \$1 million.

4. This act shall take effect immediately, except that section 1 shall take effect on July 1, 2003.

Approved January 27, 2003.

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## CHAPTER 7

AN ACT authorizing the State Treasurer to sell certain surplus real property and improvements owned by the State.

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

1. a. The Department of the Treasury, on behalf of the Department of Military and Veterans' Affairs, is authorized to sell and convey, as surplus real property, all of the State's interest in the 11+ acre parcel of land, and the small arms firing range thereon, located in the Township of West Orange, Essex County, and constituting a portion of Block 171, Lot 3 on the tax map of the Township of West Orange.

b. As a condition of the conveyance, the Kessler Institute parking lots shall be deed restricted to permit the Department of Military and Veterans' Affairs to utilize the lots during military drills as long as an armory operates on the contiguous property.

c. The sale and conveyance authorized by subsection a. of this section shall be executed in accordance with the terms and conditions approved by the State House Commission.

d. A portion of the proceeds from the sale and conveyance authorized by subsection a. of this section shall be used to reimburse the federal government for a portion of the funding for the small arms firing range located on the portion of Block 171, Lot 3 being conveyed. The remaining proceeds shall be deposited in the General Fund of the State.

2. This act shall take effect immediately.

Approved January 27, 2003.

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## CHAPTER 8

AN ACT concerning penalties for violations of certain laws pertaining to shellfish and marine fisheries, amending P.L.1979, c.199, and amending and supplementing P.L.1979, c.321 (C.58:24-1 et seq.).

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

1. Section 73 of P.L.1979, c.199 (C.23:2B-14) is amended to read as follows:

**C.23:2B-14 "Act" defined, penalties; enforcement.**

73. For purposes of this section, the "act" means and includes all the new sections and amended sections contained herein, all the remaining sections of Title 50 of the Revised Statutes, sections 23:3-41, 23:3-46, 23:3-47, 23:3-48, 23:3-51, 23:3-52, 23:5-9, 23:5-16, 23:9-114, 23:9-115 and 23:9-120 of Title 23 of the Revised Statutes, and sections 1, 2, and 3 of P.L.1941, c.211 (C.23:5-24.1 to 23:5-24.3).

The commissioner may utilize any or all of the following remedies for any violation of this act:

a. (1) A person who violates the provisions of this act or of any rule, regulation, license or permit adopted or issued pursuant to this act shall be liable to a penalty of not less than \$300 or more than \$3,000 for the first offense and not less than \$500 or more than \$5,000 for any subsequent offense, unless the commissioner has established an alternate penalty for a specific offense pursuant to paragraph (2) of this subsection.

(2) The Commissioner of Environmental Protection, with the approval of the Marine Fisheries Council, may, by regulation, establish a penalty schedule for any specific violation of this act or of any rule or regulation adopted pursuant to this act. No such penalty may be less than \$30 or more than \$100 for the first offense or less than \$50 or more than \$200 for any subsequent offense. Any penalty provided for by this act or by the fee schedule adopted by the commissioner shall be collected in a civil action by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999." If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

b. (1) A person who violates the provisions of this act or any rule or regulation or any license or permit adopted or issued pursuant to this act shall be liable to the revocation or suspension of any license or permit held by the violator pursuant to this act for such period of time as the court may choose, except when the rule or regulation violated includes a mandatory revocation or suspension schedule in which case that schedule shall determine the period of time of the revocation or suspension.

(2) In the case of a person who knowingly violates the provisions of R.S.50:2-11, R.S.50:3-13, R.S.50:4-2 or R.S.50:4-3, or any rule or regulation



or any license or permit adopted or issued pursuant thereto, the violator shall be subject to a mandatory revocation or suspension of the license or permit or privilege for the taking of oysters, clams or other shellfish held by the violator, or in the case of a violator without the necessary license or permit the loss of the privilege to take oysters, clams or other shellfish, for a period of three years for a first offense, five years for a second offense, and 10 years for the third and any subsequent offense. For purposes of this paragraph, a knowing violator shall include, but need not be limited to: (a) a person who is the holder of a commercial shellfish license or permit; (b) a person who is the holder of a recreational shellfish license or permit who is in possession of more than the daily recreational shellfish limit; (c) a person without any shellfish license or permit who is in possession of more than the daily recreational shellfish limit; (d) a person who is the holder of a recreational shellfish license or permit who is engaging in shellfish activities with the holder of a commercial shellfish license or permit; or (e) a person without the necessary shellfish license or permit who is engaging in shellfish activities with the holder of a commercial shellfish license or permit.

c. If a person violates any of the provisions of this act, or any rule or regulation or any license or permit adopted or issued pursuant to this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation or violations and the court may proceed in the action in a summary manner.

The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

d. In addition to the penalties prescribed by this section, a person who violates the provisions of R.S.50:2-11, R.S.50:3-13, R.S.50:4-2 or R.S.50:4-3, or any rule or regulation or any license or permit adopted or issued pursuant thereto, shall be subject to the forfeiture of any vessel, vehicle, or equipment used in the commission of the violation. A designated conservation officer of the Department of Environmental Protection, a member of the State Police, or any other law enforcement officer may seize and secure any vessel, vehicle, or equipment used in the commission of such a violation. Upon the seizure of the vessel, vehicle, or equipment, the conservation officer, member of the State Police, or other law enforcement officer shall immediately thereafter institute a civil action to determine if the forfeiture is warranted in the court in which the penalty action was filed pursuant to this section, which court shall have jurisdiction to adjudicate the forfeiture action. The owner or any person having a security interest in the vessel, vehicle, or equipment may secure its release by depositing with the clerk of the court in which the action is pending a bond with good and sufficient sureties in an amount to be fixed by the court,

conditioned upon the return of the vessel, vehicle, or equipment to the Department of Environmental Protection upon demand after completion of the court proceeding. The court may proceed in a summary manner and may direct the confiscation of the vessel, vehicle, or equipment by the department for its use or for disposal by sale or public auction. Moneys collected by the department through the sale or public auction of the vessel, vehicle, or equipment shall be used by the Division of Fish and Wildlife for the enforcement of the provisions of this act.

2. Section 4 of P.L. 1979, c.321 (C.58:24-4) is amended to read as follows:

**C.58:24-4 Distribution, sale or possession of shellfish; prima facie evidence of intent for use as food.**

4. For the purposes of P.L. 1979, c.321 (C.58:24-1 et seq.), the distribution, sale, offering for sale, or having in possession with intent to distribute or sell, any oysters, clams or other shellfish shall be prima facie evidence that such shellfish were intended for use as food.

3. Section 6 of P.L. 1979, c.321 (C.58:24-6) is amended to read as follows:

**C.58:24-6 Order on growing, handling of shellfish, disposal of polluting matter.**

6. The department may make such specific orders regarding the growing and handling of oysters, clams or other shellfish and the disposal of polluting matter which may affect the purity of oysters, clams or other shellfish, as it may deem necessary to enforce the provisions of P.L. 1979, c.321 (C.58:24-1 et seq.).

4. Section 9 of P.L. 1979, c.321 (C.58:24-9) is amended to read as follows:

**C.58:24-9 Violations; penalties.**

9. A person who violates any of the provisions of P.L. 1979, c.321 (C.58:24-1 et seq.) or any rule, regulation, order or permit adopted or issued pursuant thereto is guilty of a petty disorderly persons offense and a person convicted of a subsequent offense is guilty of a disorderly persons offense.

5. Section 10 of P.L. 1979, c.321 (C.58:24-10) is amended to read as follows:

**C.58:24-10 Vessel, vehicle or equipment used in violations; confiscation and forfeiture; disposal.**

10. Any vessel, vehicle, or equipment used in violation of P.L. 1979, c.321 (C.58:24-1 et seq.) or any rule, regulation, order or permit issued or adopted pursuant thereto may be confiscated and forfeited. The department may seize and secure any vessel, vehicle, or equipment and shall immediately thereafter give notice thereof to a court located in the county where the seizure is made

which shall, at an appointed time and place, summarily hear and determine whether the vessel, vehicle, or equipment was unlawfully used and if it does so determine, it may direct the confiscation and forfeiture of the vessel, vehicle, or equipment to the use of the department. The Commissioner of Environmental Protection may dispose of any confiscated and forfeited vessel, vehicle, or equipment at the commissioner's discretion. Nothing contained in P.L.1979, c.321 (C.58:24-1 et seq.) shall be construed to limit the powers and responsibilities of the Department of Health and Senior Services pursuant to any provisions of Title 24 of the Revised Statutes.

**C.58:24-10.1 Additional penalties.**

6. a. In addition to the penalties prescribed in sections 9 and 10 of P.L.1979, c.321 (C.58:24-9 and 58:24-10), a person who knowingly violates any of the provisions of P.L.1979, c.321 (C.58:24-1 et seq.), or any rule, regulation, order or permit adopted or issued pursuant thereto, shall be subject to the mandatory revocation or suspension of any license or permit or privilege required by the Department of Environmental Protection for the taking of oysters, clams or other shellfish, or in the case of a violator without the necessary license or permit the loss of the privilege to take oysters, clams or other shellfish, for a period of three years for a first offense, five years for a second offense, and 10 years for the third offense and any subsequent offense.

b. For purposes of this section, a knowing violator shall include, but need not be limited to (1) a person who is the holder of a commercial shellfish license or permit, (2) a person who is the holder of a recreational shellfish license or permit who is in possession of more than the daily recreational shellfish limit, (3) a person without any shellfish license or permit who is in possession of more than the daily recreational shellfish limit, (4) a person who is the holder of a recreational shellfish license or permit who is engaging in shellfish activities with the holder of a commercial shellfish license or permit, or (5) a person without the necessary shellfish license or permit who is engaging in shellfish activities with the holder of a commercial shellfish license or permit.

7. This act shall take effect on the first day of the third month following enactment.

Approved January 27, 2003.

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CHAPTER 9

AN ACT exempting from New Jersey gross income tax the income of victims who died in the September 11, 2001 terrorist attacks against the United States, supplementing Title 54A of the New Jersey Statutes.

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

**C.54A:6-30 Victims of September 11, 2001 terrorist attacks, income exempt from New Jersey gross income tax.**

1. a. Gross income shall not include the income otherwise taxable under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on September 11, 2001, with respect to the taxpayer's taxable year in which falls the date of death of the taxpayer and with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

b. This section shall not apply to any individual identified by the Attorney General of the United States to have been a participant or conspirator in those attacks.

c. The amount of any income tax paid that is excludable pursuant to this section shall be an overpayment for the purposes of N.J.S.54A:9-7, provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. Notwithstanding the periods of limitation for refunds of overpayments set forth in N.J.S.54A:9-8, a claim for a refund of overpayment shall be filed on behalf of a taxpayer within four years after the taxpayer's taxable year in which falls the date of death of the taxpayer.

2. This act shall take effect immediately and shall apply to taxable years ending before, on, or after September 11, 2001.

Approved January 27, 2003.

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## CHAPTER 10

**AN ACT concerning the membership of the State Board of Mortuary Science of New Jersey and amending P.L.1952, c.340.**

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

1. Section 4 of P.L.1952, c.340 (C.45:7-35) is amended to read as follows:

**C.45:7-35 State Board of Mortuary Science of New Jersey created.**

4. There is hereby created in the Division of Consumer Affairs in the Department of Law and Public Safety a State Board of Mortuary Science

of New Jersey, which board shall consist of 13 members as follows: two shall be public members and one shall be a State executive department member appointed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.); eight members, each of whom shall be a citizen of the United States and a resident of the State of New Jersey, duly licensed as a practitioner of mortuary science and shall have had a minimum of five consecutive years of experience and practice as a practitioner of mortuary science in this State immediately preceding his appointment; and two additional public members, one of whom shall be 62 years of age or older. Members of the board shall be appointed annually by the Governor for a term of three years and shall not serve more than two successive terms. Each member, other than the State executive department member, shall hold office after the expiration of his term of office until his successor shall be duly appointed and qualified. Vacancies occurring by reason of the expiration of term of office shall be filled by the Governor in the calendar year in which any such vacancy occurs for a term of three years from the year of appointment. Vacancies occurring by reason of the failure or neglect of the Governor to make appointments upon the expiration of terms of office as hereinabove provided and vacancies occurring for any other reason whatsoever shall be filled by the Governor for the unexpired term only.

Any member of the State Board of Mortuary Science of New Jersey, other than the State executive department member, may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

The Board of Embalmers and Funeral Directors of the State of New Jersey is hereby abolished and all of its functions, powers and duties, except as may be inconsistent with the provisions of this act, are hereby transferred to and vested in the State Board of Mortuary Science of New Jersey established hereunder. The State Board of Mortuary Science of New Jersey established hereunder and its functions, powers and duties shall in all respects be subject to the provisions of sections 30, 32, 33, 35, 37, 39 and 40 of P.L.1948, c.439 (C.52:17B-30, 52:17B-32, 52:17B-33, 52:17B-35, 52:17B-37, 52:17B-39 and 52:17B-40).

2. This act shall take effect immediately.

Approved January 27, 2003.

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## CHAPTER 11

AN ACT concerning adoption agencies and amending and supplementing P.L.1977, c.367.

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

1. Section 4 of P.L.1977, c.367 (C.9:3-40) is amended to read as follows:

**C.9:3-40 Qualification of agencies for approval.**

4. The Commissioner of Human Services shall promulgate rules and regulations relating to the qualification of agencies for approval to make placements for adoption in New Jersey. The rules and regulations shall include, but shall not be limited to, standards of professional training and experience of staff, requirements relating to responsibilities and the character of trustees, officers or other persons supervising or conducting the placement for adoption program, adequacy of facilities, maintenance and confidentiality of casework records and furnishing of reports. The requirements relating to the character of trustees, officers or other persons supervising or conducting the placement for adoption program at the agency shall include a prohibition on engaging in, or the permitting of, any conduct that is deemed inappropriate to the purposes of the agency. In the selection of adoptive parents the standard shall be the best interests of the child; and an approved agency shall not discriminate with regard to the selection of adoptive parents for any child on the basis of age, sex, race, national origin, religion or marital status provided, however, that these factors may be considered in determining whether the best interests of a child would be served by a particular placement for adoption or adoption.

**C.9:3-40.1 Denial, suspension, revocation, refusal to renew agency's certificate on character requisites.**

2. The Department of Human Services may deny, suspend, revoke or refuse to renew an adoption agency's certificate of approval if the agency is in violation of the requirements relating to the character of trustees, officers or other persons supervising or conducting a placement for adoption program established pursuant to section 4 of P.L.1977, c.367 (C.9:3-40).

3. This act shall take effect immediately.

Approved January 27, 2003.

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## CHAPTER 12

AN ACT limiting liability of dissolved limited liability companies to creditors in certain circumstances and supplementing P.L.1993, c.210 (C.42:2B-1 et seq.).

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

**C.42:2B-49.1 Notice by dissolved company requiring creditors to present claims in writing; "creditor" defined.**

1. a. At any time after a limited liability company has been dissolved, the limited liability company, the liquidating trustee or a receiver appointed for the limited liability company may give notice requiring all creditors to present their claims in writing. The notice shall be published three times, once in each of three consecutive weeks, in a newspaper of general circulation in the county in which the registered office of the limited liability company is located and shall state that all persons who are creditors of the limited liability company shall present written proof of their claims to the limited liability company, the liquidating trustee or a receiver appointed for the limited liability company at a place and on or before a date named in the notice, which date shall not be less than six months after the date of the first publication.

b. On or before the date of the first publication of the notice as provided in subsection a. of this section, the limited liability company, the liquidating trustee or a receiver appointed for the limited liability company shall mail a copy of the notice to each known creditor of the limited liability company. The giving of this notice shall not constitute recognition that any person to whom that notice is directed is a creditor of the limited liability company other than for the purpose of receipt of notice hereunder.

c. Proof of the publication and mailing authorized by this section shall be made by an affidavit filed with the Division of Commercial Recording in the Department of the Treasury.

d. As used in this act, "creditor" means all persons to whom the limited liability company is indebted, and all other persons who have claims or rights against the limited liability company, whether liquidated or unliquidated, matured or unmatured, direct or indirect, absolute or contingent, secured or unsecured.

**C.42:2B-49.2 Creditors not complying barred from suing, exceptions.**

2. Any creditor who does not file a claim as provided within the time limit specified in the notice given pursuant to section 1 of this act, and all those claiming through the creditor or under the claim, shall be forever barred from suing on the claim or otherwise realizing upon or enforcing it except, in the case of a creditor who shows good cause for not having previously filed a claim, to the extent the Superior Court may allow:

a. against the limited liability company to the extent of any undistributed assets; or

b. if the undistributed assets are not sufficient to satisfy a claim, against a member to the extent of the member's ratable part of the claim, out of the assets of the limited liability company distributed to the member in dissolution.

This section shall not apply to claims which are in litigation on the date of the first publication of the notice pursuant to section 1 of this act.

3. This act shall take effect immediately.

Approved January 28, 2003.

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## CHAPTER 13

AN ACT concerning motor vehicles, abolishing the Division of Motor Vehicles in the Department of Transportation, establishing the New Jersey Motor Vehicle Commission and revising parts of the statutory law.

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

**C.39:2A-1 Short title.**

1. Sections 1 through 30, 32 through 35, 40, 41, 105, 109, 110 and 120 through 123 of this act shall be known and may be cited as "The Motor Vehicle Security and Customer Service Act."

**C.39:2A-2 Findings, declarations relative to New Jersey Motor Vehicle Commission.**

2. The Legislature finds and declares that:

a. The Division of Motor Vehicle Services (DMV) is one of the State's principal customer service agencies with regular and direct contact with virtually every citizen;

b. The DMV has over 15 million contacts a year with the public, including 39 million transactions, more than any other State agency;

c. The DMV has responsibility for issuing and certifying motor vehicle driver's licenses, ensuring the proper registration of motor vehicles, as well as conducting safety and emissions inspections of motor vehicles;

d. The public expects courteous, efficient and accessible service from government agencies, including the DMV;

e. The DMV's failed security systems are contributing to a growing national problem of identity theft that is costing New Jersey and the nation millions of dollars each week;

f. In the past, the DMV has been unable to deal with fraud and corruption because of inadequate funding, training, security, internal controls and oversight;



- g. The DMV must improve its security system and equipment, and its fraud detection, training and monitoring so that fraudulent driver's licenses, such as those used in the furtherance of terroristic activities, will be eliminated;
- h. Internal audits and controls and investigations are also needed to detect patterns of fraud, theft, corruption, identity theft and mismanagement in the issuance of driver's licenses, registrations, and titles because DMV documents must be more resistant to compromise;
- i. Criminals have used counterfeit passports, Social Security cards, county identification cards, pay stubs and W-2 forms to obtain fraudulent driver's licenses and identification cards in furtherance of identity-theft schemes;
- j. Proper identification must be required at all phases of the licensing and driver testing process to assure that only those persons qualified to legally obtain licenses do so;
- k. It is essential that DMV records be matched with Social Security Administration records in order to verify the validity of Social Security numbers in DMV databases;
- l. Cameras, armed security guards, panic buttons, alarms, safety upgrades, card access systems and door replacements are needed in order to prevent fraud;
- m. Employees or agents of the DMV should be required to undergo background checks and fingerprinting;
- n. Cleaning crews and maintenance workers at DMV facilities must be supervised by DMV employees to ensure the security of DMV records;
- o. In a time of rapidly changing information technology and Internet communications, the DMV lacks an information technology plan to bring it to the 21st Century and still operates on a decades-old computer network with patchwork hardware, antiquated software and obsolete display terminals that lack processing abilities;
- p. Previous DMV efforts to implement complex technological mandates have failed, due to bureaucratic mismanagement, inefficient planning and inadequate oversight, as characterized by reports of the State Commission of Investigation;
- q. The DMV has become a reactive agency, struggling to keep up with the demands of newly legislated responsibilities, and without the necessary resources to prevent fraud and corruption at its front-line agencies and without the ability to provide even adequate service to its six million customers;
- r. The DMV needs a strategic business plan, which is a key to the operation of an agency, and must work within the confines of such plan in an effort to adopt best practices, improve customer service and gain back the confidence of New Jersey citizens and the Legislature;
- s. The DMV's privatization of some of its agencies in July 1995 has created poor, disjointed and confused service delivery without consistency

among the agencies in terms of policies and procedures, which has led to confusion and frustration in the minds of New Jersey citizens;

t. The DMV privatization has also resulted in poorly paid employees who have received inadequate benefits, resulting in a high turnover rate at DMV agencies;

u. A major benefit to a State-operated DMV system is the ability to centralize anti-fraud policies and procedures;

v. Historically, the privately-operated local motor vehicle agencies have been plagued with long lines, poor customer service and inadequate business practices that have routinely caused network delays and failures for hours at a time;

w. The DMV would be in a better position to plan for long-term improvements, replacements and daily operations if it had a dedicated and consistent source of funding;

x. In order to address the various problems with the DMV, a "FIX DMV Commission" was formed on April 25, 2002, by Governor's Executive Order Number 19 to conduct a comprehensive review of the DMV and to make recommendations on the restructuring and reorganization of the agency;

y. The "FIX DMV Commission" has reported that the DMV is in crisis and has recommended that a New Jersey Motor Vehicle Commission be formed in, but not of, the Department of Transportation to replace the current New Jersey Division of Motor Vehicles with the purposes of: (1) identifying and regulating drivers and motor vehicles to deter unlawful and unsafe acts; (2) identifying and correcting vehicle defects and limiting the amount of vehicle-produced air pollution; (3) focusing on and responding to customer service and security issues; and (4) effectuating change by bringing greater attention and resources to the needs of the organization;

z. It is therefore in the public interest to create a New Jersey Motor Vehicle Commission, the duties of which would include, but not be limited to: (1) addressing the multitude of functions assigned to it while curtailing fraudulent and criminal activities that present threats to the State's security system; (2) following a multi-year strategic business plan that is constantly reviewed and updated, thus avoiding the need for the cyclical reforms that have characterized its history; and (3) conducting operations on a fiscal year budget, controlling fees sufficient to fund the budget, adopting regulations regarding processes and fees; and implementing an annual strategic business plan.

**C.39:2A-3 Definitions relative to New Jersey Motor Vehicle Commission.**

3. As used in this act:

"Agency" or "motor vehicle agency" means that enterprise run by an agent designated by the commission to be the commission's agent for the registering

of motor vehicles, issuing registration certificates and licensing of drivers, as provided in R.S.39:3-3 and R.S.39:10-25.

"Agent" or "Motor Vehicle Agent" means a person designated as agent in R.S.39:3-3 and R.S.39:10-25.

"Chair" means the chair of the commission.

"Chief Administrator" or "administrator" means the chief administrator of the commission.

"Commission" means the New Jersey Motor Vehicle Commission established and created by section 4 of this act.

"Commissioner" means the Commissioner of Transportation of this State.

"Department" means the Department of Transportation of this State.

"Deputy Chief Administrator" or "deputy administrator" means the deputy chief administrator of the commission and all references in any law, rule, regulation or order to the Deputy Director of the division shall mean and refer to the deputy administrator.

"Director" means the Director of the Division of Motor Vehicles.

"Division" or "DMV" means the Division of Motor Vehicles in the Department of Transportation.

"Service charge" means an amount charged by the commission for services rendered, which includes all new fees and surcharges, increases in existing fees and surcharges, and such amounts as provided in section 105 of P.L.2003, c.13 (C.39:2A-36). Service charges are revenue of the commission and are not subject to appropriation as Direct State Services by the Legislature.

**C.39:2A-4 "New Jersey Motor Vehicle Commission" established; division abolished.**

4. a. There is hereby established a body corporate and politic, with corporate succession, to be known as the "New Jersey Motor Vehicle Commission." The commission shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated, in but not of, the Department of Transportation, but notwithstanding this allocation, the commission shall be independent of any supervision and control by the department or by any board or officer thereof. The commission is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the commission of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The Division of Motor Vehicles, transferred to the Department of Transportation pursuant to Reorganization Plan No. 002-1995, is abolished as a division in the Department of Transportation, and all of its functions, powers and duties, except as herein otherwise provided, are transferred to, and are continued in the commission and shall be exercised by the chief

administrator of the commission. Unless otherwise specified in this act, this transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). All records, equipment and other personal property, appropriations, and any unexpended balances of funds appropriated or otherwise available to the division, shall be transferred to the commission pursuant to the "State Agency Transfer Act."

c. Whenever any law, rule, regulation, order, contract, tariff, document, reorganization plan, judicial, or administrative proceeding or otherwise thereunder, refers to the Division of Motor Vehicles in the Department of Law and Public Safety or in the Department of Transportation, or to the director thereof, the reference shall mean and refer to the commission, unless otherwise stated in this act.

d. Regulations adopted by the division shall continue with full force and effect until amended or repealed pursuant to law.

e. The commission shall operate on a fiscal year budget cycle.

f. The commission shall continue in existence until dissolved by act of the Legislature. However, any dissolution of the commission shall be on condition that the commission has no debts, contractual duties or obligations outstanding, or that provision has been made for the payment, discharge or retirement of these debts, contractual duties or obligations. Upon any dissolution of the commission, all property, rights, funds and assets thereof shall pass to and become vested in the State.

**C.39:2A-5 Transfer of employees; retirement system, health benefits.**

5. a. Upon the abolishment of the division, all career service employees serving in the division on that date shall be employees of the commission and shall be transferred to the commission pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.) and shall retain their present career service employment status and their collective bargaining status, including all rights of tenure, retirement, pension, disability, leave of absence, or similar benefits. Future employees of the commission shall be hired consistent with the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder.

b. Upon action of the commission, all agency employees shall become employees of the commission. Such employees shall be assigned to appropriate titles by the Department of Personnel. Those private motor vehicle agency employees who were employed by the agency on or before January 1, 2003 and who are assigned to career service titles upon employment with the commission shall, upon completion of the special probationary period described in section 7 of this act, attain permanent, regular appointments in their respective titles. No special probationary period shall be required for those who have previously completed a probationary period during their previous State service

employment. Except for managerial and confidential employees as defined by the "New Jersey Employer - Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), such employees shall be covered under the State of New Jersey's collective bargaining agreements and shall obtain all employment and collective bargaining rights consistent therewith.

c. Officers and employees of the commission shall be enrolled in the Public Employees' Retirement System and shall be eligible to participate in the State Health Benefits Program established pursuant to the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.).

**C.39:2A-6 Employee seniority, benefits transferred, continued.**

6. a. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and rules promulgated thereunder to the contrary, employees of a private motor vehicle agency who were employed with that agency immediately after serving in the division prior to its privatization, shall, upon returning to State service as employees of the commission, receive civil service seniority credit for all years of employment service retroactive to the date upon which they commenced State employment prior to employment with the private motor vehicle agency. These employees shall also receive civil service seniority credit for all years of employment with the private motor vehicle agency as if the employment were total and continuous.

b. Employees employed by the private motor vehicle agency who enter State service as employees of the commission but who have no prior State service shall receive civil service seniority credit for all years of employment with the private motor vehicle agency.

c. Civil service seniority credit for all employees referred to in subsections a. and b. of this section shall only be used to determine seniority credit for layoff and promotional purposes and accrual of paid leave.

d. Accumulated sick and vacation leave for employees entering or returning to State service as provided in subsections a. and b. of this section shall be transferred and credited to their State leave accounts immediately upon their return to State service.

**C.39:2A-7 Probationary period for certain employees.**

7. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, all employees entering or returning to State service other than those on a Special Reemployment List as employees of the commission following employment with a private motor vehicle agency, who have been employed with the private motor vehicle agency on or before January 1, 2003, and assigned to the career service shall be subject to a special probationary period unless they have already completed a probationary period during their previous State service employment. The special probationary period shall have a duration of six months from the date

that the employees enter or return to State service as employees of the commission. Each employee's work performance shall be evaluated to determine whether the employee can satisfactorily perform the duties of the title to which the employee is appointed and progress reports shall be provided to the employee as provided by the rules of the Merit System Board in the Department of Personnel. An employee who is determined to have satisfactorily performed the duties of the employee's career service title shall attain permanent status in that title at the conclusion of the special probationary period. An employee who is determined not to have satisfactorily performed the duties of that title during or at the conclusion of the special probationary period shall be immediately separated from State service and shall not have any right of appeal regarding the separation to the Merit System Board.

**C.39:2A-8 Determination of employee salaries.**

8. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, the employees entering or returning to State service as employees of the commission in career service titles following employment with a private motor vehicle agency, shall receive a salary commensurate with total years of service as determined by the commission in the salary range assigned to the career service titles to which they have received an appointment.

**C.39:2A-9 Testing of provisional employees.**

9. a. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, employees entering State service other than those on a Special Reemployment List as employees of the commission in career service titles following employment after January 1, 2003 with a private motor vehicle agency shall be considered provisional employees subject to competitive testing.

b. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder, employees entering State service as provided in subsection a. of this section shall not be subject to displacement by persons on preexisting Special Reemployment Lists. Special Reemployment Lists for applicable titles shall be used only to fill vacant positions in the commission.

**C.39:2A-10 Powers of Deputy Chief Administrator.**

10. The Deputy Chief Administrator shall assist the administrator in the day-to-day administration of the commission and shall have all of the powers and duties of the administrator, as authorized and assigned by the administrator.

The deputy administrator shall carry out all of the administrator's duties and responsibilities during the administrator's absence, disqualification or

inability to serve, and shall perform such other duties and responsibilities as the administrator shall determine and assign. The deputy administrator shall serve at the pleasure of the administrator and shall receive such salary as fixed by the administrator in accordance with the table of organization. The deputy administrator shall be in the State unclassified service.

**C.39:2A-11 Administrator considered "appointing authority."**

11. Except as otherwise provided by law, the administrator shall be considered the "appointing authority" for the commission within the contemplation of the civil service laws and the table of organization. The administrator may delegate such appointing authority to the deputy administrator as he deems necessary.

**C.39:2A-12 Membership of commission.**

12. a. The commission shall consist of the following eight members:

(1) The Commissioner of Transportation, who shall serve as an ex officio voting member;

(2) The State Attorney General, who shall serve as an ex officio voting member;

(3) The Chair of the commission who shall be a nonvoting member. The Chair shall be appointed by the Governor with the advice and consent of the Senate. The Chair shall serve at the pleasure of the Governor during the Governor's term of office, and shall receive such salary as shall be fixed by the Governor which is not greater than the salary of a cabinet-level official of the State. Prior to nomination, the Governor shall cause the Attorney General to conduct an inquiry into the nominee's background, financial stability, integrity and responsibility and reputation for good character, honesty and integrity. The person appointed and serving as Chair shall also be Chief Administrator of the commission and shall devote full time to the performance of his duties. The Chief Administrator shall be in the State unclassified service.

Notwithstanding the provisions of this section to the contrary, the person in office as the Director of the Division of Motor Vehicles in the Department of Transportation on the effective date of this section shall be the first Chair of the commission without the further requirement of the advice and consent of the Senate and shall also be the first Chief Administrator of the commission;

(4) The State Treasurer, who shall serve as an ex officio voting member; and

(5) Four public members who shall be appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be of the same political party. The public members shall be voting members and serve for a term of four years. These members shall be New Jersey residents who shall provide appropriate geographic representation from throughout the State and who shall have experience and familiarity with public safety,

customer service, security, or business operations. At least one member shall reside in a northern county (Bergen, Essex, Hudson, Morris, Passaic, Union, Sussex and Warren ), at least one member shall reside in a central county (Hunterdon, Mercer, Middlesex, Monmouth and Somerset), and at least one member shall reside in a southern county (Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem).

b. Initial appointments of public members to the commission shall be for terms as follows: one member for four years, one member for three years, one member for two years, and one member for one year. After the initial appointments, all public members shall be appointed for terms of four years; and may be appointed for any number of successive terms. A member's term shall be deemed to commence on January 1 of the year in which the member is appointed. The commission may elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer.

c. Each ex officio member of the commission may designate two employees of the member's department or agency, who may represent the member at meetings of the commission. A designee may lawfully vote and otherwise act on behalf of the member. The designation shall be in writing delivered to the commission and shall continue in effect until revoked or amended by writing delivered to the commission.

d. Each public member shall continue in office after the expiration of the member's term until a successor is appointed and qualified. The successor shall be appointed in like manner for the unexpired term only.

e. A vacancy in the membership of the commission occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

**C.39:2A-13 Powers, duties of commission.**

13. a. In addition to any powers and duties conferred upon it elsewhere in this act, the commission shall be authorized to:

(1) Make, amend and repeal bylaws not inconsistent with State and federal law;

(2) Adopt an official seal;

(3) Maintain an office at such place or places within the State as it may designate;

(4) Apply for and accept grants from the State or federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, or any private source, and comply with the terms, conditions and limitations thereof, as necessary and proper to carry out the purposes of this act;



(5) Delegate to the administrator and any other officers of the commission such powers and duties as necessary and proper to carry out the purposes of this act;

(6) Operate, lease, license or contract in such manner as to produce revenue for the commission, as provided in this act;

(7) Accept and use any funds available to the commission;

(8) Enter into agreements or contracts to pay for services rendered from any public or private entity, and receive payment for services rendered to any public or private entity; and

(9) Enter into agreements or contracts, execute any and all instruments, and do and perform acts or things necessary, convenient or desirable for the purposes of the commission, or to carry out any power expressly or implicitly given in this act.

b. The commission is further authorized to:

(1) Review and approve a statement of the vision, mission, and goals of the commission, as submitted by the administrator;

(2) Review and approve the strategic business plan of the commission which shall include the commission's long-term objectives, policies, and programs, including a facilities improvement and management plan and a table of organization, as submitted by the administrator;

(3) Review and approve the annual budget of the commission as submitted by the administrator and ensure that projected revenues and service charges are sufficient to adequately fund the commission both in the short and long-term;

(4) Receive reports and recommendations from the Advisory Councils created pursuant to this act and provide policy direction related thereto to the administrator;

(5) Review and recommend all capital purchases and construction projects undertaken by the commission;

(6) Review any proposed bill, joint resolution or concurrent resolution introduced in either House of the Legislature which establishes or modifies any motor vehicle statute or regulation in this State. Such a review shall include, but not be limited to, an analysis of the fiscal impact of the bill or resolution on the commission and any comments upon or recommendations concerning the legislation including rejection, modification or approval. Additionally, the commission shall suggest alternatives to the legislation which it deems may be appropriate; and

(7) Recommend to the Governor and the Legislature any statutory changes it deems appropriate, including, but not limited to, any revisions to fees or service charges or changes to programs, in order to insure the proper functioning and operation of the commission.

c. Except as provided in this section and section 21 of this act, all administrative functions, powers and duties of the commission may be exercised

by the administrator and any reference to the commission in any law, rule or regulation may for this purpose be deemed to refer to the administrator.

**C.39:2A-14 Election of Vice-Chair.**

14. The commission shall elect annually, by a majority of the full membership of the commission, one of its members, other than the Chair, to serve as Vice-Chair for the ensuing year. The Vice-Chair shall hold office until January 1 next ensuing. The Vice-Chair, acting in the capacity of presiding officer, shall carry out all of the responsibilities of the Chair of the commission during the Chair's absence, disqualification, or inability to serve.

**C.39:2A-15 Member compensation.**

15. Members other than those serving ex officio shall serve without compensation, but the commission shall reimburse commission members for actual expenses necessarily incurred in the discharge of their duties.

**C.39:2A-16 Meetings of commission.**

16. a. The commission shall meet monthly or at more frequent times at the discretion of the Chair or as a majority of the commission shall decide. Meetings of the commission shall be held at such times and places as the Chair may deem necessary and convenient.

b. The meetings shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. Any other law, rule or regulation to the contrary notwithstanding, the commission shall take all necessary steps to ensure that all interested persons are given adequate notice of commission meetings and the agenda of such meetings, through the utilization of media engaged in the dissemination of information.

d. The powers of the commission shall be vested in the members thereof. Four members of the commission shall constitute a quorum at any meeting. Actions may be taken and motions and resolutions adopted by the commission by the affirmative vote of at least four members. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

**C.39:2A-17 Minutes delivered to Governor, effect of veto.**

17. A true copy of the minutes of every meeting of the commission shall be delivered by and under the certification of the secretary of the commission, without delay, to the Governor. No action taken at the meeting shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the minutes are delivered, unless during the 10-day period the Governor approves the minutes, in which case the action shall become effective upon approval. If, in that 10-day period, the Governor returns copies of the minutes

with a veto of any action taken by the commission or any member, the action shall be null and void and of no effect.

**C.39:2A-18 members subject to Conflicts of Interest Law.**

18. Members of the commission shall be subject to the provisions of the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

**C.39:2A-19 Removal of member.**

19. Each appointed member of the commission may be removed from office by the Governor for cause, after a public hearing and may be suspended by the Governor pending the completion of the hearing. Before assuming the duties of commission membership, each member shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of the member's ability. A record of the oaths shall be filed in the office of the Secretary of State.

**C.39:2A-20 Authorization of payment methods including electronic.**

20. The commission may, in acceptance of payment of any fees, fines, penalties, surcharges, service charges or other charges, authorize the use of a credit or debit card or any other electronic payment device.

**C.39:2A-21 Rules, regulations.**

21. The commission shall adopt all rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) for the proper functioning of the commission, and as necessary to effectuate the purposes of this act, except for those relating to the internal governance of the commission adopted by the administrator. Current rules and regulations of the division shall remain in full force and effect until such time as they are repealed or amended by the commission or in accordance with any other law.

**C.39:2A-22 Annual report to Governor and Legislature.**

22. a. On or before September 30 of each year, the commission shall file with the Governor and the presiding officer of each House of the Legislature a report setting forth the operational, capital and financial expenditures of the previous year, the operational, capital and financial plan, and the table of organization and staffing plan, for the current year and a proposed operational, capital and financial plan for the next ensuing year. The report may include recommendations for revisions to fees or service charges which the commission deems appropriate.

The commission shall include in this report the latest audited annual financial statement. In this statement, the commission shall disclose all revenues remitted to the commission and provide a detailed listing of the various

categories in which it receives revenue, including any surplus revenue from the prior year.

b. The commission shall cause a financial audit of its books and accounts to be made at least once each year by certified public accountants and a copy thereof shall be filed with the State Treasurer.

c. On or before September 30 and March 30 of each year, the commission shall file with the Governor and the presiding officer of each House of the Legislature a report providing an assessment of the quality of service provided by the commission and a description of any security improvements made by the commission in the prior six-month period and those anticipated in the current six-month period.

To the extent practicable, the report also shall include data setting forth in detail the number of transactions annually performed at each commission agency or facility and by other means including, but not limited to, electronic transactions. This portion of the report also shall disclose, to the extent practicable, the average waiting time to process a transaction at each commission agency or facility and, where applicable, through other means. If the commission determines that it is not able to ascertain these data for inclusion in the six-month report, the report shall set forth the reasons the data could not be included and provide a date by which the commission reasonably estimates that it will be able to provide these data.

In addition, the report shall include the number of criminal complaints filed against any commission employee or any other person, in connection with commission related activity. Complaints which are determined to be unfounded shall not be included. The report shall set forth the various crimes and offenses for which complaints were filed against any commission employee or in connection with any commission activity.

**C.39:2A-23 Immunity from liability.**

23. Members, officers and employees of the commission shall not be liable in an action for damages to any person for any action taken or recommendation made within the scope of their employment as a member, officer or employee if the action or recommendation was taken or made without malice. The members of the commission shall be indemnified and their defense of any action provided for in the same manner and to the same extent as employees of the State under the "New Jersey Tort Claims Act," P.L.1972, c.45 (N.J.S.59:1-1 et seq.) on account of acts or omissions in the scope of their employment.

**C.39:2A-24 Absolute, qualified immunities.**

24. As the commission is a State agency, all absolute and qualified immunities and defenses provided to public entities and public employees by the "New Jersey Tort Claims Act," P.L.1972, c.45 (N.J.S.59:1-1 et seq.), the "New Jersey Contractual Liability Act," P.L.1972, c.45 (N.J.S.59:13-1

et seq.), and any other law shall apply to all interests held and activities performed by the commission and its employees pursuant to this act.

**C.39:2A-25 Legal representation.**

25. The Attorney General shall provide legal representation to the commission and its employees to the same extent as representation is provided to other State agencies and their employees.

**C.39:2A-26 Advisory councils.**

26. There are created within the commission five advisory councils, which shall provide the commission with advice, technical expertise, information, guidance, and recommendations in four general areas. The commission shall designate the appropriate State and local government representatives, interest group representatives, technical experts, and constituent representatives as appropriate to serve on the councils, with no council having more than five members. Federal government representatives and representatives of national organizations shall be asked to serve, and if willing, shall be designated by the commission to serve. All council members shall be designated by commission action and shall serve on rotating terms so as to provide stability and continuity on each council. The Chair, or the Chair's designee, shall serve on each council. The councils shall meet and report to the commission monthly, or as frequently as the commission requests. The councils are as follows:

a. The Safety Advisory Council, which shall advise the commission regarding its policies, operating practices, regulations and standards in regard to driver, motor vehicle and traffic safety and consider new initiatives or legislation to enhance the safety of the motoring public.

b. The Customer Service Advisory Council, which shall advise the commission regarding its policies, operating practices, employee communications, regulations, and standards in providing appropriate customer service. The council shall: examine benchmarking performance and level of service standards for the Telephone Center; examine internal communications to ensure consistency and systematic application; make recommendations regarding marketing and the dissemination of information to the public to re-establish a robust marketing and public information program which informs and educates public consumers; and advise on all aspects of customer service at the commission.

c. The Security and Privacy Advisory Council, which shall: advise the commission as to how to effectively maintain its system and business processes in the securest manner; help it to address its most serious security breaches; advise as to new or modified programs needed to achieve heightened security; recommend methods to curtail fraudulent and criminal activities that present threats to the State's security as well as measures to protect the privacy of driver

information, including but not limited to the Driver's Privacy Protection Act of 1994, Pub.L.103-322.

d. The Business Advisory Council, which shall advise the commission on improvements in the commission's business practices which affect its public and private partners, regulated entities, interest groups, businesses, and constituents in providing motor vehicle services.

e. The Technology Advisory Council, which shall advise the commission on the latest and best technological services and equipment to ensure continued modernization of the commission's facilities, equipment, operations, security, and customer service.

**C.39:2A-27 Study on location, adequacy of agency facilities.**

27. The administrator is directed to immediately commence a study on the location and adequacy of agency facilities. Special attention shall be paid to siting agencies which are accessible to transit and parking facilities. The study shall examine the affordability and practicality of using smaller satellite offices. The study shall reexamine the location and number of the commission's regional service centers. The study shall reevaluate the core business practices used in the administration of motor vehicle services and so report to the commission.

**C.39:2A-28 Powers, duties of administrator.**

28. In addition to any powers and duties otherwise imposed by this act, the administrator shall have general responsibility for the implementation of this act, and shall, without limitation:

a. Perform, exercise and discharge the functions, powers and duties of the commission through such offices as may be established by this act or otherwise by law;

b. Administer and organize the work of the commission in such organizational units, and from time to time alter the plan of organization as deemed expedient, as necessary for the secure, efficient and effective operation of the commission;

c. Appoint, remove and fix the compensation of subordinate officers and other personnel employed by the commission in accordance with the commission's table of organization, except as herein otherwise specifically provided;

d. Appoint, remove, and fix the compensation and terms of employment of the deputy administrator, who shall serve in the State unclassified service, in accordance with the commission's table of organization;

e. Organize and maintain an administrative office and employ therein such secretarial, clerical and other assistants in the commission as the internal operations of the commission may require;

- f. Formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the commission, its officers and employees;
- g. Prepare an annual budget, and submit it to the commission;
- h. Prepare annually, a strategic business plan and submit it to the commission, including a facilities improvement and management plan and a table of organization;
- i. Institute or cause to be instituted such legal proceedings or processes as may be necessary to properly enforce and give effect to any of the powers or duties of the administrator;
- j. Report as the Governor shall from time to time request or as may be required by law;
- k. Collect all fees, fines, penalties, surcharges, service charges and other charges imposed by this act and the regulations issued pursuant thereto or pursuant to law;
- l. Develop and maintain a master list of all assets;
- m. Oversee the implementation of the facilities improvement and management plan, in consultation with the State Treasurer; and
- n. Perform such other functions as may be prescribed in this act or by any other law or by the commission.

**C.39:2A-29 Goals of administrator, deputy administrator.**

29. The administrator, and the deputy administrator under the direction of the administrator, shall have as their immediate goal the improvement of the safety and security of the State's motor vehicle licensing, registration, titling and inspection system and to this end are authorized to:

- a. Make technological improvements, including the modernization of software and hardware, the addition of surveillance cameras, alarms, and access systems, and the utilization of biometrics;
- b. Increase the number of audit staff, security guards, and other security-related employees;
- c. Improve training and monitoring procedures;
- d. Utilize document imaging from the field;
- e. Integrate the New Jersey title database with the National Motor Vehicle Title Information System;
- f. Improve license plate management, including an automated inventory system and reissuance program;
- g. Acquire the ability to access State vital statistics data to immediately update driver's license information;
- h. Implement additional proofs of identity verification for a non-driver identification card, driver's license, permits, and registrations;

- i. Implement card access systems, clear visibility barriers and door replacements where needed;
- j. Replace the written driver's license knowledge test with an online test;
- k. Increase the use of credit or debit cards or any other electronic payment device;
  - l. Increase the use of scanned documents;
- m. Match motor vehicle records with Social Security records to verify Social Security numbers in the motor vehicle database, to the extent allowable; and
- n. Seek the assistance of the Immigration and Naturalization Service to verify authenticity of motor vehicle applicants and their eligibility for documents.

**C.39:2A-30 "Motor Vehicles Affordability and Fairness Task Force."**

30. a. There is created a task force to be known as the "Motor Vehicles Affordability and Fairness Task Force" to study the impact of the current point system and non-driving related suspension of driving privileges, in particular, the Merit Rating Plan Surcharges, on the driving public and make recommendations for the reform of the surcharge suspension program to increase motorist safety. In addition, the task force shall examine "The Parking Offenses Adjudication Act," P.L. 1985, c. 14 (C.39:4-139.2 et seq.) and municipal court processes related thereto, as well as court actions on surcharge assessments and license suspensions related to nonpayment of fines or tickets as well as motor vehicle moving violations.

b. The task force shall consist of 19 members as follows: the Commissioner of Transportation, ex officio, or a designated representative; the Chair of the New Jersey Motor Vehicle Commission, ex officio or a designated representative; a representative of the Administrative Office of the Courts; the Director of the Office of Highway Traffic Safety, in the Department of Law and Public Safety, ex officio, or a designated representative; the Director of the Division of Insurance in the Department of Banking and Insurance, ex officio, or a designated representative; the Chairperson of the State Employment and Training Commission, ex officio or a designated representative; and nine public members, to be appointed by the Governor, among whom shall be included a representative of the New Jersey Highway Traffic Safety Policy Advisory Council, a representative of a not-for-profit highway safety organization, a representative of the automobile retailers industry, a representative of the automobile insurance industry, a regular operator of a motor vehicle weighing in excess of twenty-six thousand pounds, one law enforcement officer engaged in highway patrol, a representative from the New Jersey State League of Municipalities, a representative from the New



Jersey Institute for Social Justice and a representative of a New Jersey based chapter of the American Automobile Association. The Speaker of the General Assembly and the President of the Senate shall each appoint two members who may be public members or members of the Legislature. No more than two of the legislative appointees shall be from the same political party. Legislative appointees shall serve during the legislative term of the appointing authority.

c. The members of the task force shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties.

d. The task force shall organize as soon as may be practicable after the appointment of a majority of its members and shall select a chairperson from among the members. The members shall select a secretary, who need not be a member of the task force.

e. The task force shall meet at the call of the chairperson.

f. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

g. The task force shall study and develop recommendations concerning the following issues, including but not limited to:

- (1) the rapid growth in the number of driver's license suspensions;
- (2) identification and regulation of drivers to deter unlawful and unsafe acts;
- (3) establishment of a mechanism to assist low-income residents that are hard pressed to secure the restoration of driving privileges;
- (4) reform of the parking ticket suspension system and "The Parking Offenses Adjudication Act"; and
- (5) increasing the collection of outstanding surcharges.

h. The study shall include, but not be limited to, investigating issues of motor vehicle safety, insurance, finance, and socioeconomic conditions. The task force shall review and analyze studies examining the social impacts of driver's license and registration suspensions. The task force shall also review and analyze studies and statistics regarding surcharges and suspensions to develop recommendations for reform.

i. The task force shall develop recommendations for public and private strategies and recommendations for legislative or regulatory action, if deemed appropriate, to address these issues. The recommendations shall include suggestions for the development of public information campaigns to educate

and inform motorists about driver's license and registration suspensions, and methods of lessening financial and social burdens on motorists.

j. The task force's recommendations shall be aimed at developing and implementing an amnesty policy and a reform of the surcharge suspension. The task force shall review the impact of suspension of driving privileges upon businesses and individuals dependent upon having a valid driver's license for gainful employment and to conduct commerce in this State.

k. The task force shall prepare and submit a final report containing its findings and recommendations, including any recommendations for legislative or regulatory action that it deems appropriate, no later than one year after the task force organizes, to the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Transportation Committee and the Assembly Transportation Committee, or their successors.

l. Upon the submission of the final report the task force shall dissolve. Any and all materials, records, work products or other property of the task force shall become property of the commission.

31. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read as follows:

**C.17:29A-35 New Jersey Merit Rating Plan.**

6. a. (Deleted by amendment, P.L.1997, c.151.)

b. There is created a New Jersey Merit Rating Plan which shall apply to all drivers and shall include, but not be limited to, the following provisions:

(1) (a) Plan surcharges shall be levied, beginning on or after January 1, 1984, by the New Jersey Motor Vehicle Commission (hereafter the "commission") established by section 4 of P.L.2003, c.13 (C.39:2A-4) on any driver who, in the preceding 36-month period, has accumulated six or more motor vehicle points, as provided in Title 39 of the Revised Statutes; except that the allowance for a reduction of points in Title 39 of the Revised Statutes shall not apply for the purpose of determining surcharges under this paragraph. The accumulation of points shall be calculated as of the date the point violation is posted to the driver history record and shall be levied pursuant to rules promulgated by the commission. Surcharges assessed pursuant to this paragraph shall be \$100.00 for six points, and \$25.00 for each additional point. No offense shall be selected for billing which occurred prior to February 10, 1983. No offense shall be considered for billing in more than three annual assessments.

(b) (Deleted by amendment, P.L.1984, c.1.)

(2) Plan surcharges shall be levied for convictions (a) under R.S.39:4-50 for violations occurring on or after February 10, 1983, and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for offenses committed in other

jurisdictions of a substantially similar nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations occurring on or after January 26, 1984. Except as hereinafter provided, surcharges under this paragraph shall be levied annually for a three-year period, and shall be \$1,000.00 per year for each of the first two convictions, for a total surcharge of \$3,000 for each conviction, and \$1,500.00 per year for the third conviction occurring within a three-year period, for a total surcharge of \$4,500 for the third conviction. If a driver is convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out of the same incident, the driver shall be assessed only one surcharge for the two offenses.

If, upon written notification from the commission or its designee, mailed to the last address of record with the commission, a driver fails to pay a surcharge levied under this subsection, the driving privilege of the driver shall be suspended forthwith until the minimum payment requirement as set forth by rule by the commission is paid to the commission; except that the commission may authorize payment of the surcharge on an installment basis over a period not to exceed 12 months for assessments under \$2,300 or 24 months for assessments of \$2,300 or more. If a driver fails to pay the surcharge or any installments on the surcharge, the total surcharge shall become due immediately, except as otherwise prescribed by rule of the commission.

The commission may authorize any person to pay the surcharge levied under this section by use of a credit card, debit card or other electronic payment device, and the administrator is authorized to require the person to pay all costs incurred by the commission in connection with the acceptance of the credit card, debit card or other electronic payment device. If a surcharge or related administrative fee is paid by credit or debit cards or any other electronic payment device and the amount is subsequently reversed by the credit card company or bank, the driving privilege of the surcharged driver shall be suspended and the driver shall be subject to the fee imposed for dishonored checks pursuant to section 31 of P.L.1994, c.60 (C.39:5-36.1).

In addition to any other remedy provided by law, the commission is authorized to utilize the provisions of the SOIL (Set off of Individual Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section that is unpaid on or after the effective date of this act. As an additional remedy, the commission may issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this surcharge law in such amount as shall be stated in the certificate. The certificate shall reference the statute under which the indebtedness arises. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments the name of such person as debtor; the State as creditor; the address of such person, if shown in the certificate; the amount of the debt so certified; a reference

to the statute under which the surcharge is assessed, and the date of making such entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate, however payment of the interest may be waived by the commission or its designee. In the event that the surcharge remains unpaid following the issuance of the certificate of debt and the commission takes any further collection action including referral of the matter to the Attorney General or his designee, the fee imposed, in lieu of the actual cost of collection, may be 20 percent of surcharges of \$1,000 or more. The administrator or his designee may establish a sliding scale, not to exceed a maximum amount of \$200, for surcharge principal amounts of less than \$1,000 at the time the certificate of debt is forwarded to the Superior Court for filing. The commission shall provide written notification to a driver of the proposed filing of the certificate of debt at least 10 days prior to the proposed filing; such notice shall be mailed to the driver's last address of record with the commission. If a certificate of debt is satisfied following a credit card payment, debit card payment or payment by other electronic payment device and that payment is reversed, a new certificate of debt shall be filed against the surcharged driver unless the original is reinstated.

If the administrator or his designee approves a special payment plan for repayment of the certificate of debt, and the driver is complying with the approved plan, the plan may be continued for any new surcharge not part of the certificate of debt.

All moneys collectible under this subsection b. shall be billed and collected by the commission except as provided in P.L. 1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid surcharges. Commencing on September 1, 1996, or such earlier time as the Commissioner of Banking and Insurance shall certify to the State Treasurer that amounts on deposit in the New Jersey Automobile Insurance Guaranty Fund are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, all plan surcharges collected by the commission under this subsection b. shall be remitted to the Division of Motor Vehicles Surcharge Fund for transfer to the Market Transition Facility Revenue Fund, as provided in section 12 of P.L. 1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of P.L. 1994, c.57 (C.34:1B-21.4) until such a time as all the Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds,

notes and obligations issued pursuant to that section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding. From the date of certification by the Commissioner of Banking and Insurance that the moneys collectible under this subsection are no longer needed to fund the association or at such a time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding moneys collectible under this subsection shall, subject to appropriation, be remitted to the New Jersey Property-Liability Insurance Guaranty Association created pursuant to section 6 of P.L.1974, c. 17 (C.17:30A-6) to be used for payment of any loans made by that association to the New Jersey Automobile Insurance Guaranty Fund pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments shall be subject to and dependent upon appropriation by the State Legislature.

(3) In addition to any other authority provided in P.L.1983, c.65 (C.17:29A-33 et al.), the commissioner, after consultation with the commission, is specifically authorized (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in accordance with paragraph (1)(a) of this subsection, surcharges for motor vehicle violations or convictions for which motor vehicle points are not assessed under Title 39 of the Revised Statutes, or (c) to reduce the number of points for which surcharges may be assessed below the level provided in paragraph (1)(a) of this subsection, except that the dollar amount of all surcharges levied under the New Jersey Merit Rating Plan shall be uniform on a Statewide basis for each filer, without regard to classification or territory. Surcharges adopted by the commissioner on or after January 1, 1984 for motor vehicle violations or convictions for which motor vehicle points are not assessable under Title 39 of the Revised Statutes shall not be retroactively applied but shall take effect on the date of the New Jersey Register in which notice of adoption appears or the effective date set forth in that notice, whichever is later.

c. No motor vehicle violation surcharges shall be levied on an automobile insurance policy issued or renewed on or after January 1, 1984, except in accordance with the New Jersey Merit Rating Plan, and all surcharges levied thereunder shall be assessed, collected and distributed in accordance with subsection b. of this section.

d. (Deleted by amendment, P.L.1990, c.8.)

e. The Commissioner of Banking and Insurance and the commission as may be appropriate, shall adopt any rules and regulations necessary or appropriate to effectuate the purposes of this section.

**C.39:2A-31 Exercise of powers by commission for people; tax exemption.**

32. The exercise of the powers granted by this act will be in all respects for the benefit of the people of the State, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of facilities and assets by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any facility and assets or any property acquired or used by the commission under the provisions of this act or upon the income therefrom, and any facility and assets and any property acquired or used by the commission under the provisions of this act and the income therefrom shall be exempt from taxation.

**C.39:2A-32 Fingerprinting, criminal history checks of employees; use.**

33. a. The commission shall require the fingerprinting of all prospective employees, employees of the commission, and employees of the agents of the commission, for purposes of determining employment eligibility in any title or capacity that is either directly or indirectly involved in the issuance or processing of driver's licenses, permits, business licenses, identification cards, driving records, or vehicle registrations and titles, and of all independent contractors and their employees who work on a motor vehicle premises or have access to motor vehicle records or documents. The commission is hereby authorized to exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation and the Division of State Police, consistent with the provisions of Pub.L.92-544, for use in determining employment eligibility.

b. The commission may, as deemed necessary by the commission, receive the results of periodic follow-ups of criminal history record checks of all employees of the commission and employees of its agents, for purposes of determining continuing employment eligibility in any title or capacity that is either directly or indirectly involved in the issuance or processing of driver's licenses, identification cards, driving records, or vehicle registrations and titles.

c. If the information from the criminal history record background check discloses that a prospective or current employee has a record of criminal history, the commission shall review the information with respect to the type and date of the criminal offense to determine if the person is qualified for employment with the commission. Criminal offenses which shall disqualify an individual from employment include, but are not limited to, any crime or offense, whether committed in New Jersey or in another jurisdiction, which in New Jersey would constitute murder, assault with intent to murder, espionage, treason, rape, kidnaping, unlawful possession of an explosive or weapon, extortion, armed robbery, distribution of or intent to distribute a controlled substance, possession of a controlled substance, willful destruction of property, burglary, theft, fraud,

forgery, terrorism, solicitation of money or resources for a terrorist organization and aggravated assault.

d. Notwithstanding the provisions of subsection b. or c. of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

e. An individual who has been disqualified under the provisions of this act shall be entitled to reapply for the position if the disqualifying conviction is reversed.

f. Notwithstanding the provisions of subsection b. or c. of this section, an individual shall not be disqualified from employment or service on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act if the individual has affirmatively demonstrated to the administrator, clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

- (1) the nature and responsibility of the position which the applicant would hold, has held or currently holds, as the case may be;
- (2) the nature and seriousness of the offense;
- (3) the circumstances under which the offense occurred;
- (4) the date of the offense;
- (5) the age of the applicant when the offense was committed;
- (6) whether the offense was an isolated or repeated incident;
- (7) any social conditions which may have contributed to the offense; and
- (8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.

**C.39:3-10.17a Fingerprinting, criminal history records check for applicants for certain commercial driver's licenses.**

34. a. The commission shall require the fingerprinting of all applicants for commercial driver's licenses with a hazardous material endorsement, a tank vehicle endorsement or both, at the initial application and upon renewal, in order to determine eligibility for those endorsements. The commission is hereby authorized to exchange fingerprint data with, and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police, consistent with the provisions of Pub.L.92-544, for use in determining eligibility. The commission shall require any person who,

prior to the date of enactment of this act, has been issued a commercial driver's license with a hazardous material endorsement, a tanker vehicle endorsement or both, to undergo a criminal history record background check as a condition to continue to hold, use and renew such an endorsement. No criminal history record check shall be performed without the applicant's written consent. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check. Failure or refusal to submit a disclosure and fingerprints will result in an automatic disqualification.

b. Upon receipt of the criminal history record information, the commission shall notify the applicant, in writing, of the applicant's qualification or disqualification for a commercial driver's license with a hazardous material endorsement, a tank vehicle endorsement or both. If the applicant is disqualified, the basis for the disqualification shall be identified in the written notice to the applicant.

c. The applicant shall have 30 days from the postmarked date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the applicant's disqualification for a commercial driver's license, with a hazardous material endorsement, a tank vehicle endorsement or both will stand.

d. The commission, in a manner not inconsistent with appropriate federal requirements, shall provide by regulation the grounds upon which an applicant may be disqualified.

**C.39:2A-33 Contracts for ancillary services; use of revenues.**

35. a. The commission may contract for ancillary services at facilities used by the commission, including but not limited to food and beverage concessions, service concessions that would be beneficial to its customers, and information services that would be of interest or informative to its customers, such as television displays, public service displays, and the like.

b. In entering into a contract pursuant to this section, the commission shall award a contract on the basis of competitive public bids or proposals to the responsible bidder or proposer whose bid or proposal is determined to be in the best interest of the State, price and other factors considered.

c. The commission is authorized to receive funds from the contract and shall have the right to use the same. The revenue shall not be subject to appropriation as Direct State Services by the Legislature. In addition, this revenue shall not be restricted from use by the commission in any manner except as provided by law. This revenue shall be used in the furtherance of commission purposes. This revenue shall be considered revenue of the



commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of this act.

36. R.S.39:1-1 is amended to read as follows:

**Words and phrases defined.**

39:1-1. As used in this subtitle, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Alley" means a public highway wherein the roadway does not exceed 12 feet in width.

"Authorized emergency vehicles" means vehicles of the fire department, police vehicles and such ambulances and other vehicles as are approved by the Director of the Division of Motor Vehicles in the Department of Transportation when operated in response to an emergency call.

"Automobile" includes all motor vehicles except motorcycles.

"Berm" means that portion of the highway exclusive of roadway and shoulder, bordering the shoulder but not to be used for vehicular travel.

"Business district" means that portion of a highway and the territory contiguous thereto, where within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the roadway.

"Car pool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating capacity of nine passengers or less.

"Chief Administrator" or "Administrator" means the chief administrator of the New Jersey Motor Vehicle Commission.

"Commercial motor vehicle" includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be.

"Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L.2003, c.13 (C.39:2A-4).

"Commissioner" means the Commissioner of Transportation of this State.

"Commuter van" means a motor vehicle having a seating capacity of not less than seven nor more than 15 adult passengers, in which seven or more persons commute on a daily basis to and from work and which vehicle may also be operated by the driver or other designated persons for their personal use.

"Crosswalk" means that part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the shoulder, or, if none, from the edges of the roadway; also, any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other marking on the surface.

"Dealer" includes every person actively engaged in the business of buying, selling or exchanging motor vehicles or motorcycles and who has an established place of business.

"Deputy Chief Administrator" means the deputy chief administrator of the commission.

"Deputy director" means deputy director of the Division of Motor Vehicles in the Department of Transportation.

"Director" means the Director of the Division of Motor Vehicles in the Department of Transportation.

"Division" means the Division of Motor Vehicles in the Department of Transportation acting directly or through its duly authorized officers or agents.

"Driver" means the rider or driver of a horse, bicycle or motorcycle or the driver or operator of a motor vehicle, unless otherwise specified.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

"Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

"Flammable liquid" means any liquid having a flash point below 200 degrees Fahrenheit, and a vapor pressure not exceeding 40 pounds.

"Gross weight" means the combined weight of a vehicle and a load thereon.

"High occupancy vehicle" or "HOV" means a vehicle which is used to transport two or more persons and shall include public transportation, car pool, van pool, and other vehicles as determined by regulation of the Department of Transportation.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Horse" includes mules and all other domestic animals used as draught animals or beasts of burden.

"Inside lane" means the lane nearest the center line of the roadway.

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses another.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"Leased limousine" means any limousine subject to regulation in the State which:

- a. Is offered for rental or lease, without a driver, to be operated by a limousine service as the lessee, for the purpose of carrying passengers for hire; and
- b. Is leased or rented for a period of one year or more following registration.

"Leased motor vehicle" means any motor vehicle subject to registration in this State which:

- a. Is offered for rental or lease, without a driver, to be operated by the lessee, his agent or servant, for purposes other than the transportation of passengers for hire; and
- b. Is leased or rented for a period of one year or more following registration.

"Limited-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway; and includes any highway designated as a "freeway" or "parkway" by authority of law.

"Local authorities" means every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State, including every county governing body with relation to county roads.

"Magistrate" means any municipal court and the Superior Court, and any officer having the powers of a committing magistrate and the Director of the Division of Motor Vehicles in the Department of Transportation.

"Manufacturer" means a person engaged in the business of manufacturing or assembling motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles.

"Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

"Motorized bicycle" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cc. or said motor is rated at no more than 1.5 brake horsepower and said

bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

"Motorcycle" includes motorcycles, motor bikes, bicycles with motor attached and all motor-operated vehicles of the bicycle or tricycle type, except motorized bicycles as defined in this section, whether the motive power be a part thereof or attached thereto and having a saddle or seat with driver sitting astride or upon it or a platform on which the driver stands.

"Motor-drawn vehicle" includes trailers, semitrailers, or any other type of vehicle drawn by a motor-driven vehicle.

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

"Noncommercial truck" means every motor vehicle designed primarily for transportation of property, and which is not a "commercial vehicle."

"Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this subtitle placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

"Omnibus" includes all motor vehicles used for the transportation of passengers for hire, except commuter vans and vehicles used in ridesharing arrangements and school buses, if the same are not otherwise used in the transportation of passengers for hire.

"Operator" means a person who is in actual physical control of a vehicle or street car.

"Outside lane" means the lane nearest the curb or outer edge of the roadway.

"Owner" means a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of this subtitle.

"Parking" means the standing or waiting on a street, road or highway of a vehicle not actually engaged in receiving or discharging passengers or merchandise, unless in obedience to traffic regulations or traffic signs or signals.

"Passenger automobile" means all automobiles used and designed for the transportation of passengers, other than omnibuses and school buses.

"Pedestrian" means a person afoot.

"Person" includes natural persons, firms, copartnerships, associations, and corporations.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular travel.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping or travel purposes and used solely as a family or personal conveyance.

"Residence district" means that portion of a highway and the territory contiguous thereto, not comprising a business district, where within any 600 feet along such highway there are buildings in use for business or residential purposes which occupy 300 feet or more of frontage on at least one side of the highway.

"Ridesharing" means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as car pools and van pools.

"Right-of-way" means the privilege of the immediate use of the highway.

"Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways, collectively.

"Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians, which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

"School bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation for the transportation of children to or from school for secular or religious education, which complies with the regulations of the Department of Education affecting

school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle with a seating capacity of 17 or more, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School Vehicle Type II" means any vehicle with a seating capacity of 16 or less, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School zone" means that portion of a highway which is either contiguous to territory occupied by a school building or is where school crossings are established in the vicinity of a school, upon which are maintained appropriate "school signs" in accordance with specifications adopted by the director and in accordance with law.

"School crossing" means that portion of a highway where school children are required to cross the highway in the vicinity of a school.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

"Shipper" means any person who shall deliver, or cause to be delivered, any commodity, produce or article for transportation as the contents or load of a commercial motor vehicle. In the case of a sealed ocean container, "shipper" shall not be construed to include any person whose activities with respect to the shipment are limited to the solicitation or negotiation of the sale, resale, or exchange of the commodity, produce or article within that container.

"Shoulder" means that portion of the highway, exclusive of and bordering the roadway, designed for emergency use but not ordinarily to be used for vehicular travel.

"Sidewalk" means that portion of a highway intended for the use of pedestrians, between the curb line or the lateral line of a shoulder, or if none, the lateral line of the roadway and the adjacent right-of-way line.

"Sign." See "Official traffic control devices."

"Slow-moving vehicle" means a vehicle run at a speed less than the maximum speed then and there permissible.

"Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

"Street" means the same as highway.

"Street car" means a car other than a railroad train, for transporting persons or property and operated upon rails principally within a municipality.

"Stop," when required, means complete cessation from movement.

"Stopping or standing," when prohibited, means any cessation of movement of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Suburban business or residential district" means that portion of highway and the territory contiguous thereto, where within any 1,320 feet along that highway there is land in use for business or residential purposes and that land occupies more than 660 feet of frontage on one side or collectively more than 660 feet of frontage on both sides of that roadway.

"Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

"Trackless trolley" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

"Traffic" means pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly, or together, while using any highway for purposes of travel.

"Traffic control signal" means a device, whether manually, electrically, mechanically, or otherwise controlled, by which traffic is alternately directed to stop and to proceed.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Van pooling" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry seven to 15 adult passengers.

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

37. R.S.39:3-10 is amended to read as follows:

**Licensing of drivers; classifications.**

39:3-10. No person shall drive a motor vehicle on a public highway in this State unless the person is under supervision while participating in a behind-the-wheel driving course pursuant to section 6 of P.L. 1977, c.25 (C.39:3-13.2a) or is in possession of a validated permit, or a provisional or basic driver's license issued to him in accordance with this article.

No person under 18 years of age shall be issued a basic license to drive motor vehicles, nor shall a person be issued a validated permit, including a validated examination permit, until he has passed a satisfactory examination and other requirements as to his ability as an operator. The examination shall include a test of the applicant's vision, his ability to understand traffic control devices, his knowledge of safe driving practices and of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle, his knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant and of the laws and ordinary usages of the road. No person shall sit for an examination for any permit without exhibiting photo identification deemed acceptable by the commission, unless that person is a high school student participating in a course of driving education approved by the State Department of Education and conducted in a public, parochial or private school of this State, pursuant to section 1 of P.L. 1950, c.127 (C.39:3-13.1). The commission may waive the written law knowledge examination for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia or the United States Territories of American Samoa, Guam, Puerto Rico or the Virgin Islands. The commission shall be required to provide that person with a booklet that highlights those motor vehicle laws unique to New Jersey. A road test shall be required for a provisional license and serve as a demonstration of the applicant's ability to operate a vehicle of the class designated. No person shall sit for a road test unless that person exhibits photo identification deemed acceptable by the commission. A high school student who has completed a course of behind-the-wheel automobile driving education approved by the State Department of Education and conducted in a public, parochial or private school of this State, who has been issued a special learner's permit pursuant to section 1 of P.L. 1950, c.127 (C.39:3-13.1) prior to January 1, 2003, shall not be required to exhibit photo identification in order to sit for a road test. The commission may waive the



road test for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia or the United States Territories of American Samoa, Guam, Puerto Rico or the Virgin Islands. The road test shall be given on public streets, where practicable and feasible, but may be preceded by an off-street screening process to assess basic skills. The commission shall approve locations for the road test which pose no more than a minimal risk of injury to the applicant, the examiner and other motorists. No new locations for the road test shall be approved unless the test can be given on public streets.

The commission shall issue a basic driver's license to operate a motor vehicle other than a motorcycle to a person over 18 years of age who previously has not been licensed to drive a motor vehicle in this State or another jurisdiction only if that person has: (1) operated a passenger automobile in compliance with the requirements of this title for not less than one year, not including any period of suspension or postponement, from the date of issuance of a provisional license pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two motor vehicle points; (3) not been convicted in the previous year for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-related violation the commission determines to be significant and applicable pursuant to regulation; and (4) passed an examination of his ability to operate a motor vehicle pursuant to this section.

The commission shall expand the driver's license examination by 20%. The additional questions to be added shall consist solely of questions developed in conjunction with the State Department of Health and Senior Services concerning the use of alcohol or drugs as related to highway safety. The commission shall develop in conjunction with the State Department of Health and Senior Services supplements to the driver's manual which shall include information necessary to answer any question on the driver's license examination concerning alcohol or drugs as related to highway safety.

Up to 20 questions may be added to the examination on subjects to be determined by the commission that are of particular relevance to youthful drivers, after consultation with the Director of the Office of Highway Traffic Safety.

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the provisions of the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.) and the procedure for indicating on the driver's license the intention to make a donation of body organs or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the commission any current

driver's license issued to him by another state or jurisdiction upon his receipt of a driver's license for this State. The commission shall refuse to issue a driver's license if the applicant fails to comply with this provision. An applicant for a permit or license who is less than 18 years of age, and who holds a permit or license for a passenger automobile issued by another state or country that is valid or has expired within a time period designated by the commission, shall be subject to the permit and license requirements and penalties applicable to State permit and license applicants who are of the same age; except that if the other state or country has permit or license standards substantially similar to those of this State, the credentials of the other state or country shall be acceptable.

The commission shall create classified licensing of drivers covering the following classifications:

- a. Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering.
- b. Omnibuses as classified by R.S.39:3-10.1 and school buses classified under N.J.S.18A:39-1 et seq.
- c. (Deleted by amendment, P.L.1999, c.28).
- d. All motor vehicles not included in classifications a. and b. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license."

Every applicant for a license under classification b. shall be a holder of a basic driver's license. Any issuance of a license under classification b. shall be by endorsement on the basic driver's license.

A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the basic driver's license.

The commission, upon payment of the lawful fee and after it or a person authorized by it has examined the applicant and is satisfied of the applicant's ability as an operator, may, in its discretion, issue a license to the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire, except as otherwise provided, on the last day of the 48th calendar month following the calendar month in which such license was issued.

The commission may, at its discretion and for good cause shown, issue licenses which shall expire on a date fixed by it. If the commission issues a license to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard period of the license, the commission shall fix the expiration date of the license at a date based on the period in which the person is authorized to be present in the United States

under federal immigration laws. The commission may renew such a license only if it is demonstrated that the person's continued presence in the United States is authorized under federal law. The fee for licenses with expiration dates fixed by the commission shall be fixed by the commission in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 48-month period shall be as follows:

Motorcycle license or endorsement: \$18.

Omnibus or school bus endorsement: \$18.

Basic driver's license: \$18.

The commission shall waive the payment of fees for issuance of omnibus endorsements whenever an applicant establishes to the commission's satisfaction that said applicant will use the omnibus endorsement exclusively for operating omnibuses owned by a nonprofit organization duly incorporated under Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes.

The commission shall issue licenses for the following license period on and after the first day of the calendar month immediately preceding the commencement of such period, such licenses to be effective immediately.

All applications for renewals of licenses shall be made in a manner prescribed by the commission and in accordance with procedures established by it.

The commission in its discretion may refuse to grant a permit or license to drive motor vehicles to a person who is, in its estimation, not a proper person to be granted such a permit or license, but no defect of the applicant shall debar him from receiving a permit or license unless it can be shown by tests approved by the commission that the defect incapacitates him from safely operating a motor vehicle.

In addition to requiring an applicant for a driver's license to submit satisfactory proof of identity and age, the commission also shall require the applicant to provide, as a condition for obtaining a permit and license, satisfactory proof that the applicant's presence in the United States is authorized under federal law.

If the commission has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the commission shall refuse to grant the permit or license until such time as the document may be verified by the issuing agency to the commission's satisfaction.

A person violating this section shall be subject to a fine not exceeding \$500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, he shall be subject to a fine of not less than \$200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not

less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the commission.

Nothing in this section shall be construed to alter or extend the expiration of any license issued prior to the date this amendatory and supplementary act becomes operative.

38. Section 15 of P.L.2001, c.391 (C.39:3-10f5) is amended to read as follows:

**C.39:3-10f5 Use of revenues from fees.**

15. a. Revenues from the fees collected for the digitized picture provided for in this act shall be revenues of the commission upon enactment of P.L.2003, c.13 (C.39:2A-1 et al.) and used for the purposes of the commission.

b. (Deleted by amendment, P.L.2003, c.13).

c. Any revenue credited to the fund shall remain in the fund exclusively for the purposes of the commission.

39. Section 14 of P.L.1995, c.112 (C.39:8-54) is amended to read as follows:

**C.39:8-54 Misrepresentation, transfer of license; penalties.**

14. A person who displays or causes or permits to be displayed any sign, mark, or advertisement, or otherwise identifies that person as a private inspection facility, a registered motor vehicle repair facility or an emission inspector when not holding a valid license or registration issued by the director, or who inspects a motor vehicle without being licensed as a private inspection facility, or who conducts an emission inspection without being licensed as an emission inspector, or who performs for compensation an emission-related repair on a motor vehicle that has failed an emission test without being registered as a motor vehicle emission repair facility, or who transfers or attempts to transfer a valid license or registration, shall be subject to a fine of not less than \$1,000 or imprisonment for not more than 30 days, or both. Any fine collected under the provisions of this section shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

**C.39:2A-34 Reorganization plans superseded.**

40. To the extent that Reorganization Plans Nos. 002-1995 and 005-1998 are inconsistent with any provisions of this act, they are superseded to the extent of such inconsistencies and any reference in such Plans to the Division of Motor Vehicles in the Department of Transportation shall mean and refer to the commission.

**C.39:2A-35 Transfer of Commercial Bus Unit.**

41. The Commercial Bus Unit in the Department of Transportation, together with all of its functions, powers and duties is transferred to and vested in the commission. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). All career service employees who serve in the Commercial Bus Unit shall be employees of the commission and shall retain their present civil service employment status and their collective bargaining status, including all rights of tenure, retirement pension, disability, leave of absence, or similar benefits. All records, property appropriations, and any unexpended balance of funds appropriated or otherwise available to the Commercial Bus Unit, shall be transferred to the commission pursuant to the "State Agency Transfer Act."

42. R.S.39:2-3 is amended to read as follows:

**Powers, duties of commission.**

39:2-3. The commission shall:

- a. Have all the powers and perform all the duties conferred or imposed upon it by this Title;
- b. Have charge and supervision of the administration and enforcement of this Title and attend to the enforcement thereof, and for the purpose of enforcement may communicate with the police departments and police officers in the state;
- c. Collect such data with respect to the proper restrictions to be placed upon motor vehicles and their use upon the public roads, turnpikes and thoroughfares as shall seem for the public good;
- d. Execute all contracts entered into by the commission and approve all bills for disbursement of money under any provision of this chapter and chapter 3 of this title (R.S. 39:3-1 et seq.), which bills shall be paid by the State Treasurer upon the warrant of the comptroller out of any appropriation regularly made therefor.

43. R.S.39:3-3 is amended to read as follows:

**Motor Vehicle Agents, appointment, duties; background checks.**

39:3-3. A Motor Vehicle Agent (hereinafter "agent") shall administer and ensure the efficient operations of a local commission office. The commission shall designate at least one person in each county for each 300,000 inhabitants or fraction thereof to be its agent for the registering of motor vehicles, issuing registration certificates and licensing of drivers, subject to the requirements of this subtitle and to any rules and regulations the commission imposes. The agent shall so act until his authority is revoked by the commission.

All moneys received by such agents for registrations and licenses granted under the provisions of this chapter shall forthwith be deposited as received with the State Treasurer. Notwithstanding any provision of law to the contrary, all current agent contracts shall remain in effect until their expiration. Until the agent contract expires, the fee allowed the agent for registration certificates issued by him and for every license granted by him shall be fixed by the commission on the basis of the registration or license fees collected by the agent. The commission may limit the fee so paid to a maximum. Such fee shall be paid to the agent by the State Treasurer upon the voucher of the commission in the same manner as other State expenses are paid until the agent contract expires. At such time as the agent becomes a State employee, the agent shall receive a salary as fixed by the administrator in accordance with the commission table of organization. Future agent appointments shall be in the State unclassified service and the agents shall serve at the pleasure of the administrator. To determine suitability for appointment, all agents shall undergo a background check prior to appointment based upon an examination of State, federal and financial records. No person shall be appointed as an agent who has contributed \$1,000 or more to any gubernatorial or State party committee in any one year during the five years preceding appointment. All agents appointed pursuant to this section shall be qualified by education and experience to administer and ensure the efficient operation of a local commission office. As used in this section, education and experience shall include a background in law enforcement, security services, customer relations or services; business administration, finance or management; or public administration or finance.

44. R.S.39:3-47 is amended to read as follows:

**Illuminating devices required; violations, fines.**

39:3-47. No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway unless such vehicle or combination of vehicles is equipped with lamps and illuminating devices as hereinafter in this article respectively required for different classes of vehicles.

a. No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway during the times when lighted lamps are required unless such vehicle or combination of vehicles displays lighted lamps and illuminating devices as hereinafter in this article required. Failure to use lighted lamps when lighted lamps are required may result in a fine not to exceed \$50.00. In no case shall motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L. 1990, c.8 (C:17:33B-14) be assessed against any person for a violation of this subsection. A person who is fined under this subsection for a violation of this subsection shall not

be subject to a surcharge under the New Jersey Merit Rating Plan as provided in section 6 of P.L. 1983, c.65 (C:17:29A-35).

b. No person shall use on any vehicle any approved electric lamp or similar device unless the light source of such lamp or device complies with the conditions of approval as to focus and rated candlepower.

c. No person shall alter the equipment or performance of equipment of any vehicle which has been approved at an official inspection station designated by the commission with intent to defeat the purpose of such inspection, and no person shall drive or use any vehicle with equipment so altered.

45. R.S.39:3-69 is amended to read as follows:

**Horns and audible warning devices.**

39:3-69. Every motor vehicle except a motor-drawn vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his horn but shall not otherwise use such horn when upon a highway.

No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell except as otherwise permitted in this section. It is permissible but not required that any vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any emergency vehicle authorized by the commission may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the commission, but such siren, whistle or bell shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren, whistle or bell when necessary to warn pedestrians and other drivers of the approach thereof.

No person shall install or use on the exhaust system of any motor vehicle any device which emits an audible sound unless authorized to do so by the commission.

No bicycle shall be equipped with nor shall any person use upon a bicycle any siren or whistle.

The commission is hereby authorized in its discretion to promulgate standards concerning the audibility of audible warning devices.

46. Section 2 of P.L.1938, c.352 (C.39:3-85.2) is amended to read as follows:

**C.39:3-85.2 Reports to State Police, commission.**

2. Every chief of police or other peace officer in the State of New Jersey, upon receiving reliable information that any motor vehicle has been stolen or any registration plates have been lost or stolen, shall within twenty-four hours report this information to the Superintendent of State Police and the commission.

Any chief of police or other peace officer, upon receiving reliable information that any motor vehicle or registration plates, which he previously reported as stolen or lost has been recovered, shall within twenty-four hours report the fact of such recovery to the Superintendent of State Police and the commission.

47. Section 3 of P.L.1938, c.352 (C.39:3-85.3) is amended to read as follows:

**C.39:3-85.3 Record of stolen motor vehicles, registration plates.**

3. The Superintendent of State Police and the commission having been notified of the theft of a motor vehicle or the loss or theft of registration plates by a chief of police or other peace officer, shall index and file this information in such a manner that a motor vehicle or registration plates can be properly identified. These records shall be available to all police officers and other interested agencies. The Superintendent of State Police and the commission shall co-operate with and assist all peace officers and other agencies in tracing or examining any questionable automobiles to determine the ownership thereof.

48. R.S.39:4-6 is amended to read as follows:

**Duties of commissioner.**

39:4-6. The commissioner shall investigate traffic conditions, means for their improvement and the enforcement of laws and regulations relating to traffic, including pedestrian travel on the public streets and highways. He may determine, regulate and control the character, type, location, placing of and operation of all official traffic control devices on the streets, highways and public places in the State, or cause the removal of such devices determined to be unnecessary. He shall see that the laws relating to such devices are enforced, investigate the manner of enforcing the laws regarding the parking of vehicles on public highways, the use of streets by pedestrians, investigate the location of "stop" signs and cause the removal of those which in his opinion are installed in violation of this chapter, and cause the removal of all colored lights so located as to be confused with traffic signals. He shall also enforce



the provisions of this chapter and promulgate rules and regulations for the enforcement of his duties hereunder.

This section shall not be construed to in any way curtail the powers of actual enforcement vested by law in the local authorities.

49. Section 2 of P.L. 1975, c.250 (C.39:4-14.3) is amended to read as follows:

**C.39:4-14.3 Regulations relative to motorized bicycles.**

2. a. Motorized bicycles shall not be operated upon interstate highways or upon public highways divided by a grass or concrete median or highways with posted speed limits in excess of 50 miles per hour or upon the railroad or right-of-way of an operating railroad within the State of New Jersey or upon any public land where expressly prohibited by the governing body, department or agency having jurisdiction thereof.

The commissioner is authorized to adopt regulations either prohibiting the operation of motorized bicycles on any public road or highway with a speed limit in excess of 40 miles per hour, which in his discretion are hazardous for the operation of motorized bicycles or permitting the operation of motorized bicycles on any public road or highway, upon which the operation of motorized bicycles is otherwise prohibited by the provisions of this section, which in his discretion are safe for the operation of motorized bicycles. In no case, however, shall the commissioner adopt a regulation permitting motorized bicycles to be operated on any highway with a posted speed in excess of 50 miles per hour.

b. No municipality shall limit or otherwise restrict the operation of motorized bicycles on any public roads or highways under its jurisdiction in contravention of the provisions of this act or any regulations adopted by the director pursuant thereto.

c. Motorized bicycles shall not be operated by a person under 15 years of age.

d. No person shall operate a motorized bicycle unless he is in possession of a valid driver's license of any class or a motorized bicycle license, which shall be issued by the commission to any person 15 years of age or older, upon proof of identity and date of birth, and after he has passed a satisfactory examination as to his ability as an operator. Such examination shall include a test of the applicant's knowledge of such portions of the mechanism of motorized bicycles as is necessary to insure their safe operation and of the laws and ordinary usages of the road and a demonstration of his ability to operate a motorized bicycle.

The demonstration of an applicant's ability to operate a motorized bicycle shall be administered at such municipalities that the commission shall designate,

under the supervision of the commission, or an officer, employee, or authorized agent of the commission, in accordance with rules and regulations promulgated by the commission.

The administrator may, in his discretion, issue a learner's permit to a person 15 years of age or older, upon proof of identity and date of birth, allowing such person, for the purpose of fitting himself to become a motorized bicycle driver, to operate a motorized bicycle during daylight hours without supervision for a period not to exceed 45 days. The permit shall be sufficient license for the person to operate a motorized bicycle. No permit shall be issued unless the person applying therefor shall pay the sum of \$5.00 to the commission, or an officer, employee or agent of the commission.

e. The valid driver's license, the insurance identification card, and the registration certificate shall be in the possession of the operator at all times when he is operating a motorized bicycle with motor engaged on the highways of this State. The operator shall exhibit his driver's license when requested to do so by any police officer or magistrate, while in the performance of the duties of his office and shall write his name in the presence of the officer, so that the officer may thereby determine the identity of the licensee and at the same time determine the correctness of the registration certificate, as it relates to the registration number and number plates of the motorized bicycle for which it was issued and the correctness of the evidence of a policy of insurance, as it relates to the coverage of the motorized bicycle for which it was issued. Any person violating this subsection shall be subject to a fine not exceeding \$50.00.

If a person charged with a violation of this subsection can exhibit his valid driver's license, insurance identification card, and registration certificate, which were valid on the day he was charged, to the judge of the municipal court before whom he is summoned to answer to the charge, the judge may dismiss the charge; however, the judge may impose court costs.

f. Unless otherwise determined by the commissioner, statutes, rules and regulations applicable to bicycles shall apply whenever a motorized bicycle is operated upon any highway or upon any public land.

Every person operating a motorized bicycle upon a public road or highway shall be subject to all of the duties applicable to the driver of a vehicle by chapter 4 of Title 39 and N.J.S.2C:11-5 and all amendments and supplements thereto.

50. Section 42 of P.L.1951, c.23 (C.39:4-85.1) is amended to read as follows:

**C.39:4-85.1 Designation of one-way traffic.**

42. The commissioner with respect to highways under his jurisdiction may by regulation, and local and county authorities with respect to highways

under their jurisdiction may by ordinance or resolution designate any such highway or any separate roadway of such highway for one-way traffic and shall erect appropriate signs giving notice thereon.

Upon a highway or roadway properly designated and signed for one-way traffic, a vehicle shall be driven only in the direction designated.

51. R.S.39:4-120 is amended to read as follows:

**Traffic control signal devices.**

39:4-120. The commissioner may determine the character, type, location, placing and operation of all traffic control signal devices on the highways of this State. The commissioner may adopt a manual and specifications for a uniform system of traffic control signals consistent with the provisions of this act for use upon public highways within the State. Such uniform system shall correlate with and so far as possible conform to the system then current as specified in the "Manual on Uniform Traffic Control Devices for Streets and Highways."

52. Section 1 of P.L.1948, c.342 (C.39:4-138.1) is amended to read as follows:

**C.39:4-138.1 Determination of "no parking" zones.**

1. The commissioner, by regulations, shall have authority to establish and maintain "no parking" zones on portions of State highways where parking is deemed hazardous or inimical to the proper flow of traffic.

"No parking" zones so established shall be clearly marked by appropriate signs of a type and design according to specifications adopted by the commissioner.

53. Section 7 of P.L.1941, c.345 (C.39:4-183.6) is amended to read as follows:

**C.39:4-183.6 Determination of signage.**

7. The commissioner may determine the character, type, location, wording or symbol, and use of all traffic signs on the highways of this State; may adopt a manual and specifications for a uniform system of traffic signs consistent with the provisions of this act for use upon public highways within the State. Such uniform system shall correlate with and so far as possible conform to the system then current as specified in the "Manual on Uniform Traffic Control Devices for Streets and Highways."

54. Section 10 of P.L.1941, c.345 (C.39:4-183.9) is amended to read as follows:

**C.39:4-183.9 Design of traffic signs.**

10. The design of all traffic signs shall conform to and have the minimum dimensions of the specifications adopted by the commissioner, except as otherwise approved by the commissioner. Where conditions require greater visibility necessitating a larger sign, standard shapes and colors shall be used, and standard proportions shall be retained, so far as practicable.

This is not to be deemed to prohibit the erection of enlarged bridge type signs or narrow longitudinal type signs suspended from mast arms, over the roadway.

55. Section 3 of P.L.1971, c.393 (C.39:4-183.21a) is amended to read as follows:

**C.39:4-183.21a Removal of certain signs.**

3. The commissioner shall, upon receiving notice from a railroad company that it has abandoned a particular line and the grade crossings thereon, order the removal of any advance warning signs erected pursuant to section 22 of P.L.1941, c.345 (C.39:4-183.21).

56. Section 25 of P.L.1941, c.345 (C.39:4-183.24) is amended to read as follows:

**C.39:4-183.24 Standard location, information signs.**

25. Standard location and information signs shall conform to the design and specifications adopted by the commissioner.

57. Section 114 of P.L.1951, c.23 (C.39:4-201.1) is amended to read as follows:

**C.39:4-201.1 "No passing" zones.**

114. With respect to highways under his jurisdiction the commissioner, by regulations, shall have authority to establish and maintain as "no passing" zones portions of such highways where overtaking and passing, or driving to the left of the roadway is deemed especially hazardous. Notice to the public of the establishment of said "no-passing" zones, shall be given in the manner provided in section 39:4-198 of the Revised Statutes.

58. Section 5 of P.L.1950, c.16 (C.39:4-212) is amended as follows:

**C.39:4-212 Consultation, cooperation relative to enforcement of regulations.**

5. The said division and any such board, body or officer is authorized to consult and co-operate with the commissioner, and the county and municipal officials having jurisdiction over the highways and traffic regulations and

enforcement in the city of Trenton, or in the municipality in which the State institution may be located, as the case may be, in making and enforcing the said regulations.

59. R.S.39:5-32 is amended as follows:

**Validation, granting of new license.**

39:5-32. The commission shall, at all times, have the power to validate a driver's license that has been revoked, or to grant a new license to any person whose license to drive motor vehicles shall have been revoked.

60. R.S.39:5-33 is amended to read as follows:

**Validity of new license.**

39:5-33. If a driver of motor vehicles shall have had his license suspended or revoked, a new license granted to him shall be void and of no effect, unless it shall be granted by the commission.

61. R.S.39:5-34 is amended to read as follows:

**Granting of new registration.**

39:5-34. If a registration or registration certificate shall have been suspended or revoked, a new registration or registration certificate issued shall be void and of no effect, unless the new registration shall be made and the new certificate issued under the direction of the commission.

62. R.S.39:5-46 is amended to read as follows:

**Report to commission of stolen produce.**

39:5-46. The clerk of every court wherein a person licensed to operate a motor vehicle in this or another state is convicted of stealing produce from a farm in this state, shall, within three days after the conviction, make a report in writing to the commission of all such cases heard before the court, upon blanks provided by the commission for the purpose. The report shall state the name and address of the person convicted, the date thereof, the sentence imposed by the court and any recommendations the court may deem of value to the commission in determining whether action should be taken against the convicted person's license.

63. R.S.39:5-47 is amended to read as follows:

**Seizure, sale of stolen motor vehicles.**

39:5-47. The commission may authorize the seizure of a motor vehicle operated over the highways of this State when it has reason to believe that

the motor vehicle has been stolen or is otherwise being operated under suspicious circumstances and may retain it in the name of the commission until such time as the identity of ownership is established, whereupon it shall order the release of the motor vehicle to its owner.

After the expiration of ninety days from the date the motor vehicle came into the possession of the commission by seizure or otherwise, it shall sell it at public sale, upon notice of the sale being first published for the space of two weeks in one or more newspapers published and circulating in this State, and also by posting the notice in five public places in this State. The newspapers and places of posting shall be designated by the commission. Upon the sale of the motor vehicle all claims for interest therein shall be forever barred and the proceeds realized therefrom shall become the sole property of the State, to be used as other moneys received under chapter 3 of this title (R.S.39:3-1 et seq.).

64. R.S.39:10-4 is amended to read as follows:

**Enforcement intrusted to commission.**

39:10-4. The enforcement of this chapter shall be intrusted to the commission and it may make rules and regulations necessary in its judgment for the administration and enforcement thereof in addition thereto but not inconsistent therewith. The commission may employ and discharge any person it requires for the administration and enforcement of this chapter and fix their compensation.

65. R.S.39:11-2 is amended to read as follows:

**"Motor vehicle junk business," "motor vehicle junk yard", defined.**

39:11-2. The terms "motor vehicle junk business" or "motor vehicle junk yard" shall mean and describe any business and any place of storage or deposit adjacent to or visible from a State highway, which displays, or in or upon which there are displayed, to the public view, two or more unregistered motor vehicles which, in the opinion of the commission, are unfit for reconditioning for use for highway transportation, or used parts of motor vehicles or material which has been a part of a motor vehicle, the sum of which parts or material shall, in the opinion of the commission, be equal in bulk to two or more motor vehicles.

66. R.S.39:11-3 is amended to read as follows:

**Licensure of junk yard, business.**

39:11-3. The commission may, in its discretion, issue licenses permitting the establishment and maintenance of a motor vehicle junk yard or business,

and no such business shall be established or maintained unless it is licensed in accordance with this chapter.

67. R.S.39:11-4 is amended to read as follows:

**Permit from municipality required.**

39:11-4. Before making application to the commission for a license for the motor vehicle junk business or motor vehicle junk yard, the applicant shall first obtain a permit or certificate approving its proposed location from the governing body or zoning commission of the municipality in which it is proposed to establish or maintain the junk yard or business.

68. R.S.39:11-6 is amended to read as follows:

**Public hearing.**

39:11-6. Upon request of the governing body or zoning commission, as the case may be, of the municipality in which the yard or business is proposed to be located, the commission shall hold a public hearing within the municipality not less than three nor more than five weeks from the date of the application. Notice of the hearing shall be given to the applicant and to the council or mayor, by mail, postage prepaid, and be published once in a newspaper having a circulation within the municipality, not less than seven days before the date of the hearing. The hearing shall be conducted by the commission or its authorized representative, and the applicant shall pay to the commission or its representative a fee of twenty-five dollars, the costs of the notices and the expenses of the hearing. Upon the conclusion of the hearing, the commission shall, within five days, recommend in writing to the governing body or the zoning commission, as the case may be, the granting or refusal of the local permit or certificate of approval, giving its reasons for the recommendation.

69. R.S.39:11-7 is amended to read as follows:

**Application for State license.**

39:11-7. Application for a State license for the motor vehicle junk yard or business shall be made to the commission, in writing, upon a form to be supplied by it. With the application there shall be submitted a local permit or certificate of approval, as hereinbefore described, and the application shall be accompanied by the amount of the fees herein fixed for the license applied for. The commission or its representative, upon receipt of the application, shall examine the location of the motor vehicle junk yard or business proposed to be established or maintained, and shall grant the license if in its judgment there is no valid reason why it should not be granted. The commission in granting the license, may impose upon the establishment or maintenance of

the yard or business, such conditions as it deems advisable, having regard to the depreciation of surrounding property and the health, safety and general welfare of the public, and no license for the junk yard or business shall be issued until these conditions have been complied with.

70. R.S.39:11-8 is amended to read as follows:

**Fees.**

39:11-8. An applicant for the license shall pay to the commission a fee of \$50.00 for the examination of the proposed location of each motor vehicle junk yard or business and a license fee therefor of \$100.00. No license shall be effective for more than one year from the date of issue.

71. R.S.39:11-9 is amended to read as follows:

**Certification of vehicle's condition.**

39:11-9. Every person holding a license issued in accordance with this chapter and a dealer's license issued in accordance with subtitle 1 of this title (R.S.39:1-1 et seq.), shall certify to the commission, upon the sale by him of a motor vehicle, that, at the time of the sale, the motor vehicle was or was not, as the case may be, in suitable condition to be operated on the highways.

72. R.S.39:11-10 is amended to read as follows:

**Review of action.**

39:11-10. A person aggrieved by the action of the governing body or zoning commission of a municipality under this chapter, or a person aggrieved by an action of the commission or its authorized representative under this chapter, may obtain a review in the Superior Court by a proceeding in lieu of prerogative writ.

73. R.S.39:11-11 is amended to read as follows:

**Violations, penalties.**

39:11-11. A person who violates any provision of R.S.39:11-3 or R.S.39:11-9 of this Title shall be fined not less than \$25.00 nor more than \$100.00 or be imprisoned not more than 90 days, or both.

The provisions of said sections shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of said sections:



- a. The several municipal courts shall have jurisdiction of any such proceeding, in addition to the courts prescribed in "The Penalty Enforcement Law of 1999";
- b. The complaint in any such proceeding may be made on information and belief by the commission, or any police or peace officer of any municipality, any county or the State;
- c. A warrant may issue in lieu of summons;
- d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;
- e. The hearing in any such proceeding shall be without a jury;
- f. Any such proceeding may be brought in the name of the commission or in the name of the State of New Jersey;
- g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the commission and shall be paid by it into the State treasury;
- h. The director or judge before whom any hearing under said sections is had may revoke the license of any person to maintain a motor vehicle junk yard when such person shall have been guilty of such willful violation of any of the said provisions as shall in the discretion of the commission or judge justify such revocation.

74. Section 2 of P.L.1983, c.360 (C.39:13-2) is amended to read as follows:

**C.39:13-2 System for licensure of auto body repair facilities.**

- 2. a. The commission shall establish a system for the licensure of auto body repair facilities. This system may provide for licenses based upon the type or types of motor vehicles repaired by the facility and the equipment required for repair of the vehicles. At a minimum, the commission shall provide for a full service auto body repair facility license, the qualifications for which are established under section 7 of this amendatory and supplementary act, and an automobile dealer sublet license, the qualifications for which are established under section 8 of this amendatory and supplementary act. All facilities licensed pursuant to this section may hold themselves out to the public as licensed auto body repair facilities.
- b. No person may engage in the business of an auto body repair facility unless it is licensed by the commission. An auto body repair facility shall be licensed by the commission upon submission and approval of an application and payment of a reasonable application fee sufficient to cover the cost of implementing the provisions of this act and to be prescribed by the commission. The commission may require biennial renewal of applications for licensure and may stagger the renewal dates and adjust the application fees accordingly.

75. R.S.39:8-1 is amended to read as follows:

**Motor vehicle inspections, exceptions.**

39:8-1. a. Every motor vehicle registered in this State which is used over any public road, street, or highway or any public or quasi-public property in this State, and every vehicle subject to enhanced inspection and maintenance programs pursuant to 40 C.F.R. s.51.356, except historic motor vehicles registered as such, collector motor vehicles designated as such pursuant to this subsection, and those vehicles over 8,500 pounds gross weight that are under the inspection jurisdiction of the commission pursuant to Titles 27 and 48 (as amended by this legislation) of the Revised Statutes, shall be inspected by designated examiners or at official inspection facilities to be designated by the commission or at licensed private inspection facilities. The commission shall adopt rules and regulations establishing a procedure for the designation of motor vehicles as collector motor vehicles, which designation shall include consideration by the commission of one or more of the following factors: the age of the vehicle, the number of such vehicles originally manufactured, the number of such vehicles that are currently in use, the total number of miles the vehicle has been driven, the number of miles the vehicle has been driven during the previous year or other period of time determined by the commission, and whether the vehicle has a collector classification for insurance purposes.

b. The commission shall determine the official inspection facility or private inspection facility at which a motor vehicle, depending upon its characteristics, shall be inspected. The commission, with the concurrence of the Department of Environmental Protection, may exclude by regulation from this inspection requirement any category of motor vehicle if good cause for such exclusion exists, unless the exclusion is likely to prevent this State from meeting the applicable performance standard established by the United States Environmental Protection Agency. The commission may determine that a vehicle is in compliance with the inspection requirements of this section if the vehicle has been inspected and passed under a similar inspection program of another state, district, or territory of the United States.

76. Section 2 of P.L.1995, c.157 (C.39:8-60) is amended to read as follows:

**C.39:8-60 Definitions relative to emissions inspections.**

2. As used in this act:

“Diesel bus” means any diesel-powered autobus or motorbus of any size or configuration, whether registered in this State or elsewhere, that is designed or used for intrastate or interstate transportation of passengers for hire or otherwise on a public road, street or highway or any public or quasi-public property in this State, and shall include, but need not be limited to: autobuses under the jurisdiction of the commission pursuant to Titles 27 or 48 of the

Revised Statutes; autobuses of the New Jersey Transit Corporation and its contract carriers that are under the inspection jurisdiction of the commission; autobuses that are subject to federal motor carrier safety regulations; autobuses under the authority of the Interstate Commerce Commission or its successor agency; school buses, as defined pursuant to R.S.39:1-1; hotel, casino, charter, and special buses; and any other diesel-powered autobus or motorbus as determined by rule or regulation adopted by the commission in consultation with the Department of Transportation;

"Diesel-powered motor vehicle" means a vehicle, whether registered in this State or elsewhere, that is self-propelled by a compression ignition type of internal combustion engine using diesel fuel and that (1) is designed or used for transporting persons or property on any public road, street or highway or any public or quasi-public property in this State, (2) is greater than 8,500 pounds gross vehicle weight, (3) is not a diesel bus or heavy-duty diesel truck, and (4) is not a heavy-duty diesel truck or other diesel-powered motor vehicle owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes. Diesel-powered motor vehicle shall also mean a vehicle that is designed or used for construction or farming purposes and is greater than 8,500 pounds gross vehicle weight, except that the commission, in consultation with the Department of Environmental Protection, may exempt from the requirements of this act diesel-powered motor vehicles that are registered as construction vehicles under Titles 39 and 41 of the Revised Statutes or that are greater than 8,500 pounds gross vehicle weight and are designed or used for construction or farming purposes;

"EPA" means the United States Environmental Protection Agency;

"Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single or combination (articulated) vehicle. The GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR," is the GVWR of the power unit plus the GVWR of the towed unit or units;

"Heavy-duty diesel truck" means any diesel-powered motor vehicle, whether registered in this State or elsewhere, with a GVWR of 18,000 or more pounds that is designed or used for the transporting of property on any public road, street or highway or any public or quasi-public property in this State. Heavy-duty diesel truck shall not mean a heavy-duty diesel truck owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes;

"Periodic inspection program" or "periodic inspection" means a program in which diesel buses, heavy-duty diesel trucks, and other diesel-powered

motor vehicles registered in this State are periodically inspected in accordance with the provisions of this act;

“Person” means a corporation, company, association, society, firm, partnership, or joint stock company, or an individual, and shall also include the State and all of its political subdivisions and any agencies, authorities, corporations, or instrumentalities of the State or any political subdivision thereof; and

“Roadside enforcement program” or “roadside inspection” means a roadside examination program conducted pursuant to this act for the inspection of exhaust emissions, emission control apparatus and such other items as the Department of Environmental Protection, in consultation with the commission and the Commissioner of Transportation, prescribes, of diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles along any public road, street or highway or any public or quasi-public property in this State or at such other locations as may be designated by the commission in consultation with the Commissioner of Transportation.

77. Section 3 of P.L. 1995, c.157 (C.39:8-61) is amended to read as follows:

**C.39:8-61 Exhaust emissions standards, test methods.**

3. The Department of Environmental Protection, in consultation with the commission and the Department of Transportation, shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L. 1968, c.410 (C.52:14B-1 et seq.) establishing exhaust emissions standards and test methods, and standards for emission control apparatus and related items, in accordance with P.L. 1966, c.16 (C.26:2C-8.1 et seq.) or as may be authorized or provided otherwise by federal law, rule or regulation, for diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles. The test methods shall be accurate, objective, and capable of being performed routinely in the periodic inspection program and the roadside enforcement program. In adopting such standards and test methods, the Department of Environmental Protection may consider, but need not necessarily adopt, exhaust control technology current at the time of adoption of the rules and regulations, as well as guidance, standards, directives, and other information issued by the EPA, any other state, or any governmental agency, scientific research entity, or industry. The Department of Environmental Protection may provide that the standards and test methods vary according to the age of the vehicle or according to other relevant factors, and the department may provide exemptions based upon good cause, including, but not limited to, whether the vehicle has been tested within the previous six months or other reasonable period of time in accordance with the law of another state or jurisdiction and has been found to be in compliance with the exhaust emissions standards of the state or jurisdiction

in which the vehicle was tested. The provisions of this act shall not apply to any heavy-duty diesel truck or other diesel-powered motor vehicle owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes.

78. Section 5 of P.L.1995, c.157 (C.39:8-63) is amended to read as follows:

**C.39:8-63 Violations, penalties.**

5. a. The owner and the lessee, if any, of a heavy-duty diesel truck operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty of: \$700 for the first violation, except as otherwise provided in this subsection; and \$1,300 for the second or subsequent violation, except as otherwise provided in this subsection. A second or subsequent violation is one that occurs within one year of the occurrence of a previous violation committed with respect to the same heavy-duty diesel truck, without regard to the date of the hearing that adjudicated the violation and without regard to the identity of the defendant against whom it was adjudicated. The complaint and summons shall state whether the charges pertain to a first violation or to a second or subsequent violation, but if the complaint and summons fail to allege a second or subsequent violation, the civil penalty imposed shall be that for a first violation. The penalty for a first violation may be reduced to \$150 and the penalty for a second or subsequent violation may be reduced to \$500 if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The commission may specify by rule or regulation the manner of the repairs and the certification necessary to effect a reduction of penalty. The commission may, by rule or regulation, provide that information pertaining to penalties, the repairs that may effect a reduction of penalty, and the certification necessary to substantiate those repairs and compliance with emissions standards be served with the complaint and summons. The commission may, by rule or regulation, prescribe a form for certifying repairs and compliance with emissions standards, with instructions as to how the form should be completed and certified. The commission may provide that the form be served with the complaint and summons.

Notwithstanding any other provision of law or any rule or regulation adopted pursuant thereto to the contrary, repairs to effect a reduction of penalty under the provisions of this subsection shall be made before the hearing date or within 45 days of the occurrence of the violation, whichever is sooner. A defendant who is permitted to waive appearance and plead guilty by mail shall also be permitted to submit the certification of repairs by mail; provided

that if the court deems the certification to be inadequate, it shall afford the defendant the option to withdraw the defendant's guilty plea.

b. The owner and the lessee, if any, of a diesel bus operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty determined by a penalty schedule that the commission, in consultation with the Commissioner of Transportation, shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), but in no event shall the penalties established thereby exceed the penalties established by subsection a. of this section for heavy-duty diesel trucks. The penalty schedule may provide for a reduction of penalty if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, specify the timing and manner of the repairs and compliance with emissions standards, and the certification necessary to effect a reduction of penalty. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, provide whether information pertaining to repairs and compliance with emissions standards, and whether a form to certify those repairs and that compliance, should be served with the complaint and summons.

Notwithstanding the provisions of this subsection to the contrary, the New Jersey Transit Corporation shall not be liable for any civil penalty assessed for a violation of section 4 or a violation of any other provision of this act if the diesel bus that is the subject of the violation is operated by a lessee or contractor, or an employee or agent of a lessee or contractor, of the New Jersey Transit Corporation. However, if a diesel bus that is the subject of a violation is leased by the New Jersey Transit Corporation from another person, and the diesel bus is operated by the New Jersey Transit Corporation or an employee thereof, the New Jersey Transit Corporation as lessee, and not the owner of the diesel bus, shall be liable for any civil penalty assessed for the violation.

c. The owner and the lessee, if any, of a diesel-powered motor vehicle operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty determined by a penalty schedule that the commission shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), but in no event shall the penalties established thereby exceed the penalties established by subsection a. of this section for heavy-duty diesel trucks. The penalty schedule may provide for a reduction of penalty if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The commission may, by rule or regulation, specify the timing and manner of the repairs and compliance with emissions standards, and the certification necessary to effect a reduction of penalty. The commission may, by rule or regulation, provide whether information pertaining to repairs and

compliance with emissions standards, and whether a form to certify those repairs and that compliance, should be served with the complaint and summons.

79. Section 6 of P.L.1995, c.157 (C.39:8-64) is amended to read as follows:

**C.39:8-64 Periodic inspection, roadside enforcement programs.**

6. a. The commission, in consultation with the Department of Environmental Protection and the Department of Transportation and with the approval of the Attorney General, shall establish and implement a periodic inspection program and a roadside enforcement program to implement the standards and test methods adopted pursuant to section 3 of this act. These programs shall be designed to measure exhaust emissions and to inspect emission control apparatus and related items on diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles. The programs shall include, at a minimum, diesel buses and heavy-duty diesel trucks subject to the rules and regulations adopted pursuant to section 3 of this act; provided that the commission, in consultation with the Department of Transportation, may exempt vehicles from either program for good cause, which may include that vehicles belonging to an exempted class are, by law, subject to emissions testing in another program. The commission, in consultation with the Department of Environmental Protection and with the approval of the Attorney General, may, by rule or regulation, expand the periodic inspection program and the roadside enforcement program to include other diesel-powered motor vehicles that are subject to the rules and regulations adopted pursuant to section 3 of this act. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, impose upon every owner and lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspection the obligation to have the vehicle periodically inspected in a manner determined by the commission in consultation with the Commissioner of Transportation, to effect repairs or to abstain from operating or to limit the operation of a rejected vehicle or a vehicle overdue for inspection, and may take other action necessary or appropriate for implementation of the periodic inspection program. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, impose upon every owner and lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to roadside inspection the obligation to abstain from operating or to limit the operation of a vehicle that has been tested and found to be in violation of the rules and regulations adopted pursuant to section 3 of this act, or to effect repairs, and may take other action necessary or appropriate for implementation of the roadside enforcement program. A school bus, as defined pursuant to R.S.39:1-1, shall be exempt from the roadside enforcement program. However, nothing in this

subsection allowing or mandating exemptions from the periodic inspection program or the roadside enforcement program shall be construed to limit any other enforcement actions permitted by law.

b. The commission shall exercise all authority, including but not limited to administrative, implementation, enforcement, and penalty authority, in connection with the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses that are under the jurisdiction of the commission pursuant to Titles 27 and 48 of the Revised Statutes or any other law, rule, or regulation. The commission shall consult with the Department of Environmental Protection and the Department of Transportation in conducting the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses that are under the jurisdiction of the commission. Any periodic inspection that may be required pursuant to this act for a diesel bus under the jurisdiction of the commission shall be conducted only in conjunction with any periodic safety inspection required for that diesel bus pursuant to law, rule, or regulation. Any suspension of registration privileges with respect to diesel buses for a violation of this act or any rule or regulation adopted pursuant thereto shall be implemented by the commission.

80. Section 7 of P.L.1995, c.197 (C.39:8-65) is amended to read as follows:

**C.39:8-65 Pilot roadside enforcement program.**

7. In implementing the roadside enforcement program, the commission, in consultation with the Commissioner of Transportation, shall phase in roadside inspections by establishing a pilot roadside enforcement program providing a six-month grace period in which warnings shall be issued in lieu of the civil penalties established by this act or any rule or regulation adopted pursuant thereto. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), procedures for the pilot program may be adopted immediately.

81. Section 8 of P.L.1995, c.157 (C.39:8-66) is amended to read as follows:

**C.39:8-66 Procedures for conducting test methods.**

8. a. The commission, in consultation with the Department of Environmental Protection and the Department of Transportation, shall establish procedures by which test methods established pursuant to section 3 of this act shall be conducted in the periodic inspection program and in the roadside enforcement program.

b. The commission, in consultation with the Department of Transportation and with the approval of the Attorney General, may, by rule or regulation, require that personnel from, and agents of, the commission and the Department of Transportation, and personnel from the Division of State Police, who perform



the test methods utilized in the roadside enforcement program, and licensees and persons employed by licensees who perform the tests and test methods utilized in the periodic inspection program in accordance with the provisions of section 11 of this act, be trained to do so and be examined, periodically if the rule or regulation so provides, to ensure that their training and competence are adequate. Testing in the roadside enforcement program may be conducted by personnel from the commission, or the Division of State Police, or by agents appointed by or under contract with the commission.

c. The commission, in consultation with the Department of Environmental Protection and the Department of Transportation and with the approval of the Attorney General, shall designate one or more test methods among those established pursuant to section 3 of this act that shall be utilized in the roadside enforcement program established pursuant to section 6 of this act. The commission, in consultation with the Department of Transportation and with the approval of the Attorney General, shall establish a form or forms upon which the results of these designated tests or test methods shall be reported in the ordinary course. The form shall contain a statement or statements establishing the following: the type of test performed; the result achieved; that the person completing the form is the person who performed the test; that the tester has been certified by the commission as having adequate training and competence to perform the test; that the tester is an employee or agent of the State and was acting in an official capacity when the tester performed the test; and any other information that the commission may prescribe. The form shall contain a certification subscribed by the person performing the test and certifying that that person did perform the test in a proper manner and believes the test results to be valid and accurate. The presentation of a form prepared in accordance with the provisions of this subsection to a court by any party to a proceeding shall be evidence that all of the requirements and provisions of this subsection have been met and that the form has been prepared in accordance with the provisions of this subsection. The form shall be admissible evidence as proof of the statements contained therein in any civil penalty proceeding brought pursuant to the provisions of this act or any rule or regulation adopted pursuant thereto. A copy of the form shall be served, if practicable, with the complaint and summons upon the defendant or the defendant's agent for service of process; and, in any event, shall be served upon such person at least 20 days before the hearing. Whenever the form is served upon a defendant or a defendant's agent, together with the complaint and summons, the law enforcement officer serving the form shall execute and file with the court a proof of service on a form prescribed by the Administrative Director of the Courts and in a manner consistent with the Rules Governing the Courts of the State of New Jersey. The form shall not be admissible if it is not served at least 20 days before the hearing, provided

that the court, upon a showing of good cause and that the defendant is not prejudiced, may postpone the hearing, subject to the Rules Governing the Courts of the State of New Jersey.

d. A roadside inspection of a diesel bus to enforce standards adopted pursuant to section 3 of this act shall be conducted only in conjunction with a roadside safety inspection that is conducted pursuant to law, rule or regulation.

82. Section 9 of P.L.1995, c.157 (C.39:8-67) is amended to read as follows:

**C.39:8-67 Provision of State Police officers.**

9. The Superintendent of the State Police, in consultation with and subject to the approval of the Attorney General, shall provide State Police officers to assist the commission in conducting the roadside enforcement program and the pilot roadside enforcement program. The State Police officers shall have authority to direct diesel buses, heavy-duty diesel trucks, or other diesel-powered motor vehicles from the roadway for the purpose of inspection, and shall perform other police duties necessary for or helpful to the implementation of the programs.

83. Section 10 of P.L.1995, c.157 (C.39:8-68) is amended to read as follows:

**C.39:8-68 Additional penalties.**

10. In addition to any other penalties that may be applicable, the operator of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle who fails to comply with any direction given pursuant to section 9 of this act, or who refuses to submit or resists submitting a vehicle under the operator's control for roadside inspection, or who fails to comply with any other obligation imposed upon that person as part of the roadside enforcement program shall be jointly and severally liable with the owner and the lessee, if any, of the vehicle for a civil penalty of \$500. The owner and the lessee, if any, of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspections who violates any rule or regulation adopted pursuant to section 6 of this act pertaining to periodic inspections shall be liable for a civil penalty determined by a penalty schedule that the commission, in consultation with the Commissioner of Transportation, shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no event shall a penalty established thereby exceed \$500.

Notwithstanding the provisions of this section to the contrary, the New Jersey Transit Corporation shall not be liable for any civil penalty assessed for a violation of this section if the diesel bus that is the subject of the violation is operated by a lessee or contractor, or an employee or agent of a lessee or

contractor, of the New Jersey Transit Corporation. However, if a diesel bus that is the subject of a violation of this section is leased by the New Jersey Transit Corporation from another person, and the diesel bus is operated by the New Jersey Transit Corporation or an employee thereof, the New Jersey Transit Corporation as lessee, and not the owner of the diesel bus, shall be liable for any civil penalty assessed for the violation.

84. Section 11 of P.L.1995, c.157 (C.39:8-69) is amended to read as follows:

**C.39:8-69 Licensing of diesel emission inspection centers.**

11. a. The commission, in consultation with the Department of Transportation and after appropriate inquiry and investigation, shall issue licenses to operate diesel emission inspection centers to as many qualified and properly equipped persons, including owners or lessees of diesel buses, heavy-duty diesel trucks, or other diesel-powered motor vehicles, as the commission determines shall be necessary to conduct periodic inspections. A licensee shall inspect and pass or reject a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle presented to the licensee for inspection. Passing shall indicate that the licensee or the licensee's employee has inspected the diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle as prescribed by the commission and has found that the vehicle conforms to the standards established by law and rule or regulation. The commission, in consultation with the Department of Transportation and with the approval of the Attorney General, may establish by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) an application fee for the licensing of diesel emission inspection centers, which fee shall not exceed \$250 per year.

b. For the purpose of documenting compliance with periodic inspection requirements, the commission shall furnish official inspection forms to licensed diesel emission inspection centers. The commission shall require each diesel emission inspection center and each owner or lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspection to keep such records and file such reports regarding these inspections as the commission shall deem necessary. The commission may conduct such audits or inspections of these centers as the commission deems appropriate.

c. The commission may deny, suspend or revoke a diesel emission inspection center license or refuse renewal thereof for cause, including, but not limited to, one or more of the following:

(1) Violation of any provision of this act or of any rule or regulation adopted pursuant thereto; or

(2) Fraud or misrepresentation in securing a license or in the conduct of the licensed activity; or

(3) Conviction of a crime demonstrating that the applicant or licensee is unfit; or

(4) Improper, negligent, or fraudulent inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle; or

(5) Other good cause.

d. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the commission to operate a diesel emission inspection center who commits fraud or misrepresentation in securing a license or in the conduct of the licensed activity or who improperly or negligently or fraudulently conducts an inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle shall be liable for a civil penalty of \$1,500. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the commission to operate a diesel emission inspection center who otherwise violates any provision of this act or of any rule or regulation adopted pursuant thereto shall be liable for a civil penalty of \$500.

85. Section 12 of P.L.1995, c.157 (C.39:8-70) is amended to read as follows:

**C.39:8-70 Civil penalty.**

12. Any person who violates any provision of sections 2 through 20 of this act or any rule or regulation adopted pursuant thereto shall be liable for a civil penalty. The amount of the penalty shall be that specified in the other sections of this act or in the rules or regulations adopted pursuant to this act; but if no amount is otherwise specified, then the amount shall be \$200. Additionally, the commission may suspend the registration privileges of a vehicle registered in this State that is operated in violation of this act or any rule or regulation adopted pursuant thereto.

86. Section 13 of P.L.1995, c.157 (C.39:8-71) is amended to read as follows:

**C.39:8-71 Issuance of ticket for violations; service.**

13. a. A complaint and summons charging a violation of this act or any rule or regulation adopted pursuant thereto and seeking the imposition of a civil penalty in accordance with the provisions of this act or any rule or regulation adopted pursuant to this act shall be a ticket in the form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey and may contain information advising the persons to whom it is issued of the manner in which and time within which

an answer to the alleged violation is required. The ticket may also advise that penalties may result from a failure to answer, that the failure to answer or appear shall be considered an admission of liability, and that a default judgment may be entered. Service of the ticket shall be subject to the Rules Governing the Courts of the State of New Jersey. The ticket may be served personally upon the operator of a vehicle, and the owner's or the lessee's name may be recorded on the ticket, together with the plate number and state or jurisdiction as shown by the registration plates of the vehicle and the make or model of the vehicle. A ticket may be served upon the owner or the lessee of the vehicle by affixing the ticket to the vehicle in a conspicuous place. A ticket may be served by mail upon the owner or the lessee of the vehicle on file with the commission, or the licensing authority of another jurisdiction by mailing the ticket to the vehicle owner or lessee by regular or certified mail to the address on file with the commission, or the licensing authority of another jurisdiction. Service of a ticket by regular or certified mail shall have the same effect as if the ticket were served personally, subject to the Rules Governing the Courts of the State of New Jersey.

b. Subject to the Rules Governing the Courts of the State of New Jersey, the ticket shall contain sufficient information to identify the person or persons charged and to inform them of the nature, date, time and location of the alleged violation. Subject to the Rules Governing the Courts of the State of New Jersey, the original of the ticket shall be signed by the complaining witness, who shall certify to the truth of the facts set forth therein. Any person may serve as the complaining witness. For the purposes of the certification, the complaining witness may rely upon information from the commission, or the Division of State Police, upon official reports, and upon any form prepared in accordance with subsection c. of section 8 of this act. The original ticket or a true copy of the ticket shall be considered a record kept in the ordinary business of the commission and shall be prima facie evidence of the facts contained therein.

c. Any operator who drives a vehicle in this State when the owner or lessee of that vehicle causes, authorizes, or otherwise permits such operation shall be the owner's or lessee's agent for service of any ticket, process, or penalty or other notice against the owner or lessee arising out of any alleged violation of this act or any rule or regulation adopted pursuant thereto. The owner and the lessee, if any, of a vehicle driven by any operator in this State shall be the operator's agent or agents for service of any ticket, process, or penalty or other notice arising out of any alleged violation of section 10 of this act pertaining to a roadside inspection. Subject to the Rules Governing the Courts of the State of New Jersey, any service of ticket, process, or penalty or other notice served on an operator who operates in this State, or on an owner or lessee of the vehicle, shall also constitute service upon the remaining persons,

so long as the ticket, process, or penalty or other notice advises the person actually served of that person's responsibility to notify the remaining persons.

d. Subject to the Rules Governing the Courts of the State of New Jersey, judicial proceedings under this act may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall not be a bar to the successful prosecution thereof. Subject to the Rules Governing the Courts of the State of New Jersey, any process served on a Sunday or holiday shall be as valid as if served on any other day of the week.

e. A municipal court before which proceedings pursuant to this act are instituted shall, subject to the Rules Governing the Courts of the State of New Jersey, immediately, upon expiration of the time for a defendant to answer or appear: (1) with respect to a resident of New Jersey, mail notice as provided in the Rules Governing the Courts of the State of New Jersey; or (2) with respect to a non-resident of New Jersey, mail notice as provided in the Rules Governing the Courts of the State of New Jersey. The notice shall be upon a form approved by the Administrative Director of the Courts that informs the defendant of the following: the infraction charged; the time and date of the infraction; the amount of penalties due; the defendant's right to have a hearing; and that a civil judgment may be entered against the defendant for failure to answer or appear or pay the amount of penalties due. Upon failure to answer or appear in response to the notice, the court shall give notice of that fact to the commission in a manner prescribed by the commission, and money judgment shall be entered and execution shall issue in accordance with the Rules Governing the Courts of the State of New Jersey. If the judgment has been docketed in the Superior Court pursuant to section 15 of this act, execution shall be under the jurisdiction of that court. In no case of an unsatisfied judgment shall an arrest warrant or execution against the body of the defendant issue unless otherwise provided by the Rules Governing the Courts of the State of New Jersey. If notice has been given under this subsection of a person's failure to respond to a failure to appear notice and if the person appears or if the case is dismissed or otherwise disposed of, the court shall promptly give notice to that effect to the commission.

f. If the defendant is the owner or lessee of a vehicle that is the subject of the violation and if the defendant fails to respond to a failure to appear notice, the judge or the commission may suspend the registration privileges of the defendant in this State. The commission shall keep a record of a suspension ordered by the court pursuant to this subsection. If the registration privileges of the defendant have been suspended pursuant to this subsection and if the defendant appears or the case is disposed of and if the defendant satisfies all penalties and costs that are owing, the court shall forward to the commission a notice to restore the defendant's registration privileges. Upon receiving a notice to restore and upon the defendant's payment of the restoration fee in

accordance with section 23 of P.L.1975, c.180 (C.39:3-10a), the commission shall record the restoration and notify the defendant of the restoration.

87. Section 14 of P.L.1995, c.157 (C.39:8-72) is amended to read as follows:

**C.39:8-72 Action for recovery of civil penalty.**

14. An action for the recovery of a civil penalty for violation of this act or any rule or regulation adopted pursuant to this act shall be within the jurisdiction of and may be brought before the municipal court in the municipality where the offense was committed or where the defendant may be found, or where the measurement of emissions was physically made. The municipal prosecutor shall proceed in the matter on behalf of the State, unless the county prosecutor or the Attorney General assumes responsibility for the prosecution. The civil penalties provided by this act or any rule or regulation adopted pursuant thereto shall be recovered in the name of the commission, as appropriate, and any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund. The civil penalties provided by this act or any rule or regulation adopted pursuant thereto shall be collected and enforced by summary proceedings pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the ticket has not been marked to indicate that a court appearance is required, the defendant shall have the option to waive trial, enter a plea of guilty, and pay the penalty, either by mail or in person, to the violations clerk, subject to the Rules Governing the Courts of the State of New Jersey.

88. Section 15 of P.L.1995, c.157 (C.39:8-73) is amended to read as follows:

**C.39:8-73 Docketing of judgments; enforcement.**

15. a. The court administrator of the municipal court shall docket in the Superior Court a municipal court judgment imposing a civil penalty pursuant to this act, or any rule or regulation adopted pursuant thereto, that remains unpaid at the time of the judgment's entry in the municipal court. The court administrator shall give notice of the docketing to the commission in a manner prescribed by the commission. The provisions and procedures of N.J.S.2B:12-26 shall apply to the docketing, except that the court administrator of the municipal court, rather than the commission, shall effect the docketing; provided that nothing in this act shall be construed to prohibit the commission or its designee from docketing the judgment on behalf of the commission and in accordance with N.J.S.2B:12-26 if the court administrator of the municipal court fails to do so or if the commission or its designee chooses to do so for any other reason. No fee shall be charged to docket the judgment. The

docketing shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission and its designee shall have all of the remedies and may take all of the proceedings for the collection thereof that may be had or taken upon recovery of a judgment in an action, but without prejudice to any right of appeal.

b. If the defendant is the owner or lessee of a vehicle that is the subject of the violation, and if the defendant fails to pay a civil penalty imposed pursuant to this act or any rule or regulation adopted pursuant thereto, the commission may suspend the registration privileges of the defendant in this State.

c. Any vehicle that is registered or present in this State and for which a civil penalty has been assessed pursuant to this act or any rule or regulation adopted pursuant thereto may be placed out of service by the commission or the Division of State Police if the civil penalty remains unpaid after the date on which it became due and owing. A vehicle placed out of service pursuant to this act by either the commission or the Division of State Police shall not be operated until all civil penalties that are due and owing are paid to the commission. When a vehicle is placed out of service pursuant to this act, an administrative out-of-service order shall be prepared on a form or forms specified by the commission and a copy served upon the operator of the vehicle or upon the owner or lessee of the vehicle. The operator of a vehicle served with an out-of-service order pursuant to this act shall report the issuance of the out-of-service order to the owner and the lessee, if any, of the vehicle within 24 hours. When a vehicle is placed out of service pursuant to this act it shall be the responsibility of the owner or lessee of that vehicle to arrange for the prompt removal of that vehicle, by means other than operating the vehicle, and to pay all costs associated therewith. The vehicle shall be removed to a secure storage place where the commission and the Division of State Police can readily confirm its non-operation. If the owner or lessee fails to comply, or is otherwise incapable of complying with this subsection, the commission or the Division of State Police may make such arrangements for the removal of the vehicle to a secure storage place where the commission and the Division of State Police can readily confirm its non-operation, with all attendant charges and expenses to be paid by the owner, lessee, or bailee. No entity of government of this State or any political subdivision thereof shall be held liable for costs associated with or incurred in the enforcement of this subsection. Upon payment by cashier's check or money order, or in such other form as may be determined by the commission, subject to law or the Rules Governing the Courts of the State of New Jersey, of all unpaid civil penalties and attendant storage charges and expenses for a vehicle that has been placed out of service, the commission shall remove the out-of-service order. Any person who operates, and any owner or lessee who causes or allows to be operated, a vehicle in violation



of an out-of-service order prepared and served in accordance with the provisions of this subsection shall be liable for a civil penalty of \$1,500, and, if the person has the vehicle registered in this State, the commission may suspend the registration privileges of the vehicle.

d. The commission shall exercise all duties, powers and responsibilities set forth in this section with respect to the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses under the jurisdiction of the commission as set forth in subsection b. of section 6 of this act.

89. Section 16 of P.L.1995, c.157 (C.39:8-74) is amended to read as follows:

**C.39:8-74 Distribution of fees.**

16. Notwithstanding any other provisions of this title to the contrary, all fees and other monies that the commission, or the State Treasurer receives pursuant to the provisions of this act or any rule or regulation adopted pursuant thereto shall be paid to the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act; except that monies received for attendant storage charges and expenses as provided in subsection c. of section 15 of this act shall be paid to the entity that incurred those charges and expenses.

90. Section 19 of P.L.1995, c.157 (C.39:8-77) is amended to read as follows:

**C.39:8-77 Rules, regulations.**

19. Except as otherwise provided in this act, the commission, the Department of Environmental Protection, and the Department of Transportation may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

91. Section 20 of P.L.1995, c.157 (C.39:8-78) is amended to read as follows:

**C.39:8-78 Report.**

20. On the first day of the forty-eighth month after this act takes effect, the Attorney General, in consultation with the Commissioner of Environmental Protection, the commission, and the Commissioner of Transportation, shall submit to the Governor and to the members of the Legislature a report assessing the effectiveness of the programs required by this act and the necessity and feasibility of providing for periodic centralized emissions inspections of diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles.

92. Section 90 of P.L.1962, c.198 (C.48:4-2.1a) is amended to read as follows:

**C.48:4-2.1a Discontinuance of operation of motor vehicle.**

90. a. The commission may make rules, regulations and orders applicable to the construction, equipment and insurance required of every motor vehicle within the jurisdiction of the commission, and shall inspect, through its agents, inspectors and employees, any such motor vehicle to determine the manner of compliance with such rules, regulations and orders.

b. In the event of noncompliance with such rules, regulations and orders, or with statutory requirements, the commission may, through its agents, inspectors and employees, cause the immediate discontinuance of the operation of such motor vehicle, and no such motor vehicle shall be restored to service without the express approval of the commission.

c. Any person who shall remove or deface any notice of discontinuance that has been affixed or otherwise attached to the motor vehicle without approval of the commission is guilty of a crime of the fourth degree. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of \$1,000.

d. Any person who owns or causes to be operated a motor vehicle subject to this section without a valid certificate of inspection issued by the commission, or in violation of rules or orders made by the commission concerning insurance requirements of that vehicle, is a disorderly person. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of \$500 per day for each vehicle so operated.

e. Any person who operates a motor vehicle subject to this section without a valid certificate of inspection issued by the commission, or in violation of rules or orders made by the commission concerning insurance requirements of that vehicle, is a petty disorderly person.

f. Any inspection conducted pursuant to this section relating to emissions from a motor vehicle powered with diesel fuel that is also subject to the provisions of P.L.1995, c.157 (C.39:8-59 et al.) shall be conducted in accordance with the provisions of that act.

93. Section 1 of P.L.1987, c.373 (C.48:4-2.1b) is amended to read as follows:

**C.48:4-2.1b Vehicle emission, brake tests, emissions inspections.**

1. The commission may, in conjunction with any program of self-inspection established to ensure compliance with regulations adopted under section 90 of P.L.1962, c.198 (C.48:4-2.1a), and at the request of any owner or operator of a motor vehicle required to be self-inspected, authorize commission personnel to conduct vehicle emission tests and brake tests. The

commission may adopt regulations setting the amount of and providing for the charging and collecting of a fee for each vehicle emission test and each brake test conducted pursuant to this section, which fee shall be in an amount necessary to cover only the actual costs of the program.

Any inspection conducted pursuant to this section relating to emissions from a motor vehicle powered with diesel fuel that is also subject to the provisions of P.L.1995, c.157 (C.39:8-59 et al.) shall be conducted in accordance with the provisions of that act.

94. Section 3 of P.L.1995, c.225 (C.48:4-2.1e) is amended to read as follows:

**C.48:4-2.1e Definitions.**

3. As used in this act:

"Bus" or "buses" means and includes all autobuses, of whatever size or configuration, under the jurisdiction of the commission; all autobuses of NJ Transit and its contract carriers which are under the inspection jurisdiction of the commission; all autobuses of whatever size or configuration, that are subject to Federal Motor Carrier Safety Regulations, operated on public highways or in public places in this State; and all autobuses operated on public highways or in public places in this State under the authority of the Interstate Commerce Commission, or its successor agency.

"Bus safety out-of-service violation" means any serious mechanical, electrical or vehicular condition that is determined to be so unsafe as to potentially cause an accident or breakdown, or would potentially contribute to loss of control of the vehicle by the driver.

"Category 1 violation" means any bus safety out-of-service violation that should have been detected during the daily pre-trip inspection or during periodic repair and maintenance procedures conducted by the driver or the operator.

"Category 2 violation" means any bus safety out-of-service violation that may have occurred after the daily pre-trip inspection and therefore might not have been detected by the operator or driver during the daily pre-trip inspection or during periodic repair and maintenance procedures.

"Operator" means the person responsible for the day to day maintenance and operation of buses.

95. Section 4 of P.L.1995, c.225 (C.48:4-2.1f) is amended to read as follows:

**C.48:4-2.1f Bus safety out-of-service violations; schedule, sanctions established.**

4. a. The commission shall establish by regulation, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a schedule of bus safety out-of-service violations and applicable sanctions

and penalties for buses operating with bus safety out-of-service violations. The regulations shall promote uniformity with national safety standards. The regulations shall establish penalties for category 1 and category 2 safety violations which shall be proportional with the severity of such violations as determined by the commission. The bus operator shall be responsible for all penalties.

b. The schedule of bus safety out-of-service violations shall establish and specify those violations which the commission determines to be category 1 violations, and shall further establish and specify the monetary civil penalty for category 1 violations. The monetary civil penalties established and specified by the commission in the schedule shall be proportional to the nature, severity and repetition of the violation. The minimum monetary civil penalty for a category 1 violation shall be \$300 and the maximum monetary civil penalty for a category 1 violation shall be \$5,000.

c. The schedule of bus safety out-of-service violations shall establish and specify those violations which the commission determines to be category 2 violations, and shall further establish and specify the monetary civil penalty for category 2 violations. The monetary civil penalties established and specified by the commission in the schedule shall be proportional to the nature, severity and repetition of the violation. The maximum monetary civil penalty for a category 2 violation shall be \$500.

96. Section 7 of P.L.1995, c.225 (C.48:4-2.1i) is amended to read as follows:

**C.48:4-2.1i Inspection; penalty.**

7. a. The commission or any duly authorized representative of the commission is authorized to direct any bus operated in this State to immediately proceed to a designated facility for inspection. If a driver fails to immediately report as directed to the designated facility, the operator shall be subject to a penalty of \$1,000.

b. At the time of inspection, the commission or any duly authorized representative of the commission is authorized to demand and examine the driver's operating credentials.

97. Section 9 of P.L.1995, c.225 (C.48:4-2.1k) is amended to read as follows:

**C.48:4-2.1k Penalty enforcement; summons issued for violation of act.**

9. Any penalty imposed pursuant to this act may be collected, with costs, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or Municipal Court of the county or municipality, respectively, wherein the violation occurs, or

wherein the operator resides or has a place of business or principal office in this State, shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law," in connection with this act. The commission or any duly authorized representative of the commission may issue a summons and complaint returnable in a municipal court or other court of competent jurisdiction for a violation of this act and any rule or regulation adopted pursuant thereto, except that when conducting an inspection at the site of an owner or operator's business, the commission or a representative of the commission shall not issue a summons and complaint for a violation of this act, but shall take any other enforcement action authorized by law for that violation. Municipal, county, and State prosecutors are authorized to assist the commission in the enforcement of this act. The commission may institute an action in the Superior Court for injunctive relief to prevent or restrain any violation of this act, or any order issued, or rule of regulation adopted, pursuant to this act.

98. Section 2 of P.L.1983, c.517 (C.48:4-2.21) is amended to read as follows:

**C.48:4-2.21 "Zone of rate freedom" established annually.**

2. The commission shall establish annually a "zone of rate freedom" which will provide for a maximum permitted percentage adjustment to any rate, fare or charge for regular route autobus service. The commission shall promulgate this percentage within 60 days after the effective date of this act for the time remaining in the 1984 calendar year, and shall thereafter promulgate a percentage for each calendar year 60 days prior to the commencement of the calendar year. The commission shall consider all relevant factors, including but not limited to the availability of alternative modes of transportation, increases or decreases of the costs of bus operations, the interests of the consumers or users of bus services, and the rates, fares and charges prevailing in the bus industry, as well as in other related transportation services, such as rail services, in establishing the "zone of rate freedom" for each period.

99. R.S.48:4-11 is amended to read as follows:

**Penalties.**

48:4-11. a. Any person who shall operate an autobus, charter bus operation or special bus operation within the State of New Jersey without complying with the provisions of this article shall be subject to the penalties provided herein.

Proceedings to prevent a person from operating an autobus without a valid certificate of public convenience and necessity, and to recover damages for

lost revenues caused by those operations, may be instituted by an autobus public utility, the business or revenues of which are adversely affected thereby.

Except for proceedings instituted by an autobus public utility, every civil penalty for violation of any provision of this article and for a violation of section 90 of P.L.1962, c.198 (C.48:4-2.1a) shall be sued for and recovered by and in the name of the commission and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall issue at the suit of the commission, as plaintiff, and shall be in the nature of a summons and complaint returnable in the Law or Chancery Division of the Superior Court or in the various municipal courts. Every day that a violation exists shall be a separate violation for which a penalty may be recovered. Proceedings may be instituted on any day of the week including Sunday or upon a holiday, and any process issued pursuant to this article or pursuant to section 90 of P.L.1962, c.198 (C.48:4-2.1a) shall be deemed valid as if served or issued on any other day.

b. The commission may, in addition to seeking a civil penalty, seek injunctive relief in the Chancery Division of the Superior Court as to any person found to have violated any provision of this article or any provision of section 90 of P.L.1962, c.198 (C.48:4-2.1a).

100. Section 24 of P.L.1995, c.157 (C.39:3-6.14) is amended to read as follows:

**C.39:3-6.14 Registration, administrative fees.**

24. a. The registration fee for an apportioned vehicle shall be determined by the number of in-jurisdiction miles an apportioned vehicle drives in the State of New Jersey and in each of the jurisdictions in which it is authorized to travel by its registration. The formula used for the registration fee shall be in accord with the International Registration Plan and shall be set forth in regulation.

b. In addition to the registration fee, the commission shall set by regulation an administrative fee which will be collected from each registrant to subsidize the cost of the administration of the program.

c. The administrative fee collected pursuant to this act shall be forwarded to the State Treasurer and be deposited into the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act.

101. R.S.39:3-21 is amended to read as follows:

**Motorcycle registration fee.**

39:3-21. The applicant for registration for a motorcycle shall pay to the commission for each registration a fee of \$10.00.

102. Section 3 of P.L.1942, c.227 (C.39:3-23.1) is amended to read as follows:

**C.39:3-23.1 Use of non-rubber tires.**

3. The commission may in its discretion approve the use of any particular type of tire, of a material other than rubber, on vehicles operated upon the highways of this State, if it finds the said tire will not damage the public highways and that the use of said tire is not likely to be hazardous to the public safety.

103. R.S.39:3-43 is amended to read as follows:

**Powers of commission.**

39:3-43. The commission is hereby given authority to pass upon the construction and equipment of any vehicle, motor vehicle or motor-drawn vehicle with a view to its safety for use on a street or highway and it shall be lawful for the commission to refuse registration to any vehicle that in its estimation is not a proper vehicle to be used upon a highway. The commission is hereby authorized to promulgate regulations, not inconsistent with this chapter, concerning the construction and equipment of any vehicle, motor vehicle or motor-drawn vehicle. The commission may require the approval of any equipment or device and may set up the procedure which shall be followed when any equipment or device is submitted for approval. The commission may revoke or suspend for cause and after hearing any certificate of approval that may be issued under this article. The commission at its discretion is hereby authorized to disapprove any equipment or device.

104. R.S.39:3-46 is amended to read as follows:

**Definitions relative to illuminating devices.**

39:3-46. As used in this article, unless the context requires another or different construction:

"Approved" means approved by the commission and when applied to lamps and other illuminating devices means that such lamps and devices must be in good working order and capable of operating at least 50% of their designed efficiency.

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

"When lighted lamps are required" means at any time from a half-hour after sunset to a half-hour before sunrise; whenever rain, mist, snow or other precipitation or atmospheric moisture requires the use of windshield wipers by motorists; and during any time when, due to smoke, fog, unfavorable

atmospheric conditions or for any other cause there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead.

"Headlamp" means a major lighting device capable of providing general illumination ahead of a vehicle.

"Auxiliary driving lamp" means an additional lighting device on a motor vehicle used primarily to supplement the headlamps in providing general illumination ahead of a vehicle.

"Single beam headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use but one distribution of light on the road.

"Multiple-beam headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of two or more distributions of light on the road.

"Asymmetric headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of several distributions of light on the road, at least one of which is asymmetric about the median vertical axis.

"Clear road beam" means the beam from multiple-beam headlamps designed to be used when not approaching other vehicles and designed to provide sufficient candlepower ahead to reveal obstacles at a safe distance ahead under ordinary conditions of road contour and of vehicle loading.

"Meeting beam" means the beam from multiple beam or asymmetric headlamps designed to be used when other vehicles are approaching within 500 feet or when signaled and designed so that the illumination on the left side of the road is reduced sufficiently to avoid dangerous glare for the approaching driver.

"Lower beam" means the beam from multiple beam or asymmetric headlamps designed to be directed low enough to avoid dangerous glare on both sides of the roadway.

"Reflector" means an approved device designed and used to give an indication by reflected light.

**C.39:2A-36 Revenues to be remitted to commission, General Fund.**

105. a. The first \$200,000,000 of fees and surcharges thereon collected pursuant to the following statutes shall be considered service charges which are revenues to be remitted to the New Jersey Motor Vehicle Commission and the remainder shall be remitted to the General Fund, provided that if the total amount of such fees and surcharges collected, as verified by the relevant fiscal year New Jersey Comprehensive Annual Financial Report, produce more or less revenue than the sum of \$200,000,000 and the amount anticipated in the fiscal year 2004 Appropriations Act for those statutes, then the



\$200,000,000 in revenue from those service charges to the commission shall be increased or lowered proportionately:

Section 4 of P.L. 1995, c.401 (C.12:7-73); section 24 of P.L. 1984, c.152 (C.12:7A-24); section 28 of P.L. 1984, c.152 (C.12:7A-28); section 1 of P.L. 1983, c.65 (C.17:29A-33); section 6 of P.L. 1983, c.65 (C.17:29A-35); section 9 of P.L. 1998, c.108 (C.27:5F-42); R.S.39:2-10; section 1 of P.L. 1969, c.301 (C.39:3-4b); section 2 of P.L. 1969, c.301 (C.39:3-4c); R.S.39:3-8; section 2 of P.L. 1968, c.439 (C.39:3-8.1); section 1 of P.L. 1992, c.87 (C.39:3-8.2); R.S.39:3-10; section 23 of P.L. 1975, c.180 (C.39:3-10a); section 1 of P.L. 1977, c.23 (C.39:3-10b); section 1 of P.L. 1979, c.261 (C.39:3-10f); section 22 of P.L. 1990, c.103 (C.39:3-10.30); R.S.39:3-13; R.S.39:3-18; R.S.39:3-19; section 2 of P.L. 1974, c.162 (C.39:3-19.2); section 12 of P.L. 1979, c.224 (C.39:3-19.5); R.S.39:3-20; section 1 of P.L. 1973, c.319 (C.39:3-20.1); R.S.39:3-21; R.S.39:3-24; R.S.39:3-25; R.S.39:3-26; section 2 of P.L. 1964, c.195 (C.39:3-27.4); section 2 of P.L. 1968, c.247 (C.39:3-27.6); section 2 of P.L. 1977, c.369 (C.39:3-27.9); section 2 of P.L. 1979, c.457 (C.39:3-27.16); section 2 of P.L. 1981, c.139 (C.39:3-27.19); R.S.39:3-28; R.S.39:3-30; R.S.39:3-31; section 1 of P.L. 1961, c.77 (C.39:3-31.1); R.S.39:3-32; section 1 of P.L. 1999, c.192 (C.39:3-33a); section 1 of P.L. 2001, c.35 (C.39:3-33b); section 2 of P.L. 1959, c.56 (C.39:3-33.4); section 4 of P.L. 1959, c.56 (C.39:3-33.6); R.S.39:3-36; section 1 of P.L. 1979, c.314 (C.39:3-54.14); section 2 of P.L. 1999, c.308 (C.39:3-75.2); R.S.39:3-84; section 2 of P.L. 1999, c.396 (C.39:3-84.7); section 3 of P.L. 1973, c.307 (C.39:3C-3); section 10 of P.L. 1983, c.105 (C.39:4-14.3j); section 23 of P.L. 1983, c.105 (C.39:4-14.3w); R.S.39:4-26; R.S.39:4-30; section 11 of P.L. 1985, c.14 (C.39:4-139.12); section 1 of P.L. 1972, c.38 (C.39:5-30.4); section 31 of P.L. 1994, c.60 (C.39:5-36.1); section 20 of P.L. 1952, c.173 (C.39:6-42); section 2 of P.L. 1983, c.141 (C.39:6B-3); R.S.39:7-3; section 3 of P.L. 1975, c.156 (C.39:8-11); section 8 of P.L. 1975, c.156 (C.39:8-16); section 9 of P.L. 1975, c.156 (C.39:8-17); section 15 of P.L. 1975, c.156 (C.39:8-23); section 5 of P.L. 1995, c.112 (C.39:8-45); section 7 of P.L. 1995, c.112 (C.39:8-47); section 12 of P.L. 1995, c.112 (C.39:8-52); section 11 of P.L. 1995, c.157 (C.39:8-69); section 13 of P.L. 1995, c.112 (C.39:8-53); section 14 of P.L. 1995, c.112 (C.39:8-54); R.S.39:10-11; R.S.39:10-12; R.S.39:10-14; R.S.39:10-16; R.S.39:10-19; R.S.39:10-25; section 5 of P.L. 1983, c.323 (C.39:10-35); section 8 of P.L. 1983, c.455 (C.39:10A-15); R.S.39:11-8; section 2 of P.L. 1951, c.216 (C.39:12-2); section 5 of P.L. 1951, c.216 (C.39:12-5); and section 2 of P.L. 1983, c.360 (C.39:13-2).

Proportional revenues remitted to the commission for the fiscal years beginning July 1, 2004 and thereafter shall have the same proportion as the proportional revenues remitted to the commission for the fiscal year beginning July 1, 2003.

b. In addition to the proportionately increased or lowered revenue provided for in subsection a. of this section, the commission shall receive 100 percent of the revenues collected from any new service charge and 100 percent of the increased revenues collected from any existing service charge increased by law. Any new or increased service charge shall not be included in the calculation of the proportional revenue remitted to the commission.

c. In addition to the revenues provided for in subsections a. and b. of this section, all fees collected pursuant to Chapter 3 of Title 39 of the Revised Statutes required to defray the costs of the commission with respect to producing, issuing, renewing, and publicizing license plates, or related computer programming shall be considered revenues of the commission notwithstanding any other provision of law.

d. Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for by law.

106. Section 17 of P.L.1995, c.157 (C.39:8-75) is amended to read as follows:

**C.39:8-75 "Commercial Vehicle Enforcement Fund."**

17. a. There is established in the General Fund a separate, nonlapsing, dedicated account to be known as the "Commercial Vehicle Enforcement Fund." The Commercial Vehicle Enforcement Fund shall be administered by the commission. All fees and other monies collected pursuant to this act or any rule or regulation adopted pursuant thereto shall be forwarded to the State Treasury for deposit into the Commercial Vehicle Enforcement Fund account. The commission shall receive 40 percent of this fund annually, which monies shall be considered revenue of the commission. All remaining fees and other monies deposited in the Commercial Vehicle Enforcement Fund account shall be used to fund the costs of administering the programs and activities of the Department of Law and Public Safety, the Department of Transportation, the commission and the Department of Environmental Protection established or specified in this act and in subsection f. of R.S.39:3-20, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

b. A municipality may be eligible for periodic grants from the fund in such amounts as the commission, in consultation with the Commissioner of Transportation, may determine pursuant to rule or regulation to subsidize costs of prosecuting and trying actions pursuant to this act.

107. R.S.39:8-2 is amended to read as follows:

**Examiners of motor vehicles; rules; regulations; inspections; requirements, etc.**

39:8-2 a. The commission may designate and appoint, subject to existing laws, competent examiners of motor vehicles to conduct examinations, other than the periodic inspections required pursuant to subsection b. of this section, of motor vehicles required to be inspected in accordance with the provisions of this chapter. The examiners may be delegated to enforce the provisions of the motor vehicle and traffic law.

b. (1) The commission shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with P.L.1966, c.16 (C.26:2C-8.1 et seq.) and with the requirements of the federal Clean Air Act with respect to the type and character of the inspections to be made, the facility at which the vehicle shall be inspected, the frequency of inspections of motor vehicles and the approval or rejection of motor vehicles as a result of these inspections. These rules and regulations shall require the use of inspection tests that are designed to meet the enhanced inspection and maintenance requirements of the federal Clean Air Act and that have been proven to be feasible and effective for the inspection of large numbers of motor vehicles, except that these tests shall not include the "I/M 240" test. Nothing in this subsection shall preclude the use of the "I/M 240" test in sampling for performance evaluations only or the use of the test at the option of a private inspection facility. The rules and regulations may distinguish between vehicles based on model year, type, or other vehicle characteristics in order to facilitate inspections or to comply with the federal Clean Air Act. A low mileage vehicle shall not be subject to a tailpipe inspection test utilizing a dynamometer but may be subject to an idle test and a purge and pressure test. For the purpose of this paragraph, "low mileage vehicle" means a motor vehicle that is driven less than 10,000 miles during the biennial inspection period, except that the commission may set the qualifying number of miles for this exemption at a lower number in order to meet the federal enhanced inspection and maintenance performance standard.

(2) The Department of Environmental Protection and the commission shall investigate advanced testing technologies, including but not limited to remote sensing and onboard diagnostics, and shall, to the extent permitted by law, pursue the use of such technologies, other than the "I/M 240" test, in motor vehicle emission inspections required by the United States Environmental Protection Agency pursuant to the federal Clean Air Act. The commission shall adopt, to the extent practicable, advanced technologies to facilitate the retrieval of testing and other information concerning motor vehicles, which technologies shall include but not be limited to the use of computer bar codes and personal cards containing encoded information, such

as a person's operating license, motor vehicle registration, and motor vehicle insurance, the inspection status of a motor vehicle, and mass transit fares, that can be accessed quickly by a computer.

c. Except as modified by the commission to distribute evenly the volume of inspections, all motor vehicles required by the commission, in accordance with the provisions of R.S.39:8-1, to be inspected under this chapter shall be inspected biennially, except that (i) after certification by the commission of the federal approval by the Environmental Protection Agency of the State waiver request, model year 2000 and newer motor vehicles shall be inspected no later than four years from the last day of the month in which they were initially registered and thereafter biennially; and (ii) classes of vehicles that require more frequent inspections, such as school buses, shall be inspected at such shorter intervals as may be established by the commission after consultation with the Department of Environmental Protection. At any time, the commission may require the owner, lessee, or operator of a motor vehicle to submit the vehicle for inspection.

d. The commission shall furnish to designated examiners or to other persons authorized to conduct inspections or to grant waivers official certificates of approval, rejection stickers or waiver certificates, the form, content and use of which it shall establish. The certificates of approval, rejection stickers and waiver certificates shall be of a type, such as a windshield sticker or license plate decal, that can be attached to the vehicle or license plate in a location that is readily visible to anyone viewing the vehicle. If a certificate of approval cannot be issued, the driver shall be provided with a written inspection report describing the reasons for rejection and, if appropriate, the repairs needed or likely to be needed to bring the vehicle into compliance with applicable standards.

e. The commission may, with the approval of the State House Commission, purchase, lease or acquire by the exercise of the power of eminent domain any property for the purpose of assisting it in carrying out the provisions of this chapter. This property may also be used by the commission for the exercise of the duties and powers conferred upon it by the other chapters of this Title.

f. For the purpose of implementing the motor vehicle inspection requirements of the federal Clean Air Act and subject to the approval of the Attorney General, the State Treasurer, prior to January 1, 1997, may:

(1) Purchase, lease or acquire by eminent domain any property for vehicle inspection purposes. Any other provision of law to the contrary notwithstanding, no further approval shall be required for transactions authorized by this paragraph, except that a proposed purchase, lease or acquisition by eminent domain shall require the approval of the Joint Budget Oversight Committee, and shall be submitted to the Joint Budget Oversight Committee, which shall

review the proposed purchase, lease or acquisition by eminent domain within 15 business days; and

(2) Sell or lease, or grant an easement in, any property acquired, held or used for vehicle inspection purposes or any other suitable property held by the State that is not currently in use or dedicated to another purpose. For the purpose of this paragraph and notwithstanding any provision of R.S.52:20-1 et seq. to the contrary, the sale or lease of, or the granting of an easement in, real property owned by the State shall be subject to the approval of the State House Commission, which shall meet at the call of the Governor to act on a proposed sale or lease or grant of an easement pursuant to this paragraph. A member of the State House Commission may permit a representative to act on that member's behalf in considering and voting on a sale or lease or grant of an easement pursuant to this paragraph. Any other provision of law to the contrary notwithstanding, any moneys derived from a sale, lease or granting of an easement by the State pursuant to this paragraph shall not be expended unless approved by the Joint Budget Oversight Committee for the purpose of purchasing, leasing or acquiring property pursuant to paragraph (1) of this subsection, except that any moneys derived therefrom and not approved for that purpose shall be appropriated to the Department of Transportation to provide for mass transit improvements.

g. The commission shall conduct roadside examinations of motor vehicles required to be inspected, using such inspection equipment and procedures, and standards established pursuant to section 1 of P.L. 1966, c. 16 (C.26:2C-8.1), including, but not limited to, remote sensing technology, as the commission shall deem appropriate to provide for the monitoring of motor vehicles pursuant to this subsection. At least 20,000 vehicles or 0.5 percent of the total number of motor vehicles required to be inspected under this chapter, whichever is less, shall be inspected during each inspection cycle by roadside examination teams under the supervision of the commission. The commission may require any vehicle failing a roadside examination to be inspected at an official inspection facility or a private inspection facility within a time period fixed by the commission. Failure to appear and pass inspection within the time period fixed by the commission shall result in registration suspension in addition to any other penalties provided in this Title. The commission shall conduct an aggressive roadside inspection program to ensure that all motor vehicles that are required to be inspected in this State are in compliance with State law.

h. The commission, and, when appropriate, the Department of Environmental Protection, shall conduct inspections and audits of licensed private inspection facilities, official inspection facilities and designated examiners to ensure accurate test equipment calibration and use, and compliance with proper inspection procedures and with the provisions of

P.L.1995, c.112 (C.39:8-41 et al.) and any regulations adopted pursuant thereto by the commission or by the Department of Environmental Protection. These inspections and audits shall be conducted at such times and in such manner as the commission, upon consultation with the Department of Environmental Protection, shall determine in order to provide quality assurance in the performance of the inspection and maintenance program.

i. (1) The commission shall make a charge of \$2.50 for the initial inspection for each vehicle subject to inspection, which amount shall be paid to the commission or its representative when payment of the registration fees fixed in chapter 3 of this Title is made which inspection charge shall be considered a service charge and shall be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36); provided however, that on and after January 1, 1999, a school bus as defined pursuant to section 3 of P.L.1999, c.5 (C.39:3B-20) and having a registration period commencing on or after January 1, 1999, shall be subject to an inspection fee for each in-terminal or in-lieu-of terminal inspection in accordance with the following schedule:

School Bus Specification Inspection	\$50 per bus
School Bus Inspection	\$25 per bus
School Bus Reinspection	\$25 per bus subject to the conditions set forth below

The specification inspection is required when a school bus is put into service in New Jersey, whether a new bus or a bus from another state. The specification inspection is conducted to ensure that the school bus meets New Jersey specification standards. The school bus inspection fee shall be charged to the operator for each in-terminal or in-lieu-of terminal inspection. School Vehicle Type I and School Vehicle Type II buses shall be inspected semiannually. Retired school buses shall be inspected annually. No school bus inspection fee shall be charged for any reinspection conducted by the commission if the reinspection is conducted on the same day as the inspection that necessitated the reinspection. If an additional trip is required by the commission's inspectors, a fee of \$25 per bus shall be charged. School bus inspection fees shall be paid to the commission or the commission's designee subject to the terms and conditions prescribed by the commission and shall be considered service charges of the commission and not subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36). Any law or rule or regulation adopted pursuant thereto to the contrary notwithstanding, a registration fee authorized pursuant to chapter 3 of Title 39 of the Revised Statutes shall not

be increased for the purpose of paying any costs associated in any manner with the establishment, implementation or operation of the motor vehicle inspection and maintenance program established pursuant to P.L. 1995, c.112 (C.39:8-41 et al.).

(2) The commission shall establish by regulation a fee to cover the costs of inspecting any vehicle that is required, or has the option, under federal law to be inspected in this State but is registered in another state or is owned or leased by the federal government. In determining these costs, the commission shall include all capital and direct and indirect operating costs associated with the inspection of these vehicles including, but not limited to, the costs of the actual inspection, the creation and maintenance of the vehicle inspection record, administrative, oversight and quality assurance costs and the costs associated with reporting inspection information to the owner, the federal government and agencies of other states. All fees collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of this section.

j. There is established in the General Fund a special dedicated, non-lapsing fund to be known as the "Motor Vehicle Inspection Fund," which shall be administered by the State Treasurer. The State Treasurer shall deposit into the "Motor Vehicle Inspection Fund" \$11.50 from each motor vehicle registration fee received by the State after June 30, 1995. This fee shall be considered a service charge of the commission and shall be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36). The Legislature shall annually appropriate from the fund an amount necessary to pay the reasonable and necessary expenses of the implementation and operation of the motor vehicle inspection program. The State Treasurer shall:

(1) Pay to a private contractor or contractors contracted to design, construct, renovate, equip, establish, maintain and operate official inspection facilities under a contract or contracts entered into with the State Treasurer pursuant to subsection a. of section 4 of P.L.1995, c.112 (C.39:8-44) from the fund the amount necessary to meet the costs agreed to under the contract or contracts; and

(2) Transfer from the fund to the commission as provided pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36) and the Department of Environmental Protection the amounts necessary to finance the costs of administering and implementing all aspects of the inspection and maintenance program, and to the Office of Telecommunications and Information Systems in the Department of the Treasury the amount necessary for computer support upgrades;

Moneys remaining in the fund and any unexpended balance of appropriations from the fund at the end of each fiscal year shall be reappropriated

for the purposes of the fund. Any interest earned on moneys in the fund shall be credited to the fund.

108. Section 2 of P.L.1993, c.124 (C.48:2-56.1) is amended to read as follows:

**C.48:2-56.1 Bus inspection fees, revenue of the commission.**

2. Moneys received from fees collected by the commission pursuant to section 1 of P.L.1959, c.43 (C.48:2-56) for the bus inspection program shall be revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

**C.39:2A-37 Fees concerning licenses, effective date, revenue of the commission, certain.**

109. Notwithstanding any other provision of law, all fees established pursuant to P.L.2001, c. 391 shall take effect on the enactment of P.L.2003, c.13 (C.39:2A-1 et al.). The \$6 digitized picture fee shall be charged regardless of whether the license or identification card displays a picture, and shall be revenues of the commission for use in the furtherance of any commission purpose. This fee shall be considered revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for in law.

**C.39:2A-38 Additional fees as security surcharge; commission revenue.**

110. In addition to the vehicle registration fees imposed pursuant to the provisions of chapters 3, 4, and 8 of Title 39 of the Revised Statutes, the commission shall impose and collect an additional \$7 for each new and renewal vehicle registration as a security surcharge, which surcharge shall take effect on the enactment of P.L.2003, c.13 (C.39:2A-1 et al.) and shall expire ten years thereafter. The security surcharges collected pursuant to this section shall be revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.3 (C.39:2A-36). The security surcharge shall not be imposed on the registration of passenger vehicles registered to persons possessing a valid handicapped person identification card issued pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) or to persons aged 65 years of age or older at the time of registration or registration renewal. Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature.



In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for in law.

111. Section 4 of P.L.1994, c.57 (C.34:1B-21.4) is amended to read as follows:

**C.34:1B-21.4 Issuance of Market Transition Facility, Motor Vehicle Commission bonds, notes.**

4. a. The authority shall have the power to issue Market Transition Facility bonds or notes in an amount not to exceed \$ 750 million, pursuant to the provisions of this act, under the powers given to it by and pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), for the purpose of providing funds for the payment of the current and anticipated liabilities and expenses of the facility, as such liabilities and expenses are certified by the commissioner. Bonds issued for the purpose of refinancing previously issued bonds or notes shall not be included in the calculation of the dollar amount limitation and bonds issued for the purpose of refinancing previously issued bonds or notes shall be approved by the Joint Budget Oversight Committee prior to the refinancing. The bonds or notes shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from funds in the Facility Revenue Fund. All Market Transition Facility bonds shall have a final maturity of not later than July 1, 2011.

b. The authority shall also have the power to issue New Jersey Motor Vehicle Commission bonds, notes or other obligations, pursuant to P.L.1994, c.57 (C.34:1B-21.1 et seq.) and to the powers given to it by and pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), for the purpose of providing funds for the payment of the costs of any and all capital improvements to or for New Jersey Motor Vehicle Commission facilities, including, but not limited to, building improvements and the acquisition and installation of furniture, fixtures, machinery, computers and electronic equipment; provided, however, that bonds, notes or other obligations shall not be issued in an amount exceeding \$160 million in the aggregate without the prior approval of the Joint Budget Oversight Committee. Bonds issued for the purpose of refinancing previously issued bonds, notes or other obligations shall not be included in the calculation of the dollar amount limitation. The bonds, notes or other obligations shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to the section and the costs thereof are discharged and no longer outstanding. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from monies in the Market Transition Facility Revenue Fund.

c. Of the aggregate amount of New Jersey Motor Vehicle Commission bonds, notes or other obligations authorized to be issued in subsection b. of this section, \$10,000,000 of the proceeds of those bonds, notes or other obligations shall be transferred by the New Jersey Motor Vehicle Commission to the Administrative Office of the Courts for improvements to the Automated Traffic System, which improvements shall be deemed included in the purpose of providing for the payment of the costs of any and all capital improvements to or for the commission.

112. Section 5 of P.L. 1994, c.57 (C.34:1B-21.5) is amended to read as follows:

**C.34:1B-21.5 Powers of authority.**

5. a. For the purpose of providing funds for payment of current and anticipated liabilities and expenses of the facility, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund. The bonds or notes shall be payable from the monies in the Facility Revenue Fund. The bonds or notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

b. For the purpose of providing funds for payment of any and all capital improvements to or for New Jersey Motor Vehicle Commission facilities, including, but not limited to, building improvements and the acquisition and installation of furniture, fixtures, machinery, computers and electronic equipment, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L. 1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding. The bonds or notes shall be payable solely from the monies in the Facility Revenue Fund. The bonds and notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion

or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

113. Section 6 of P.L.1994, c.57 (C.34:1B-21.6) is amended to read as follows:

**C.34:1B-21.6 Payment of redemption of bonds, notes.**

6. The authority may, in any resolution authorizing the issuance of the bonds or notes, pledge the Facility Revenue Fund or a portion thereof for payment of the redemption of the Market Transition Facility bonds or notes and, from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L. 1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, New Jersey Motor Vehicle Commission bonds or notes, and covenant as to the use and disposition of monies in the Facility Revenue Fund. All costs associated with the issuance of the bonds or notes by the authority for the purposes set forth in P.L.1994, c.57 (C.34:1B-21.1 et seq.) may be paid by the authority from the Facility Revenue Fund, which costs may include, but shall not be limited to, any costs related to the issuance of the bonds or notes, operating expenses of the authority attributable to the payment of facility current and anticipated liabilities and expenses, and costs of, and any payment due under, any agreement entered into pursuant to the provisions of subsection b. of section 8 of P.L. 1994, c.57 (C.34:1B-21.8). Monies in the Facility Revenue Fund shall not be used for any other project of the authority.

114. Section 7 of P.L.1994, c.57 (C.34:1B-21.7) is amended to read as follows:

**C.34:1B-21.7 "Market Transition Facility Revenue Fund."**

7. There is created within the authority a special nonlapsing fund, to be known as the "Market Transition Facility Revenue Fund." The Facility Revenue Fund shall consist of:

a. Such monies as may be transferred to the Facility Revenue Fund by the State Treasurer, upon appropriation by the Legislature, pursuant to section 14 of this act;

b. Such monies as may be appropriated to the Facility Revenue Fund by the Legislature from surcharges levied pursuant to the provisions of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35), except that any such monies in excess of the amounts required to be used by the authority pursuant to any bond resolutions authorizing the issuance of Market Transition Facility bonds and notes, the authority's agreement with the State Treasurer authorized by section 13 of this act and any bond resolutions authorizing the

issuance of Motor Vehicle Commission bonds and notes shall be at least annually remitted to the General Fund;

c. Interest or other income derived from the investment of monies in the Facility Revenue Fund; and

d. Any other monies as may be deposited from time to time, except that such monies shall not be appropriated from the General Fund.

Monies in the Facility Revenue Fund shall be managed and invested by the Division of Investment in the Department of the Treasury.

115. Section 8 of P.L.1994, c.57 (C.34:1B-21.8) is amended to read as follows:

**C.34:1B-21.8 Use of monies, agreements, exemption from taxation.**

8. a. The authority may use the monies in the Market Transition Facility Revenue Fund to pay the principal and interest and premium, if any, on the Market Transition Facility bonds or notes issued by it pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and, from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, New Jersey Motor Vehicle Commission bonds or notes issued by it pursuant to section 4 of P.L.1994, c.57. The authority may create any other fund or funds by resolution of the authority which it deems necessary to further secure the Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes or otherwise effectuate the purposes of this act, including a fund for the deposit of the proceeds from Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes provided for in section 4 of P.L.1994, c.57.

b. The authority may, in connection with its duties and responsibilities under P.L.1994, c.57 (C.34:1B-21.1 et seq.), or in connection with any duties and responsibilities provided for in P.L.1974, c.80 (C.34:1B-1 et seq.), enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, insurance contract, surety bond, commitment to purchase bonds, purchase or sale agreement, or commitments or other contracts or agreements in connection with the authorization, issuance, sale or payment of bonds.

c. All Market Transition Facility bonds or notes and New Jersey Motor Vehicle Commission bonds or notes issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other monies received or to be received by the authority and pledged and available to pay or secure the payment on Market Transition Facility bonds or notes and the New Jersey Motor Vehicle

Commission bonds or notes or pledged or available to pay or secure payment on such bonds or notes or interest thereon shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

116. Section 9 of P.L.1994, c.57 (C.34:1B-21.9) is amended to read as follows:

**C.34:1B-21.9 Bonds, notes as special, limited obligations.**

9. Market Transition Facility bonds and notes issued by the authority shall be special and limited obligations which are payable only from monies on deposit in the Facility Revenue Fund. New Jersey Motor Vehicle Commission bonds and notes issued by the authority shall be special and limited obligations which are payable only from monies on deposit in the Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding. Neither the members of the authority nor any other person executing the Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes provided for in section 4 of P.L.1994, c.57, shall be liable personally with respect to payment of interest and principal on these bonds or notes or obligations of the facility. Market Transition Facility bonds, notes, New Jersey Motor Vehicle Commission bonds or notes, or any other obligations issued pursuant to the provisions of P.L.1994, c.57 (C.34:1B-21.1 et seq.), shall not be a debt or liability of the State or any agency or instrumentality thereof, either legal, moral, or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision, and all debt instruments issued by the authority shall contain a statement to that effect on their face.

117. Section 10 of P.L.1994, c.57 (C.34:1B-21.10) is amended to read as follows:

**C.34:1B-21.10 State pledge regarding bonds, notes, other obligations.**

10. The State hereby pledges and covenants with the holders of any Market Transition Facility bonds, notes or other obligations and New Jersey Motor Vehicle Commission bonds, notes or other obligations issued pursuant to the provisions of P.L.1994, c.57, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or

fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds, notes, or other obligations. The State also pledges and covenants with the holders of any such bonds, notes, or obligations, that it will not act to prevent the authority from obtaining any of the revenues provided for in this act, which shall be sufficient to meet all costs and expenses in connection with the issuance of such obligations, until the bonds, notes, or other obligations, together with interest thereon, are fully met and discharged or payment thereof is fully provided for, except that the failure of the State to appropriate monies for any purpose of this act shall not be deemed a violation of this section.

118. Section 12 of P.L.1994, c.57 (C.34:1B-21.12) is amended to read as follows:

**C.34:1B-21.12 "Division of Motor Vehicles Surcharge Fund."**

12. There is created within the Department of the Treasury a special nonlapsing fund to be known as the "Division of Motor Vehicles Surcharge Fund," which, beginning September 1, 1996 or earlier as provided pursuant to this section, shall be comprised of monies transferred to the DMV Surcharge Fund from the Market Transition Facility which, notwithstanding the provisions of this section to the contrary, may be appropriated, immediately upon receipt from the Market Transition Facility, by the Legislature to the Facility Revenue Fund and all monies collected pursuant to subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and any interest or other income earned thereon. Monies in the DMV Surcharge Fund shall be managed and invested by the Division of Investment in the Department of the Treasury. Commencing September 1, 1996, or at such earlier time as may be certified by the commissioner that monies on deposit in the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5) are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, the monies in the DMV Surcharge Fund shall be disbursed from time to time by the State Treasurer, upon appropriation by the Legislature, to the Market Transition Facility Revenue Fund, for payment of principal, interest and premium on the Market Transition Facility bonds or notes and New Jersey Motor Vehicle Commission bonds or notes issued by the authority pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4). From the amounts remaining in the fund after these payments are fully defrayed, there shall be remitted to the fund created in section 2 of P.L.2001, c.48 (C.26:2B-9.2), \$ 1.5 million in Fiscal Year 2002, \$ 3 million in Fiscal Year 2003, \$ 4.5 million in Fiscal Year 2004, \$ 6 million in Fiscal Year 2005, and \$ 7.5 million in Fiscal Year 2006 and each fiscal year thereafter.

119. Section 13 of P.L. 1994, c.57 (C.34:1B-21.13) is amended to read as follows:

**C.34:1B-21.13 Agreements between EDA and State; EDA and Motor Vehicle Commission.**

13. a. The State Treasurer and the authority may enter into any agreements as may be necessary to effectuate the provisions of this act, which may include, but not be limited to, procedures for the transfer of monies from the DMV Surcharge Fund to the Market Transition Facility Revenue Fund as provided for in section 12 of this act, commencing with the fiscal year beginning July 1, 1994, with respect to the terms and conditions relative to the securing of Market Transition Facility bonds, notes, and other obligations of the authority and New Jersey Motor Vehicle Commission bonds, notes and other obligations of the authority, the pledge and assignment of any agreement or agreements authorized herein, or any payments to the trustees of these bondholders. Notwithstanding any provision of P.L. 1974, c.80 (C.34:1B-1 et seq.), this act or any regulation of the authority to the contrary, the authority shall be paid only such fees as shall be determined by the agreement.

b. The commissioner and the authority shall also enter into an agreement relative to a procedure for the transfer of monies for the purpose of paying the current and anticipated liabilities and expenses of the facility, including private passenger automobile claims and other claims against the facility. The agreement shall contain a provision that the commissioner shall certify from time to time, but not more frequently than monthly, an amount necessary to fund payments made, or anticipated to be made by or on behalf of the Market Transition Facility. The commissioner's certification shall be deemed conclusive. The authority shall cause the transfer to be made to the designated transferee within 15 days of the receipt of the commissioner's certification.

c. The authority is authorized to enter into an agreement with the New Jersey Motor Vehicle Commission relative to the provision by the authority to the commission of the proceeds from the sale of the New Jersey Motor Vehicle Commission bonds for the purpose of providing funds for the payment of the costs of any and all capital improvements to or for New Jersey Motor Vehicle Commission facilities, including, but not limited to, building improvements and the acquisition and installation of furniture, fixtures, machinery, computers and electronic equipment.

**C.39:2A-39 Monies considered revenues of commission.**

120. All monies paid to the commission pursuant to section 1 of P.L. 1952, c.176 (C.39:6-58) are revenues of the commission and shall not be subject to the calculation of proportional revenues remitted to the commission pursuant to section 105 of P.L. 2003, c.13 (C.39:2A-36).

**C.39:3-37.1 Unlawful loan of license, vehicle; penalty.**

121. a. A person who has been issued a driver's license shall not lend that driver's license for use by another person.

b. A person who owns, leases or otherwise has control or custody of a motor vehicle registered under the provisions of this title shall not allow that motor vehicle to be operated by an unlicensed driver.

c. The penalty for a violation of this section shall be a fine of not less than \$200 or more than \$500, imprisonment for not more than 15 days, or both.

**C.39:2A-40 Prior law superseded.**

122. All acts and parts of acts inconsistent with any of the provisions of this act are superseded to the extent of such inconsistencies.

**C.39:2A-41 Severability; liberal construction.**

123. The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence or provision of this act is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this act shall not thereby be deemed to be unconstitutional or invalid.

This act shall be liberally construed to obtain the objectives and effect the purposes thereof.

124. Section 24 of P.L.1984, c.152 (C.12:7A-24) is amended to read as follows:

**C.12:7A-24 Issuing agents.**

24. The commission may designate any person to be its agent for the issuing and filing of certificates of origin, certificates of registration and certificates of ownership in accordance with the provisions of this act and regulations to be prescribed by the commission. The agent shall so act at the discretion of the commission until the agent's authority is revoked by the commission. All moneys received by the agents for the issuance and filing of certificates of origin and certificates of ownership under the provisions of this act shall forthwith be deposited upon receipt with the State Treasurer.

The commission shall prescribe the fee to be paid to the agent and the fee shall be paid to the agent by the State Treasurer upon the voucher of the commission in the same manner as other State expenses are paid.

125. R.S.39:10-25 is amended to read as follows:

**Agency to issue certificates; fees.**

39:10-25. The commission may designate any person to be its agent for the issuing and filing of certificates of origin, certificates of registration and



certificates of ownership in accordance with the provisions of section 39:10-11 of this Title, subject to the requirements of chapter 10, and to any rules and regulations the commission shall impose. The agent shall so act until the agent's authority is revoked by the commission. All moneys received by such agents for the issuing and filing of certificates of origin and certificates of ownership under the provisions of this section shall forthwith be deposited as received with the State Treasurer. The fee allowed the agent for issuing and filing each certificate of ownership shall be fixed by the commission on the basis of the fees collected by the agent for the issuing and filing of such certificates. The commission may limit the fee so paid to a maximum. Such fee shall be paid to the agent by the State Treasurer upon the voucher of the commission in the same manner as other State expenses are paid.

**Repealer.**

126. The following are repealed: R.S.39:2-5, R.S.39:2-12, R.S.39:4-3, R.S.39:4-4, and R.S.39:4-5.

127. Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the "date of certification") that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 28, 2003.

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CHAPTER 14

AN ACT concerning waivers for certain land surveying work and supplementing P.L.1938, c.342 (C.45:8-27).

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

**C.45:8-36.3 Waiver of corner marker requirements for certain land surveying work.**

1. a. When a property survey is performed, appropriate corner markers shall be set either by a licensed land surveyor or under the supervision of a licensed land surveyor. These markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless a written waiver signed by the ultimate user is obtained and retained for a period of not less than six years by the surveyor performing the survey.

b. Whenever a written waiver to omit corner markers is obtained pursuant to subsection a. of this section, the following notation shall be included on the plat or plan of survey:

"A written Waiver and Direction Not to Set Corner Markers has been obtained from the ultimate user pursuant to P.L.2003, c.14 (C45:8-36.3) and N.J.A.C. 13:40-5.1(d)."

c. Failure to comply with the provisions of P.L.2003, c.14 (C45:8-36.3) shall subject the licensee to a penalty of not greater than \$2,500 for each violation, to be imposed pursuant to section 9 of P.L.1978, c.73 (C.45:1-22).

2. This act shall take effect immediately.

Approved January 29, 2003.

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**CHAPTER 15**

AN ACT concerning local unit bonds, amending and supplementing chapter 2 of Title 40A of the New Jersey Statutes and repealing N.J.S.40A:2-8.

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

1. N.J.S.40A:2-10 is amended to read as follows:

**Filing of supplemental debt statement required.**

40A:2-10. Prior to the passage on first reading of any bond ordinance, refunding bond ordinance or ordinance amending such ordinance, except amending as to matters which are not required to be contained in such ordinance or which does not increase the total amount of the obligations authorized by such ordinance, a financial officer of the local unit shall execute and swear to a supplemental debt statement which shall be filed in the office of the clerk. Prior to the final passage of such ordinance, an executed duplicate of such statement shall be filed in the office of the director.

2. N.J.S.40A:2-11 is amended to read as follows:

**Down payment.**

40A:2-11. a. No bond ordinance shall be finally adopted unless it appropriates to the purpose, or ratably to the respective purposes to be financed, in addition to the obligations thereby authorized, a sum as a down payment which is not less than 5% of the amount of the obligations authorized.

b. Said sum so appropriated as a down payment must have been made available prior to final adoption of the bond ordinance from any one or more of the following:

1. by provision in a previously adopted budget or budgets of the local unit for down payment or for capital improvement purposes;
2. from moneys then actually held by the local unit and previously contributed for such purpose other than by the local unit; or
3. by emergency appropriation.

c. The provisions of this section shall not apply to a bond ordinance which authorizes obligations solely for any purpose referred to in paragraphs a, b, c, d, e and h of section 40A:2-7 or for those bond ordinances which involve projects funded by State grants such as Green Acres, Environmental Trust Fund, Transportation Trust Fund, and other similar programs.

3. N.J.S.40A:2-26 is amended to read as follows:

**Maturities of bonds.**

40A:2-26. Maturities of all bonds shall be as determined by bond ordinance or by subsequent resolution and within the following limitations:

a. All bonds shall mature within the period or average period of usefulness determined in the bond ordinance.

b. All bonds shall mature in annual installments, the first of which shall be payable not more than one year from the date of the bonds. No annual installment shall exceed by more than 100% the amount of the smallest prior installment.

c. The first installment of bonds to finance a municipal public utility may be made payable not later than the end of the second year's operation, computed from the estimated date of completion, as fixed in the project report submitted pursuant to this chapter.

d. Bonds to finance that part of the cost of a local improvement which is to be assessed on property shall mature in annual installments not exceeding in number the number of annual installments or average thereof fixed in the bond ordinance for the payment of special assessments. The first annual installment of such bonds shall be payable not more than two years from the date of the bonds, and no annual installment shall exceed the amount of the smallest prior installment.

e. A governing body which has concluded that the limitations as to maturities or amounts of annual installments will adversely affect the financial position of the local unit, may make written application to the local government board setting forth its conclusion and the reasons therefor and the desired maturities or the amounts of annual installments for bonds about to be issued. If the local government board finds such conclusion to be well founded, it may, by order, fix the maturities or amounts of annual installments of such bonds as desired by the local unit, or fix any such other maturities or amounts of annual installments which the circumstances warrant.

f. The governing body, by resolution, may provide for a single and combined issue of bonds not exceeding the aggregate amount of bonds authorized by two or more bond ordinances. The bonds of such issue shall mature within the average period of usefulness which shall be determined in said resolution, taking into consideration the respective amount of bonds authorized by each of the bond ordinances and the period or average period of usefulness therein determined. The provisions of this chapter applicable to the sale and issuance of a single issue of bonds shall apply to the sale and issuance of such combined issue of bonds.

g. The governing body, by resolution, may allow the adjustment of, or otherwise delegate to a finance officer the authority to adjust, the maturity schedule of the bonds, up to 24 hours prior to the time advertised for the receipt of bids and within 24 hours after the award of bids; provided that no maturity schedule adjustment shall exceed 10% of the principal for any maturity with the aggregate adjustment to maturity not to exceed 10% of the principal for the overall issue. When an adjustment has been made to a maturity schedule previously approved by the local finance board, a copy of the final maturity schedule which meets or complies with the limitations in this subsection shall be filed with the board within 30 days of the sale and shall be conclusively deemed to have been approved by the board.

4. N.J.S.40A:2-27 is amended to read as follows:

**Sale of bonds, methods.**

40A:2-27. a. All bonds shall be sold at public sale upon the submission of sealed bids or through the submission of electronic proposals, except that bonds may be sold at private sale without any previous public offering:

(1) if constituting all or part of an authorized issue of \$1,000,000 or less,  
or

(2) if sold to any board, body, agency, commission, instrumentality, district, authority or political subdivision of any local unit, or of the State, or of the Federal Government.

b. (1) If no legally acceptable bid is received at advertised public offering pursuant to subsection a. of this section, such bonds or any of them may be sold at private sale within 30 days after the advertised date for public bidding, provided, however, that no bonds shall contain substantially different provisions from those specified in said notice.

(2) Any purchaser of bonds at private sale, other than a public body, shall deposit a certified or cashier's or treasurer's check drawn upon a bank or trust company in an amount equal to 5% of the amount of bonds purchased and such amount shall be applied as in the case of a deposit made at public sale.

(3) Any private sale of bonds shall be made or confirmed by resolution of the governing body adopted by not less than a 2/3 vote of the full membership thereof, setting forth the date, maturities, interest rate and price of the bonds and the name of the purchaser.

c. If the governing body determines to conduct the public sale through the submission of electronic proposals, such electronic proposals shall be submitted in the form of open or closed auctions conducted through a nationally recognized electronic securities bidding service and in accordance with such rules as may be promulgated by the board. The local finance board may adopt rules in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.), regulating the terms and conditions of the submission of electronic proposals.

5. N.J.S.40A:2-29 is amended to read as follows:

**Minimum price for obligations.**

40A:2-29. Obligations sold pursuant to subsection d. of N.J.S.40A:2-32 shall be sold at not less than par value plus any interest accrued to the date of delivery. No other obligations shall be sold for less than 99% of par value and interest accrued to date of delivery unless the local unit has obtained the approval of the director, which approval may be subject to such conditions as the director deems necessary and appropriate.

6. N.J.S.40A:2-30 is amended to read as follows:

**Advertisement of public sale of bonds.**

40A:2-30. a. A notice of public sale of bonds containing the provisions described in subsection a. of N.J.S.40A:2-31 shall be advertised at least once at least seven days prior thereto in a newspaper qualified for publication of a bond ordinance of the local unit. A summary of the notice of public sale of bonds as provided for in subsection b. of N.J.S.40A:2-31 shall be advertised at least once at least seven days prior thereto in a nationally recognized local government bond marketing publication or electronic information service

carrying municipal bond notices and devoted primarily to financial news or the subject of state and municipal bonds.

b. The governing body, may, by resolution, allow or otherwise delegate to a finance officer the authority to postpone a public sale without readvertisement provided that the notice pursuant to subsection a. of this section contained precise information concerning the postponement and rescheduling procedure. The postponement and rescheduling procedure shall provide that a public sale may be postponed upon not less than 24 hours' notice, and that if the public sale is postponed, it may be recommenced upon not less than 48 hours' notice without further notice of sale. A public sale may not be postponed for more than 60 days without readvertisement.

7. N.J.S.40A:2-31 is amended to read as follows:

**Contents of notice.**

40A:2-31. a. A notice of public sale of bonds required to be advertised pursuant to N.J.S.40A:2-30 shall set forth:

(1) the principal amount, date, denomination and maturities, and authorization for any adjustments to the maturities pursuant to subsection g. of N.J.S.40A:2-26 of the bonds offered for sale;

(2) the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds and the method of calculation of interest cost pursuant to subsection e. of N.J.S.40A:2-32;

(3) postponement provisions and other terms and conditions of such public sale;

(4) the type of sale to be conducted, through the submission of either sealed or electronic proposals; and

(5) such other provisions as may be determined by the governing body.

b. A summary of the notice of public sale of bonds required to be advertised pursuant to N.J.S.40A:2-30 shall set forth:

(1) the principal amount, date, denomination and maturities of the bonds offered for sale;

(2) the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds;

(3) a reference to where additional terms and conditions of the public sale may be obtained; and

(4) the type of sale to be conducted, through the submission of either sealed or electronic proposals.

8. N.J.S.40A:2-32 is amended to read as follows:

**Sale of bonds; bidding requirements.**

40A:2-32. a. (1) All bidders shall be required to deposit a certified or cashier's or treasurer's check, drawn upon a bank or trust company, equal to not less than 2% of the bonds to secure the local unit in part from any loss resulting from the failure of the bidder to comply with the terms of his bid, or as liquidated damages for such failure.

(2) The local finance board may adopt rules to permit local units to accept a financial surety bond in lieu of a certified, cashier's or treasurer's check as required in paragraph (1) of this subsection.

b. All sealed bids for bonds shall be publicly opened and announced, and all bids received electronically shall be received and announced, at the advertised time and place of sale, except upon a postponement and recommencement of the public sale made in accordance with the provisions of subsection b. of N.J.S.40A:2-30 in which case such bids or proposals shall be publicly opened, received and announced, as appropriate, at the postponed and recommenced date. Such bids as comply with the terms of the notice of sale shall be considered, and any bid not complying with the terms of such notice may be rejected. All bids received may be rejected.

c. Bonds of two or more issues may be sold on the basis of combined maturities, or the maturities of each issue offered for sale.

d. Bonds may be offered for sale at a single rate of interest, or bidders may be requested to name a single rate of interest, but no proposal shall be considered which offers to pay less than the principal amount of bonds offered for sale or which names a rate of interest higher than the lowest rate of interest stated in any legally acceptable proposal. As between proposals naming the same lowest rate of interest, the proposal offering to accept the least amount of bonds shall be accepted, the bonds to be accepted shall be those first maturing, and as between such proposals, the proposal offering to pay the greatest premium shall be accepted. The amount of premium bid for the bonds shall in no event exceed \$1,000.00 for the principal amount of bonds offered for sale. In order to effect the foregoing, a sufficient number of the last maturing bonds shall be of the denomination of \$1,000.00 or less.

e. (1) Bonds may be offered for sale at different rates of interest for the same issue or different rates of interest for different issues, or parts thereof, or bidders may be requested to name any such rates of interest. No proposal shall be considered under which the total loan is made at an interest cost higher than the lowest net interest cost or the true interest cost to the local unit under any legally acceptable proposal. The governing body shall specify in its notice of public sale advertised pursuant to N.J.S.40A:2-30 whether the award shall be based on net interest cost or true interest cost.

(2) The net interest cost shall be computed by adding to the total principal amount of bonds bid for, the total interest cost to maturity in accordance with

such bid and by deduction therefrom of the amount of premium, if any, bid or the addition thereto of the amount of discount, if any, bid.

(3) The true interest cost shall be computed in each instance by determining the interest rate, compounded semi-annually, necessary to discount the debt service payments to the date of the bonds and to the price bid, excluding interest accrued to the delivery date.

f. The governing body may establish additional terms or conditions of sale.

g. The governing body may, by resolution, allow or otherwise delegate to a finance officer the authority to permit bidders to aggregate consecutive principal maturities for which such bidder bid the same interest rate into term bonds, provided that mandatory sinking funds for which redemptions in lieu of the principal maturities are provided. For the purposes of this subsection "term bond" means a bond that is due in a certain year but has mandatory retirement provisions for portions of the term bond on specified dates prior to the maturity date of the term bond itself.

9. N.J.S.40A:2-51 is amended to read as follows:

**Issuance of refunding bonds.**

40A:2-51. Any local unit may incur indebtedness, borrow money, authorize and issue refunding bonds, notwithstanding any provision or limitation contained in this chapter or in any other law, and in any amount determined to be necessary by the governing body of the local unit and approved by the Local Finance Board, except as provided in subsection c. of this section, to effect the refunding for the purpose of:

a. Paying, funding or refunding outstanding bonds of the local unit, including emergency appropriations, temporary emergency appropriations, advance funding of pension obligations as part of an early retirement program offered by the State, and amounts owing to others for taxes levied in the local unit, or any renewals or extensions thereof, or any bonds issued to fund or refund the same and whether or not prior to the maturity or earliest redemption date of the bonds to be refunded.

b. Paying the cost of the issuance of such refunding bonds, including printing, advertising, accounting and financial and legal expenses.

c. Issuance of refunding bonds to realize debt service savings on outstanding obligations without the approval of the local finance board when authorized by conditions set forth in rules and regulations of the local finance board and upon a resolution adopted by 2/3 vote of the full membership of the governing body.

d. The sale and award of bonds by a finance officer who has been delegated that responsibility by resolution of the governing body in accordance



with the advertised terms of public sale. The finance officer making any such sale shall report in writing to the governing body at the next meeting thereof as to the principal amount, interest rate and maturities of the bonds sold, along with the price obtained and the name of the purchaser.

10. N.J.S.40A:2-52 is amended to read as follows:

**Authorization of refunding bonds.**

40A:2-52. Refunding bonds shall be authorized by a refunding bond ordinance which shall be adopted in the manner prescribed for adoption of a bond ordinance, except that no down payment shall be required. Bonds to be paid, funded or refunded with respect to which a refunding bond ordinance has been adopted pursuant to the provisions of this chapter and not otherwise deductible shall be deducted from the gross debt of the local unit. To the extent such refunding bonds are authorized for purposes other than the refunding of outstanding bonds, such refunding bonds shall be deductible from gross debt.

**C.40A:2-8.1 Issuance of bond anticipation note; rules, regulations.**

11. On and after the effective date of P.L.2003, c.15, a local unit may, in anticipation of the issuance of bonds, borrow money and issue notes if the bond ordinance or subsequent resolution so provides. Any such note shall be designated as a "bond anticipation note" and shall contain a recital that it is issued for a period not exceeding one year and may be renewed from time to time for additional periods, none of which shall exceed one year, but all such notes, including renewals, shall mature and be paid not later than the first day of the fifth month following the close of the tenth fiscal year next following the date of the original notes; provided, however, that no such notes shall be renewed beyond the third anniversary date of the original notes unless an amount of such notes, at least equal to the first legally payable installment of the bonds in anticipation of which those notes are issued, is paid and retired on or before each subsequent anniversary date beyond which such notes are renewed from funds other than the proceeds of obligations.

The local finance board shall, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as are necessary to implement the provisions of this act.

**Repealer.**

12. N.J.S.40A:2-8 is repealed.

13. This act shall take effect immediately.

Approved February 3, 2003.

## CHAPTER 16

AN ACT concerning the issuance of service medals to certain Korean War veterans and making an appropriation.

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

1. The Legislature finds and declares:
  - a. July 27th, 2003 will mark the 50th anniversary of the signing of the armistice which ended the Korean War;
  - b. The conflict, often referred to as the "Forgotten War," began on June 25th, 1950 when the North Korean Army crossed the border and invaded South Korea in an unprovoked attack. Their goal was the reunification by force of the Korean peninsula, divided after World War II along the 38th parallel;
  - c. The United States' involvement in that conflict resulted in 33,742 Americans dead and 92,134 Americans wounded; and
  - d. It is fitting and proper for this State to recognize and honor its residents who served and those who died in that conflict on the 50th anniversary of its ending.
2. a. The Adjutant General is hereby authorized to issue a medal and ribbon to commemorate the 50th anniversary of the signing of the armistice on July 27th, 1953, which ended the Korean War.
  - b. The medal and ribbon shall be issued to:
    - (1) all residents of the State who were on active duty in any branch of the armed forces of the United States in Korea, Japan, or the contiguous waters or airspace thereof on or after June 23rd, 1950 and on or before January 31st, 1955, who have been given an honorable discharge for their service and:
      - (a) were attached to or served for one or more days with an organization participating in or directly supporting military operations; or
      - (b) were attached to or served for one or more days aboard a United States Naval vessel directly supporting military operations; or
      - (c) participated as a crew member in one or more aerial flights into airspace above Korea or contiguous waters directly supporting military operations; or
    - (d) served on temporary duty for 30 consecutive days or 60 nonconsecutive days in Korea or contiguous areas, except that this time limit may be waived for persons participating in actual combat operations; or
  - (2) the surviving spouse or immediate family member of any resident of the State meeting the requirements for a medal established by paragraph

(1) of this subsection who was killed while on active duty or who died after receiving an honorable discharge from the armed forces.

c. The Adjutant General shall select an appropriate design for the award no later than the fourth month following the enactment of this act and shall issue the award to qualified persons beginning no later than the eighth month following enactment.

d. No person shall be entitled to more than one award of the medal and ribbon authorized by subsection a. of this section.

3. There is appropriated to the Department of Military and Veterans' Affairs from the General Fund \$5,000 to effectuate the purposes of this act.

4. This act shall take effect immediately.

Approved February 3, 2003.

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## CHAPTER 17

AN ACT designating the State office building in the City of Asbury Park as the "Thomas S. Smith, Sr. State Office Building," and supplementing Title 52 of the Revised Statutes.

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

1. The Legislature finds and declares that:

a. Assemblyman Thomas S. Smith, Sr., who died on September 26, 2002 at the age of 84, served as a respected member of the New Jersey Legislature for 11 years and held important leadership positions of Deputy Speaker and Majority Whip;

b. Assemblyman Smith was known as a friend and advocate to the citizens of his district whom he served with dedication and commitment;

c. Assemblyman Smith provided a strong, yet quiet wisdom to the General Assembly and will be remembered as the "voice of reason";

d. During his career, Assemblyman Smith also served with distinction as Mayor and City Councilman of Asbury Park and as Police Chief of that city, where he resided for over 65 years;

e. Assemblyman Thomas S. Smith, Sr.'s efforts led to the construction of a State office building at 630 Bangs Avenue in the City of Asbury Park; and

f. It is appropriate that this State office building should bear the name of a man who, through his tireless public service, provided a model of excellence and commitment that will serve to inspire and encourage others.

2. The State office building at 630 Bangs Avenue in the City of Asbury Park is designated as the "Thomas S. Smith, Sr. State Office Building."

3. This act shall take effect immediately.

Approved February 3, 2003.

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## CHAPTER 18

AN ACT concerning the practice of physical therapy and revising parts of the statutory law.

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

1. Section 3 of P.L.1983, c.296 (C.45:9-37.13) is amended to read as follows:

**C.45:9-37.13 Definitions.**

3. As used in this act:

"Board" means the State Board of Physical Therapy Examiners established pursuant to section 5 of this act.

"Direct supervision" means the presence of the supervising physical therapist on site, available to respond to any consequence occurring during any treatment procedure.

"Physical therapist" means a natural person who holds a current, valid license to practice physical therapy pursuant to the provisions of this act and in accordance with regulations of the board.

"Physical therapist assistant" means a natural person who is licensed pursuant to the provisions of this act and who assists a licensed physical therapist under his direct supervision in accordance with this act and regulations of the board.

"Physical therapy" and "physical therapy practice" mean the identification of physical impairment or movement-related functional limitation that occurs as a result of injury or congenital or acquired disability, or other physical dysfunction through examination, evaluation and diagnosis of the physical impairment or movement-related functional limitation and the establishment

of a prognosis for the resolution or amelioration thereof, and treatment of the physical impairment or movement-related functional limitation, which shall include, but is not limited to, the alleviation of pain, physical impairment and movement-related functional limitation by therapeutic intervention, including treatment by means of manual therapy techniques and massage, electrotherapeutic modalities, the use of physical agents, mechanical modalities, hydrotherapy, therapeutic exercises with or without assistive devices, neurodevelopmental procedures, joint mobilization, movement-related functional training in self-care, providing assistance in community and work integration or reintegration, providing training in techniques for the prevention of injury, impairment, movement-related functional limitation, or dysfunction, providing consultative, educational, other advisory services, and collaboration with other health care providers in connection with patient care, and such other treatments and functions as may be further defined by the board by regulation.

2. Section 4 of P.L.1983, c.296 (C.45:9-37.14) is amended to read as follows:

**C.45:9-37.14 Practice not to authorize other practices.**

4. a. (Deleted by amendment, P.L.2003, c.18).
- b. Nothing in P.L.1983, c.296 (C.45:9-37.11 et seq.), shall be construed to authorize the interpretation of data for the purpose of diagnosing disease, organic condition or the practice of medicine and surgery, chiropractic, podiatry, occupational therapy, or prosthetics by any person not licensed to do so pursuant to Title 45 of the Revised Statutes.
- c. Nothing in P.L.1983, c.296 (C.45:9-37.11 et seq.), shall authorize the practice of dentistry by any person not licensed to do so pursuant to chapter 6 of Title 45 of the Revised Statutes.

3. Section 5 of P.L.1983, c.296 (C.45:9-37.15) is amended to read as follows:

**C.45:9-37.15 State Board of Physical Therapy Examiners.**

5. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Physical Therapy Examiners. The board shall consist of 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.). Of the remaining eight members six shall be licensed physical therapists who have been actively engaged in the practice of physical therapy in this State for at least five years immediately preceding their appointment, one shall be a licensed physical therapist assistant who has been actively engaged in practice as a physical therapist assistant for at least five

years immediately preceding his appointment, and one shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes.

The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the physical therapist members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until the member's successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which the member has been appointed. Upon a vacancy in the membership of the board, any professional association of physical therapists and physical therapist assistants, or individual, may submit recommendations to the Governor for his consideration. The Governor may remove any member of the board for cause, which may include, but shall not be limited to, professional misconduct and repeated failure to attend board meetings.

4. Section 8 of P.L.1983, c.296 (C.45:9-37.18) is amended to read as follows:

**C.45:9-37.18 Duties of board.**

8. a. The board shall:

- (1) Administer and enforce the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);
- (2) Establish procedures for application for licensure;
- (3) Establish standards for, and adopt and administer examinations for licensure;
- (4) Review and pass upon the qualifications of applicants for licensure;
- (5) Insure the proper conduct and standards of examinations;
- (6) Issue and renew licenses to physical therapists and physical therapist assistants pursuant to this act;
- (7) Establish disciplinary measures, including but not limited to, suspending, revoking, or refusing to renew the license of a physical therapist or physical therapist assistant pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);
- (8) Maintain a record of every physical therapist and physical therapist assistant licensed in this State, his place of business, his place of residence, and the date and number of his license;
- (9) Conduct hearings into allegations of misconduct by licensees;

(10) Establish requirements and standards for continuing education and approve courses that are eligible to meet the requirements as provided in section 25 of P.L.2003, c.18 (C.45:9-37.34f);

(11) Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that the board shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers or records;

(12) Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);

(13) Conduct investigations as necessary and have the enforcement powers provided pursuant to P.L.1978, c.73 (C.45:1-14 et seq.);

(14) Within 180 days of the effective date of P.L.2003, c.18, establish standards in accordance with the provisions of section 22 of P.L.2003, c.18 (C.45:9-37.34c), in collaboration with the State Board of Medical Examiners and other appropriate professional licensing boards established pursuant to Title 45 of the Revised Statutes, setting forth the conditions under which a physical therapist is required to refer an individual being treated by a physical therapist to or consult with a practitioner licensed to practice dentistry, podiatry or medicine and surgery in this State, or other appropriate licensed health care professional. Pending adoption of the standards: (a) a physical therapist shall refer any individual who has failed to demonstrate reasonable progress within 30 days of the date of initial treatment to a licensed health care professional; and (b) a physical therapist, not more than 30 days from the date of initial treatment of functional limitation or pain, shall consult with the individual's licensed health care professional of record as to the appropriateness of the treatment, or, in the event that there is no identified licensed health care professional of record, recommend that the individual consult with a licensed health care professional of the individual's choice;

(15) Establish mechanisms to assure that the public has access to physical therapists' services, and report back to the Senate Health, Human Services and Senior Citizens and Assembly Regulated Professions and Independent Authorities Committees, or their successors, regarding this access; and

(16) Promulgate rules and regulations necessary for the performance of its duties and the implementation of this act.

b. In addition to the provisions of subsection a. of this section, the board may establish standards of professional behavior.

5. Section 9 of P.L.1983, c.296 (C.45:9-37.19) is amended to read as follows:

**C.45:9-37.19 License required to practice, assist at, physical therapy.**

9. No person shall practice physical therapy or act as a physical therapist assistant, whether or not compensation is received or expected, unless the person holds a valid license to practice in this State; however, nothing in this section shall be construed to:

a. Prohibit any student enrolled in a school or post-graduate course of physical therapy or in a course of study for training as a physical therapist assistant that is approved or recognized by the board from performing physical therapy or acting as a physical therapist assistant, as appropriate, which is necessary to his course of study;

b. Prohibit any person licensed to practice in this State under any other law from engaging in the practice for which the person is licensed, provided that: the procedures or duties performed by that person are within the scope of that person's practice as established by law and the accepted standards of practice of the profession for which the person is licensed; and the person does not represent himself as a physical therapist or physical therapist assistant; or

c. Prohibit any person employed by an agency, bureau or division of the federal government from practicing physical therapy within the scope of his official duties.

6. Section 10 of P.L.1983, c.296 (C.45:9-37.20) is amended to read as follows:

**C.45:9-37.20 Supervision of physical therapist assistants.**

10. a. No physical therapist shall supervise more physical therapist assistants at any one time than in the opinion of the board can be adequately supervised. Under usual circumstances the maximum number of physical therapist assistants that may be supervised by a physical therapist shall be two, except that, upon application, the board may permit the supervision of a greater number of physical therapist assistants if it feels there would be adequate supervision and the public health and safety would be served.

b. A licensed physical therapist assistant may initiate patient physical therapy treatment consistent with the role of a physical therapist assistant, as defined by the board or otherwise provided in P.L.1983, c.296, (C.45:9-37.11 et seq.) or P.L.2003, c.18 (C.45:9-37.34b et al.), only at the discretion of, and under the direct supervision of, a licensed physical therapist.

7. Section 11 of P.L.1983, c.296 (C.45:9-37.21) is amended to read as follows:



**C.45:9-37.21 Division of fees, payments for referrals.**

11. No physical therapist or physical therapist assistant shall engage directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or pay or accept fees or commissions for referrals for professional services; however, nothing in this section shall be construed to prohibit physical therapists who are members of a professional association or other business entity, properly organized pursuant to law, from making a division of fees among themselves as determined by contract to be necessary to defray joint operating costs or pay salaries, benefits, or other compensation to employees.

8. Section 12 of P.L.1983, c.296 (C.45:9-37.22) is amended to read as follows:

**C.45:9-37.22 Requirements for licensure as physical therapist.**

12. To be eligible for licensure as a physical therapist, an applicant shall:

- a. Have completed a program in physical therapy from an accredited college or university which has been approved by the board;
- b. Successfully complete a written examination approved by the board;
- c. Possess at least a master's degree from an accredited college or university, except for an applicant who prior to January 1, 2003, possessed a minimum of a bachelor's degree from an accredited college or university;
- d. Have experience satisfactory to the board, in accordance with regulations of the board;
- e. Be at least 18 years of age;
- f. Be of good moral character; and
- g. Meet such other requirements as may be established by the board by regulation.

9. Section 13 of P.L.1983, c.296 (C.45:9-37.23) is amended to read as follows:

**C.45:9-37.23 Licensing of graduate of foreign school.**

13. An applicant for licensure who is a graduate of a foreign school of physical therapy shall furnish evidence satisfactory to the board that the applicant:

- a. Has completed a course of study in physical therapy which is substantially equivalent to that provided in an accredited program approved by the board;
- b. Has successfully completed a written examination approved by the board; and
- c. Is a graduate of a recognized college or university.

10. Section 14 of P.L.1983, c.296 (C.45:9-37.24) is amended to read as follows:

**C.45:9-37.24 Application, renewal, reinstatement fees.**

14. a. A fee established by the board by regulation shall accompany each application for licensure. Licenses shall expire biennially at a time established by the board and may be renewed upon submission of a renewal application to the board. If the renewal fee is not paid by the designated date, the license shall automatically expire, but may be reinstated by the board within two years of its expiration date upon payment of a reinstatement fee. The license fee payable to the board for a new or reinstated license may be pro rated at the discretion of the board. Reinstatement of a license may include a requirement that renewal of a lapsed license be renewed under the procedures established for initial licensure.

b. Fees shall be established, prescribed or changed by the board for examinations, licensure and other services performed pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

c. All fees and any fines imposed by the board shall be paid to the board and shall be forwarded to the State Treasurer and be part of the General Fund.

11. Section 15 of P.L.1983, c.296 (C.45:9-37.25) is amended to read as follows:

**C.45:9-37.25 Written examination.**

15. The written examination provided for in sections 12 and 13 of this act and section 21 of P.L.2003, c.18 (C.45:9-37.34b) shall test the applicant's knowledge of basic and clinical sciences as they relate to physical therapy and physical therapy theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice physical therapy or act as a physical therapist assistant. Examinations shall be held within the State at a time and place to be determined by the board. The board shall give adequate written notice of the examination to applicants for licensure and examination.

If an applicant fails his first examination, the applicant may take a second examination no more than two years from the date of the initial examination. Additional examinations may be given at the discretion of the board.

12. Section 17 of P.L.1983, c.296 (C.45:9-37.27) is amended to read as follows:

**C.45:9-37.27 Issuance of license.**

17. The board shall issue a license to each applicant for licensure as a physical therapist or physical therapist assistant who, in the judgment of the

board, qualifies for licensure pursuant to this act and P.L.2003, c.18 (C.45:9-37.34b et al.).

13. Section 18 of P.L.1983, c.296 (C.45:9-37.28) is amended to read as follows:

**C.45:9-37.28 Issuance of license to holder of out-of-State license.**

18. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board shall issue without examination to a physical therapist or physical therapist assistant who holds a valid license issued by another state or possession of the United States or the District of Columbia which, in the judgment of the board, has education and experience requirements substantially equivalent to the requirements of this act and P.L.2003, c.18 (C.45:9-37.34b et al.).

14. Section 19 of P.L.1983, c.296 (C.45:9-37.29) is amended to read as follows:

**C.45:9-37.29 Issuance of temporary license.**

19. a. (Deleted by amendment, P.L.2003, c.18).

b. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue without examination a temporary license to practice physical therapy or act as a physical therapist assistant in this State to a person who is qualified, in the judgment of the board, to practice as a physical therapist or physical therapist assistant, and who provides evidence that he is in the State on a temporary basis to assist in a medical emergency or to engage in a special project, teaching assignment or other activity approved by the board relating to physical therapy practice. A temporary license shall expire one year from its date of issue, however, it may be renewed by the board for an additional one-year period. A temporary license shall be surrendered to the board upon its expiration.

15. Section 20 of P.L.1983, c.296 (C.45:9-37.30) is amended to read as follows:

**C.45:9-37.30 Use of certain titles, designations restricted.**

20. No person, business entity or its employees, agents or representatives shall use the titles "physical therapist," "physiotherapist," "registered physical therapist," "licensed physical therapist," "physical therapist assistant," "registered physical therapist assistant," "licensed physical therapist assistant," "physical therapy assistant," or the abbreviations "PT" or "RPT," "LPT," "PTA," "RPTA," "LPTA," or any other title, designation, words, letters, abbreviations, or insignia indicating the practice of physical therapy unless licensed to practice as a

physical therapist or physical therapist assistant under the provision of this act.

16. Section 21 of P.L.1983, c. 296 (C.45:9-37.31) is amended to read as follows:

**C.45:9-37.31 Titles, abbreviations for licensees.**

21. Any person who holds a license as a physical therapist pursuant to this act may use the title "physical therapist," or "licensed physical therapist," or the abbreviations "PT" or "LPT." Any person who holds a license as a physical therapist assistant pursuant to this act may use the title "physical therapist assistant," "licensed physical therapist assistant," or the abbreviations "PTA" or "LPTA."

17. Section 4 of P.L.1990, c.68 (C.45:9-37.34a) is amended to read as follows:

**C.45:9-37.34a Administration of physical modalities by employees of physical therapists.**

4. a. A licensed physical therapist shall not permit an employee to administer physical modalities to patients unless that employee is a licensed physical therapist, licensed physical therapist assistant, or other health care provider licensed in this State to administer those modalities.

As used in this subsection, physical modalities mean ultraviolet (B and C bands) and electromagnetic rays, including, but not limited to, deep heating agents, microwave diathermy, shortwave diathermy, and ultrasound or any other treatment proscribed by the board.

b. Nothing in this section shall be construed to prohibit any person licensed to practice in this State under any other law from engaging in any activity which is within the scope of his practice.

18. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

**C.45:1-2.1 Applicability of act.**

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State

Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Public Movers and Warehousemen and the State Board of Physical Therapy Examiners.

19. Section 1 of P.L. 1974, c.46 (C.45:1-3.1) is amended to read as follows:

**C.45:1-3.1 Applicability of act.**

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners and the State Board of Physical Therapy Examiners.

20. Section 2 of P.L. 1978, c.73 (C.45:1-15) is amended to read as follows:

**C.45:1-15 Application of act.**

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of

Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

**C.45:9-37.34b Eligibility for licensure as a physical therapist assistant.**

21. To be eligible for licensure as a physical therapist assistant, an applicant shall:

- a. Possess at least an Associate in Arts degree from an accredited college or university;
- b. Have completed a two-year physical therapist assistant program at an accredited college or university, which has been approved by the board;
- c. Have experience satisfactory to the board, in accordance with regulations of the board;
- d. Have successfully completed a written examination approved by the board;
- e. Be at least 18 years of age;
- f. Be of good moral character; and
- g. Meet such other requirements as may be established by the board by regulation.

**C.45:9-37.34c Failure to refer patient, certain circumstances, unlawful practice.**

22. It shall be considered an unlawful practice of physical therapy if a physical therapist does not immediately refer an individual to a health care professional licensed to practice dentistry, podiatry or medicine and surgery, or other appropriate licensed health care professional, if the physical therapist has reasonable cause to believe that physical therapy is contraindicated or symptoms or conditions are present, including, but not limited to, nonmuscular and nonskeletal symptoms or conditions and conditions of the central nervous system, that require services outside the scope of a physical therapist's practice.

**C.45:9-37.34d Information provided by applicant.**

23. An applicant for licensure or renewal as a physical therapist or a physical therapist assistant shall:

a. Execute and submit a sworn statement on a form prescribed by the board that neither the license for which renewal is sought nor any similar license or other authority issued by another jurisdiction has been revoked, suspended or not renewed; and

b. Present satisfactory evidence that any continuing education requirements established by P.L.2003, c.18 (C.45:9-37.34b et al.) or the board, have been completed.

**C.45:9-37.34e Permitted licensees, natural person; regulations.**

24. No person other than a natural person shall be licensed as, hold itself out to be licensed as, or practice as, a physical therapist or a physical therapist assistant. Every physical therapist or physical therapist assistant employed by a corporation or other business entity shall assume professional responsibility for the practice of physical therapy or acting as a physical therapist assistant that is provided under the auspices of the corporation or other business entity. The board shall establish regulations to effectuate the provisions of this section, which shall include, but shall not be limited to, a statement of the responsibilities of licensees under this section.

**C.45:9-37.34f Continuing professional education requirements.**

25. The board shall establish continuing professional education requirements for physical therapists and physical therapist assistants, which requirements shall be a condition of retaining licensure. The board shall:

a. Approve only such continuing professional education programs as are available to all physical therapists and physical therapist assistants in this State on a nondiscriminatory basis;

b. Establish standards for continuing professional educational programs;

c. Accredited educational programs offering credits towards the continuing professional educational requirements; and

d. Establish the number of credits of continuing professional education required of each applicant for license renewal. Each credit shall represent or be equivalent to one hour of actual course attendance, or in the case of those electing an alternative method of satisfying the requirements of P.L.2003, c.18 (C.45:9-37.34b et al.), shall be approved by the board and certified pursuant to procedures established for that purpose.

26. Section 4 of P.L.1998, c.21 (C.39:6A-3.1) is amended to read as follows:

**C.39:6A-3.1 Election of basic automobile insurance policy; coverage provided.**

4. As an alternative to the mandatory coverages provided in sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), any owner or registered owner of an automobile registered or principally garaged in this State may elect a basic automobile insurance policy providing the following coverage:

a. Personal injury protection coverage, for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household, who sustained bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile, to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with the permission of the named insured, and to pedestrians sustaining bodily injury caused by the named insured's automobile or struck by an object propelled by or from such automobile. "Personal injury protection coverage" issued pursuant to this section means and includes payment of medical expense benefits, as provided in the policy and approved by the commissioner, for the reasonable and necessary treatment of bodily injury in an amount not to exceed \$15,000 per person per accident; except that, medical expense benefits shall be paid in an amount not to exceed \$250,000 for all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement or for medically necessary treatment of other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the patient is stable, no longer requires critical care and can be safely discharged or transferred to another facility in the judgment of the attending physician. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000 on account of personal injury to any one person in any one accident, such excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L. 1977, c.310 (C.39:6-73.1). Benefits provided under basic coverage shall be in accordance with a benefit plan provided in the policy and approved by the commissioner. The policy form, which shall be subject to the approval of the commissioner, shall set forth the benefits provided under the policy, including eligible medical treatments, diagnostic tests and services as well as such other benefits as the policy may provide. The commissioner shall set forth by regulation a statement of the basic benefits which shall be included in the policy. Medical treatments, diagnostic tests, and services provided by the policy shall be rendered in accordance with commonly accepted protocols and professional standards and practices which are commonly accepted as being beneficial for the treatment of the covered injury. Protocols and professional standards and practices which are deemed to be commonly accepted pursuant to this section shall be those recognized by national standard setting organizations, national or state professional organizations of the same discipline as the treating provider, or those designated or approved by the commissioner in consultation with the professional licensing boards in the Division of Consumer Affairs in the



Department of Law and Public Safety. The commissioner, in consultation with the Commissioner of the Department of Health and Senior Services and the applicable licensing boards, may reject the use of protocols, standards and practices or lists of diagnostic tests set by any organization deemed not to have standing or general recognition by the provider community or the applicable licensing boards. Protocols shall be deemed to establish guidelines as to standard appropriate treatment and diagnostic tests for injuries sustained in automobile accidents, but the establishment of standard treatment protocols or protocols for the administration of diagnostic tests shall not be interpreted in such a manner as to preclude variance from the standard when warranted by reason of medical necessity. The policy form may provide for the precertification of certain procedures, treatments, diagnostic tests, or other services or for the purchase of durable medical goods, as approved by the commissioner, provided that the requirement for precertification shall not be unreasonable, and no precertification requirement shall apply within ten days of the insured event. The policy may provide that certain benefits provided by the policy which are in excess of the basic benefits required by the commissioner to be included in the policy may be subject to reasonable copayments in addition to the copayments provided for herein, provided that the copayments shall not be unreasonable and shall be established in such a manner as not to serve to encourage underutilization of benefits subject to the copayments, nor encourage overutilization of benefits. The policy form shall clearly set forth any limitations on benefits or exclusions, which may include, but need not be limited to, benefits which are otherwise compensable under workers' compensation, or benefits for treatments deemed to be experimental or investigational, or benefits deducted pursuant to section 6 of P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the services of a benefit consultant in establishing the basic benefits level provided in this subsection, which shall be set forth by regulation no later than 120 days following the enactment date of this amendatory and supplementary act. The commissioner shall not advertise for the consultant as provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

Medical expense benefits payable under this subsection shall not be assignable, except to a provider of service benefits, in accordance with policy terms approved by the commissioner, nor shall they be subject to levy, execution, attachment or other process for satisfaction of debts. Medical expense benefits payable in accordance with this subsection may be subject to a deductible and copayments as provided for in the policy, if any. No insurer or provider providing service benefits to an insured shall have a right of subrogation for the amount of benefits paid pursuant to any deductible or copayment under this section.

Notwithstanding the provisions of P.L.2003, c.18, physical therapy treatment shall not be reimbursable as medical expense benefits pursuant to this subsection unless rendered by a licensed physical therapist pursuant to a referral from a licensed physician, dentist, podiatrist or chiropractor within the scope of their respective practices.

b. Liability insurance coverage insuring against loss resulting from liability imposed by law for property damage sustained by any person arising out of the ownership, maintenance, operation or use of an automobile in an amount or limit of \$5,000, exclusive of interest and costs, for damage to property in any one accident.

c. In addition to the aforesaid coverages required to be provided in a basic automobile insurance policy, optional liability insurance coverage insuring against loss resulting from liability imposed by law for bodily injury or death in an amount or limit of \$10,000, exclusive of interests and costs, on account of injury to, or death of, one or more persons in any one accident.

If a named insured has elected the basic automobile insurance policy option and an immediate family member or members or relatives resident in his household have one or more policies with the coverages provided for in sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), the provisions of section 12 of P.L.1983, c.362 (C.39:6A-4.2) shall apply.

Every named insured and any other person to whom the basic automobile insurance policy, with or without the optional \$10,000 liability coverage insuring against loss resulting from liability imposed by law for bodily injury or death provided for in subsection c. of this section, applies shall be subject to the tort option provided in subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8).

No licensed insurance carrier shall refuse to renew the coverage stipulated by this section of an eligible person as defined in section 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance with the provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1) or with the consent of the Commissioner of Banking and Insurance.

27. Section 4 of P.L.1972, c.70 (C.39:6A-4) is amended to read as follows:

**C.39:6A-4 Personal injury protection coverage, regardless of fault.**

**4. Personal injury protection coverage, regardless of fault.**

Except as provided by section 4 of P.L.1998, c.21 (C.39:6A-3.1), every standard automobile liability insurance policy issued or renewed on or after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) shall contain personal injury protection benefits for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household who sustain bodily injury as a result

of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile, to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with permission of the named insured, and to pedestrians sustaining bodily injury caused by the named insured's automobile or struck by an automobile or struck by an object propelled by or from that automobile.

"Personal injury protection coverage" means and includes:

a. Payment of medical expense benefits in accordance with a benefit plan provided in the policy and approved by the commissioner, for reasonable, necessary, and appropriate treatment and provision of services to persons sustaining bodily injury, in an amount not to exceed \$250,000 per person per accident. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000 on account of bodily injury to any one person in any one accident, that excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1). The policy form, which shall be subject to the approval of the commissioner, shall set forth the benefits provided under the policy, including eligible medical treatments, diagnostic tests and services as well as such other benefits as the policy may provide. The commissioner shall set forth by regulation a statement of the basic benefits which shall be included in the policy. Medical treatments, diagnostic tests, and services provided by the policy shall be rendered in accordance with commonly accepted protocols and professional standards and practices which are commonly accepted as being beneficial for the treatment of the covered injury. Protocols and professional standards and practices and lists of valid diagnostic tests which are deemed to be commonly accepted pursuant to this section shall be those recognized by national standard setting organizations, national or state professional organizations of the same discipline as the treating provider, or those designated or approved by the commissioner in consultation with the professional licensing boards in the Division of Consumer Affairs in the Department of Law and Public Safety. The commissioner, in consultation with the Commissioner of the Department of Health and Senior Services and the applicable licensing boards, may reject the use of protocols, standards and practices or lists of diagnostic tests set by any organization deemed not to have standing or general recognition by the provider community or the applicable licensing boards. Protocols shall be deemed to establish guidelines as to standard appropriate treatment and diagnostic tests for injuries sustained in automobile accidents, but the establishment of standard treatment protocols or protocols for the administration of diagnostic tests shall not be interpreted in such a manner as to preclude variance from the standard when warranted

by reason of medical necessity. The policy form may provide for the precertification of certain procedures, treatments, diagnostic tests, or other services or for the purchase of durable medical goods, as approved by the commissioner, provided that the requirement for precertification shall not be unreasonable, and no precertification requirement shall apply within ten days of the insured event. The policy may provide that certain benefits provided by the policy which are in excess of the basic benefits required by the commissioner to be included in the policy may be subject to reasonable copayments in addition to the copayments provided for pursuant to subsection e. of this section, provided that the copayments shall not be unreasonable and shall be established in such a manner as not to serve to encourage underutilization of benefits subject to the copayments, nor encourage overutilization of benefits. The policy form shall clearly set forth any limitations on benefits or exclusions, which may include, but need not be limited to, benefits which are otherwise compensable under workers' compensation, or benefits for treatments deemed to be experimental or investigational, or benefits deducted pursuant to section 6 of P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the services of a benefit consultant in establishing the basic benefits level provided in this subsection, which shall be set forth by regulation no later than 120 days following the enactment date of P.L.1998, c.21 (C.39:6A-1.1 et al.). The commissioner shall not advertise for bids for the consultant as provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

Notwithstanding the provisions of P.L.2003, c.18, physical therapy treatment shall not be reimbursable as medical expense benefits pursuant to this subsection unless rendered by a licensed physical therapist pursuant to a referral from a licensed physician, dentist, podiatrist or chiropractor within the scope of their respective practices.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100. Such sum shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12 per day. Such benefits shall be payable during the life of the injured person and shall

be subject to an amount or limit of \$4,380, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under this section, the maximum amount of benefits which could have been paid to the income producer, but for his death, under subsection b. of this section shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under subsection c. of this section, the maximum amount of benefits which could have been paid to such person, under subsection c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000, on account of the death of any one person in any one accident shall be payable to the decedent's estate.

Benefits payable under this section shall:

(1) Be subject to any option elected by the policyholder pursuant to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

(2) Not be assignable, except to a provider of service benefits under this section in accordance with policy terms approved by the commissioner, nor subject to levy, execution, attachment or other process for satisfaction of debts.

Medical expense benefit payments shall be subject to any deductible and any copayment which may be established as provided in the policy. Upon the request of the commissioner or any party to a claim for benefits or payment for services rendered, a provider shall present adequate proof that any deductible or copayment related to that claim has not been waived or discharged by the provider.

No insurer or health provider providing benefits to an insured shall have a right of subrogation for the amount of benefits paid pursuant to any deductible or copayment under this section.

28.This act shall take effect immediately.

Approved February 13, 2003.

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## CHAPTER 19

AN ACT concerning school bus drivers and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

**C.18A:39-26 Short title.**

1. This act shall be known and may be cited as the "School Bus Safety Act."

**C.18A:39-27 Bus driver required to be on bus when pupil present, exceptions.**

2. a. Notwithstanding the provisions of any other law, rule or regulation to the contrary, no school pupil shall be allowed on board a school bus unless the bus driver or other employee of the school board or school bus contractor is also on board the bus.

b. The provisions of subsection a. of this section shall not apply when a bus driver leaves the bus to assist in the boarding or exiting of a disabled pupil or in the case of an emergency.

3. This act shall take effect immediately.

Approved February 27, 2003.

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CHAPTER 20

AN ACT concerning the adjustment of dates in the school budget and election calendar and amending P.L.1995, c.278.

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

1. Section 1 of P.L.1995, c.278 (C.19:60-1) is amended to read as follows:

**C.19:60-1 School elections, adjustments, ballots.**

1. a. An annual school election shall be held in each type II district on the third Tuesday in April. However, in any school year, the Commissioner of Education shall make any adjustments to the school budget and election calendar which may be necessary to change the annual school election date or any other school budget and election calendar date if that date coincides with a period of religious observance. The commissioner shall inform local school boards, county clerks and boards of elections of these adjustments no later than the first working day in January of the year in which the adjustments are to occur.

b. All school elections shall be by ballot and, except as otherwise provided by P.L.1995, c.278 (C.19:60-1 et al.), shall be conducted in the manner provided for general elections pursuant to Title 19 of the Revised Statutes. No grouping

of candidates or party designation shall appear on any ballot to be used in a school election.

2. This act shall take effect immediately.

Approved February 27, 2003.

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## CHAPTER 21

AN ACT concerning motor vehicle window tinting and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

**C.56:8-117 Motor vehicle window tinting, informing customer of State restrictions; required.**

1. It shall be an unlawful practice for a person engaged in the retail sale and installation of motor vehicle window tinting materials or film to:

a. Sell any such material or film without first notifying the purchaser that the application of these materials or film to the windshield or the front windows to the left and right of the driver of any motor vehicle registered in the State is a violation of State law and regulation. The notice required under this paragraph shall be given by the conspicuous posting of a sign at the point where the window tinting materials or film are offered for sale. The sign shall state substantially the following:

"NJ STATE LAW PROHIBITS ADD-ON TINTING ON  
WINDSHIELDS AND FRONT SIDE WINDOWS"

The notice required under this paragraph shall not apply to catalog sales of motor vehicle tinting materials or film where the purchase and payment are made by mail, telephone or other telecommunications or electronic method; or

b. Install or apply any such material or film on or to the windshield or the windows to the left and right of the driver of any motor vehicle registered in the State unless the purchaser exhibits a certificate or card, issued pursuant to P.L.1999, c.308 (C.39:3-75.1 et seq.), authorizing the installation or application of the material or film on or to the windshield or front windows to the left and right of the driver of that car for medical reasons involving ophthalmic or dermatologic photosensitivity.

**C.56:8-118 Rules, regulations; public information program.**

2. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall:

a. Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations to effectuate the purposes of this act; and

b. Develop and undertake a public information program to inform persons engaged in the retail sale and installation of motor vehicle window tinting materials and film and the general public of the provisions of this act.

3. This act shall take effect on the first day of the fourth month following enactment.

Approved February 27, 2003.

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## CHAPTER 22

AN ACT concerning freezing certain funds or assets relating to terrorism and supplementing Title 2C of the New Jersey Statutes.

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

**N.J.S.2C:66-1 Attachment of deposited funds of suspected terrorists or their supporters.**

1. Attachment of deposited funds.

a. As used in this act:

"Financial institution" means a state or federally chartered bank, savings bank or savings and loan association or any other financial services company or provider, including, but not limited to, broker-dealers, investment companies, money market and mutual funds, credit unions and insurers.

b. Upon application by the Attorney General, a court may issue an attachment order directing a financial institution to freeze some or all of the funds or assets deposited with or held by the financial institution by or on behalf of an account holder when there exists a reasonable suspicion that the account holder has committed or is about to commit the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5).

**N.J.S.2C:66-2 Application by Attorney General.**

2. Application. The application of the Attorney General required by this act shall contain:

a. a statement of the approximate financial loss caused by the account holder in the commission of the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5);



b. a statement of facts relied upon by the Attorney General, including the details of the particular offense that is about to be committed or that has been committed; and

c. identification of the account holder's name and financial institution account number.

**N.J.S.2C:66-3 Issuance of an order.**

3. Issuance of an order. If the court finds that:

a. there exists a reasonable suspicion that the account holder has committed or is about to commit the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or the crime of soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5);

b. the accounts of the account holder are specifically identified; and

c. it is necessary to freeze the account holder's funds or assets to ensure eventual restitution to victims of the alleged offense,

the court may order the financial institution to freeze all or part of the account holder's deposited funds or assets so that the funds or assets may not be withdrawn or disposed of until further order of the court.

As part of the consideration of an application in which there is no corroborative evidence offered, the judge shall inquire in camera as to the identity of any informants or any other additional information concerning the basis upon which the Attorney General has applied for the attachment order which the judge finds relevant in order to determine if there exists a reasonable suspicion pursuant to this act.

**N.J.S.2C:66-4 Duty of financial institutions.**

4. Duty of financial institutions. Upon receipt of the order authorized by this act, a financial institution shall not permit any funds or assets that were frozen by the order to be withdrawn or disposed of until further order of the court.

**N.J.S.2C:66-5 Release of funds.**

5. Release of funds. a. The account holder may, upon notice and motion, have a hearing to contest the freezing of funds or assets and to seek the release of all or part of them.

b. The account holder is entitled to an order releasing all or part of the funds or assets by showing:

(1) that the account holder has posted a bond or other adequate surety, guaranteeing that, upon conviction, adequate funds or assets will be available to pay complete restitution to victims of the alleged offense;

(2) that there does not exist a reasonable suspicion that the account holder has committed or is about to commit the alleged offense;

(3) that the amount of funds or assets frozen is more than is necessary to pay complete restitution to all victims of the alleged offense; or

(4) that the funds or assets should be returned in the interests of justice.

c. It is not grounds for the release of funds or assets that the particular accounts frozen do not contain funds or assets that were proceeds from or used in the commission of the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5).

**N.J.S.2C:66-6 Disposition of funds.**

6. Disposition of funds.

a. The court may order the financial institution to remit all or part of the frozen funds or assets to the court.

b. If the account holder is acquitted or the charges are dismissed with prejudice, the court shall issue an order releasing the freeze on the funds or assets.

c. If the account holder is not acquitted or the charges are not dismissed, the frozen funds or assets shall become the property of the State and shall be used to provide restitution to victims of terrorism, to fund State law enforcement anti-terrorism programs and activities and for other law enforcement purposes.

**N.J.S.2C:66-7 Time limit.**

7. Time limit. The freeze permitted by this act expires 24 months after the date of the court's initial attachment order unless the time limit is extended by the court in writing upon a showing of good cause by the Attorney General.

**N.J.S.2C:66-8 Notice.**

8. Notice. Within ten days after a court issues an attachment order under this act, the Attorney General shall send a copy of the order to the account holder's last known address or to the account holder's attorney, if known.

**N.J.S.2C:66-9 Rights and remedies of financial institution.**

9. Rights and remedies of financial institution. A financial institution that is directed to block, freeze or encumber an account pursuant to this act shall be entitled during the period that the account is blocked, frozen or encumbered to exercise any right or remedy with respect to the account as provided by law, or in the deposit agreement and rules or regulations of the financial institution applicable to the account. The provision of this act shall not be construed to preclude a financial institution from exercising its right of set-off or to charge back or recoup a deposit to an account.

**N.J.S.2C:66-10 No liability for freezing funds.**

10. No liability for freezing funds. Notwithstanding any other law to the contrary, a financial institution shall not be liable to any person for blocking, freezing, encumbering or refusing to release any funds or assets held by the financial institution in response to an order issued by a court, or for any other action taken by the financial institution in good faith to comply with the requirements of this act. A financial institution shall not be required to give notice to an account holder or customer that the financial institution has taken any action pursuant to this act and shall not be liable for failure to provide the notice.

**N.J.S.2C:66-11 Construction of act.**

11. Nothing contained in this act shall be construed to abrogate or affect the status, force or operation of the forfeiture provisions of the "New Jersey Code of Criminal Justice," N.J.S.2C:64-1 et seq., or any other provision of law.

12. This act shall take effect immediately.

Approved February 27, 2003.

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**CHAPTER 23**

AN ACT concerning diplomatic immunity for certain offenses and supplementing Title 39 of the Revised Statutes.

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

**C.39:5-53 Definitions relative to diplomatic immunity for certain offenses.**

1. As used in this act:

"Motor vehicle moving violation" means any violation of the motor vehicle laws of this State for which motor vehicle points are assessed by the Director of the Division of Motor Vehicles pursuant to P.L. 1982, c.43 (C.39:5-30.5).

"Person with diplomatic immunity" means a person who displays to a law enforcement officer a driver's license issued by the United States Department of State or who otherwise claims immunities or privileges under Title 22, chapter 6 of the United States Code.

**C.39:5-54 Procedure for law enforcement officer stopping person with diplomatic immunity.**

2. Whenever a person with diplomatic immunity is stopped by a State, county or municipal law enforcement officer who has probable cause to believe

that the person has violated N.J.S.2C:11-5, subsection c. of N.J.S.2C:12-1, R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or section 2 of P.L.1972, c.197 (C.39:6B-2), or has committed a motor vehicle moving violation, the law enforcement officer shall:

- a. As soon as practicable, contact the United States Department of State office to verify the driver's status and immunity;
- b. Record all relevant information from the person's driver's license or identification card, including a driver's license or identification card issued by the United States Department of State;
- c. Within five working days after the date of the stop, forward to the Division of Motor Vehicles the following information:
  - (1) A vehicle accident report if the person was involved in an accident;
  - (2) A copy of any citation or other charging document that was issued, if any; and
  - (3) A written report describing the incident if no citation or charging document was issued.

**C.39:5-55 Records kept, forwarded by DMV.**

3. The Division of Motor Vehicles shall:
  - a. Keep records of each accident report, citation or other charging document, and incident report received by law enforcement officers pursuant to subsection c. of section 2 of this act;
  - b. Send copies of the reports and documents specified in subsection a. of this section to the Bureau of Diplomatic Security, Office of Foreign Missions in the United States Department of State.

**C.39:5-56 Other laws unaffected.**

4. The provisions of this act do not prohibit or limit the application of any law to a criminal or motor vehicle violation by a person who claims immunities or privileges under Title 22 of the United States Code.
5. This act shall take effect on the first day of the third month following enactment.

Approved February 27, 2003.

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CHAPTER 24

AN ACT concerning government energy aggregation, amending and supplementing P.L.1999, c.23, and repealing section 44 of P.L.1999, c.23.

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

**C.48:3-93.1 Establishment, operation of government energy aggregation program.**

1. A government aggregator that is a municipality or a county may establish and operate a government energy aggregation program pursuant either to the provisions of the rules and regulations adopted by the Board of Public Utilities pursuant to section 2 of P.L.2003, c.24 (C.48:3-93.2) or to the provisions of P.L.1999, c.23 (C.48:3-49 et seq.). As used in this section "government aggregator" and "government energy aggregation program" shall have the same meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

**C.48:3-93.2 Rules, regulations relative to government energy aggregation.**

2. a. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary notwithstanding, within 90 days of the effective date of P.L.2003, c.24 (C.48:3-93.1 et al.) the Board of Public Utilities shall adopt rules and regulations authorizing an electric public utility or a gas public utility, upon the request of the governing body of a county or municipality, to assist a government aggregator that is a municipality or a county in establishing a government energy aggregation program. The rules and regulations adopted pursuant to this section shall be effective as rules and regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and shall, thereafter, be amended, adopted or readopted by the board pursuant to the provisions of the "Administrative Procedure Act." The rules and regulations adopted pursuant to this section shall set forth a process for the establishment of a government energy aggregation that (1) requires a government aggregator that is a municipality or a county to establish a government energy aggregation program by ordinance or resolution, as appropriate, and to award a contract for the government energy aggregation program to a licensed electric power supplier or licensed gas supplier pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), provided, however, that such an award may be made on the basis of the most advantageous proposal, price and other factors considered; (2) includes residential customers on an opt-out basis prior to the solicitation of bids from a licensed electric power supplier or licensed gas supplier and non-residential customers on an opt-in basis; (3) requires an electric public utility or gas public utility, as the case may be, to notify utility customers, after the adoption of an ordinance or resolution, of the proposed government energy aggregation program and of the customer's right to decline to participate in the program; (4) requires an electric public utility or a gas public utility, as the case may be, to provide appropriate customer information to a government aggregator that is a municipality or a county after the government aggregator has awarded a contract for a government energy aggregation program to a licensed electric power supplier or licensed gas

supplier, as the case may be; (5) provides that an electric public utility or a gas public utility shall exercise reasonable care in the disclosure of customer information pursuant to this section but shall not be responsible for errors or omissions in the preparation or the content of the customer information; (6) provides that an electric public utility or gas public utility shall not disclose to any governing body, licensed electric power supplier or licensed gas supplier the name, load profile, or any other customer information about a non-residential customer prior to that non-residential customer opting in to the government energy aggregation program; and (7) authorizes electric public utilities and gas public utilities to prioritize requests made by governing bodies pursuant to this section.

b. The rules and regulations adopted by the board pursuant to this section shall provide for the recovery by an electric public utility or a gas public utility of all reasonable costs incurred by the electric public utility or gas public utility in implementing a government energy aggregation and all reasonable costs incurred in assisting a governing body considering a government energy aggregation program. The rules and regulations shall provide that the costs allowed to be recovered pursuant to this subsection shall be recovered on a timely basis from the governing body or government energy aggregator that is a municipality or a county, as the case may be. No electric public utility or gas public utility shall be required to seek recovery of costs for a government energy aggregation program or costs for assisting a governing body considering a government energy aggregation program from the electric public utility's or gas public utility's shareholders or ratepayers.

c. As used in this section "government aggregator," "government energy aggregation program," "electric power supplier" and "gas supplier" shall have the same meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

3. Section 36 of P.L.1999, c.23 (C.48:3-85) is amended to read as follows:

**C.48:3-85 Consumer protection standards.**

36. a. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, interim consumer protection standards for electric power suppliers or gas suppliers, within 90 days of February 9, 1999, including, but not limited to, standards for collections, credit, contracts, authorized changes of an energy consumer's electric power supplier or gas supplier, for the prohibition of discriminatory marketing, for advertising and for disclosure. Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be

effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

(1) Contract standards shall include, but not be limited to, requirements that electric power supply contracts or gas supply contracts must conspicuously disclose the duration of the contract; state the price per kilowatt hour or per therm or other pricing determinant approved by the board; have the customer's written signature; the customer's electronic signature; an audio recording of a telephone call initiated by the customer; independent, third-party verification, in accordance with section 37 of P.L. 1999, c.23 (C.48:3-86), of a telephone call initiated by an electric power supplier, gas supplier or private aggregator; or such alternative forms of verification as the board, in consultation with the Division of Consumer Affairs, may permit for switching electric power suppliers or gas suppliers and for contract renewal; and include termination procedures, notice of any fees, and toll-free or local telephone numbers for the electric power supplier or gas supplier and for the board.

(2) Standards for the prohibition of discriminatory marketing standards shall provide at a minimum that a decision made by an electric power supplier or a gas supplier to accept or reject a customer shall not be based on race, color, national origin, age, gender, religion, source of income, receipt of public benefits, family status, sexual preference, or geographic location. The board shall adopt reporting requirements to monitor compliance with such standards.

(3) Advertising standards for electric power suppliers or gas suppliers shall provide, at a minimum, that optional charges to the consumer will not be added to any advertised cost per kilowatt hour or per therm, and that the only unit of measurement that may be used in advertisements is cost per kilowatt hour or per therm, unless otherwise approved by the board. If an electric power supplier or gas supplier does not advertise using cost per kilowatt hour or per therm, the electric power supplier or gas supplier shall provide, at the consumer's request, an estimate of the cost per kilowatt hour or per therm. Any optional charges to the consumer shall be identified separately and denoted as optional.

(4) Credit standards shall include, at a minimum, that the credit requirements used to make offer decisions must be the same for all residential customers and that electric power suppliers, gas suppliers and private aggregators not impose unreasonable income or credit requirements.

(5) Billing standards shall include, at a minimum, provisions prohibiting electric public utilities, gas public utilities, electric power suppliers and gas suppliers from charging a fee to residential customers for either the commencement or termination of electric generation service or gas supply service.

b. (1) Except as provided in paragraph (2) of this subsection, an electric power supplier, a gas supplier, an electric public utility, and a gas public utility

shall not disclose, sell or transfer individual proprietary information, including, but not limited to, a customer's name, address, telephone number, energy usage and electric power payment history, to a third party without the consent of the customer.

(2) (a) An electric public utility or a gas public utility may disclose and provide, in an electronic format, which may include a CD rom, diskette, and other format as determined by the board, without the consent of a residential customer, a residential customer's name, rate class, and account number, to a government aggregator that is a municipality or a county, or to an energy agent acting as a consultant to a government aggregator that is a municipality or a county, if the customer information is to be used to establish a government energy aggregation program pursuant to sections 42, 43 and 45 of P.L.1999, c.23 (C.48:3-91; 48:3-92; and 48:3-94). The number of residential customers and their rate class, and the load profile of non-residential customers who have affirmatively chosen to be included in a government energy aggregation program pursuant to paragraph (3) of subsection a. of section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant to this paragraph prior to the request by the government aggregator for bids pursuant to paragraph (1) of subsection b. of section 45 of P.L.1999, c.23 (C.48:3-94), and the name, address, and account number of a residential customer and the name, address and account number of non-residential customers who have affirmatively chosen to be included in a government energy aggregation program pursuant to paragraph (3) of subsection a. of section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant to this paragraph upon the awarding of a contract to a licensed power supplier or licensed gas supplier pursuant to paragraph (2) of subsection b. of section 45 of P.L.1999, c.23. Any customer information disclosed pursuant to this paragraph shall not be considered a government record for the purposes of, and shall be exempt from the provisions of P.L.2001, c.404.

(b) An electric public utility or a gas public utility disclosing customer information pursuant to this paragraph shall exercise reasonable care in the preparation of this customer information, but shall not be responsible for errors or omissions in the preparation or the content of the customer information.

(c) Any person using any information disclosed pursuant to this paragraph for any purpose other than to establish a government energy aggregation program pursuant to sections 42, 43 and 45 of P.L.1999, c.23 (C.48:3-91; 48:3-92; and 48:3-94) shall be subject to the provisions of section 34 of P.L.1999, c.23 (C.48:3-83).

(d) The role of an electric public utility or a gas public utility in a government energy aggregation program established pursuant to P.L.1999, c. 23 shall be limited to the provisions of this paragraph.

(3) Whenever any individual proprietary information is disclosed, sold or transferred, pursuant to paragraph (1) or paragraph (2) of subsection b. of



this section, it shall be used only for the provision of continued electric generation service, electric related service, gas supply service or gas related service to that customer. In the case of a transfer or sale of a business, customer consent shall not be required for the transfer of customer proprietary information to the subsequent owner of the business for maintaining the continuation of such services.

(4) Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall, within 90 days of the effective date of P.L.2003, c.24 (C.48:3-93.1 et al.), review existing regulations including, without limitation, Chapter 4 of Title 14 of the New Jersey Administrative Code (Energy Competition Standards), to determine their consistency with the provisions of section 36 of P.L.1999, c.23 (C.48:3-85), section 43 of P.L.1999, c.23 (C.48:3-92) and section 45 of P.L.1999, c.23 (C.48:3-94), shall repeal or modify any regulations that are inconsistent with the provisions thereof and shall adopt regulations and standards implementing the provisions thereof permitting disclosure of customer information without the consent of the customer including, without limitation, provisions for the development of a board-approved agreement between the disclosing party and the receiving party and the creation of a mechanism for the recovery by the disclosing electric public utility or gas public utility of its reasonable incremental costs of providing such information if such costs are not covered in an existing third party supplier agreement.

(5) An electric power supplier, a gas supplier, a gas public utility or an electric public utility may use individual proprietary information that it has obtained by virtue of its provision of electric generation service, electric related service, gas supply service or gas related service to:

(a) Initiate, render, bill and collect for such services to the extent otherwise authorized to provide billing and collection services;

(b) Protect the rights or property of the electric power supplier, gas supplier or public utility; and

(c) Protect consumers of such services and other electric power suppliers, gas suppliers or electric and gas public utilities from fraudulent, abusive or unlawful use of, or subscription to, such services.

c. The board shall establish and maintain a database for the purpose of recording customer complaints concerning electric and gas public utilities, electric power suppliers, gas suppliers, private aggregators, and energy agents.

d. The board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall establish, or cause to be established, a multi-lingual electric and gas consumer education program. The goal of the consumer education program shall be to educate residential, small business, and special needs consumers about the implications for consumers of the restructuring of the electric power and gas industries. The consumer

education program shall include, but need not be limited to, the dissemination of information to enable consumers to make informed choices among available electricity and gas services and suppliers, and the communication to consumers of the consumer protection provisions of this act.

The board shall ensure the neutrality of the content and message of advertisements and materials.

The board shall promulgate standards for the recovery of consumer education program costs from customers which include reasonable measures and criteria to judge the success of the program in enhancing customer understanding of retail choice.

e. (Deleted by amendment, P.L.2003, c.24).

4. Section 43 of P.L.1999, c.23 (C.48:3-92) is amended to read as follows:

**C.48:3-92 Government energy aggregation programs.**

43. Government energy aggregation programs shall be subject to the following provisions:

a. A contract between a government aggregator and a licensed electric power supplier or licensed gas supplier shall include the following provisions:

(1) The specific responsibilities of the government aggregator and the licensed electric power supplier or licensed gas supplier;

(2) The charges, rates, fees, or formulas to be used to determine the charges, rates or fees, to be charged to the energy consumers electing to receive electric generation service or gas supply service pursuant to the government energy aggregation program;

(3) The method and procedures to be followed by the licensed electric power supplier or licensed gas supplier to enroll and educate energy consumers concerning the provisions of the aggregation program;

(4) The proposed terms and conditions of a standard contract between energy consumers and the licensed electric power supplier or licensed gas supplier including, but not necessarily limited to:

(a) The allocation of the risks in connection with the provision of such services between the licensed electric power supplier or licensed gas supplier and the energy consumers receiving such services;

(b) The terms of the proposed contract;

(c) The allocation of the risks associated with circumstances or occurrences beyond the control of the parties to the contract;

(d) Default and remedies; and

(e) The allocation of any penalties that may be imposed by any electric public utility or gas public utility as a result of over-delivery of electricity or gas, under-delivery of electricity or gas, or non-performance by the licensed electric power supplier or licensed gas supplier;

(5) The use of government aggregator resources, equipment, systems or employees in connection with such services;

(6) The term of the contract with the government aggregator;

(7) A provision indemnifying and holding the government aggregator harmless from all liabilities, damages and costs associated with any contract between a resident of the government aggregator and the licensed electric power supplier or licensed gas supplier;

(8) The requirements for the provision of a performance bond by the licensed electric power supplier or licensed gas supplier, if so required by the government aggregator;

(9) Procedures to ensure that participation in the aggregation program is consistent with the provisions of this act and with rules and regulations adopted by the board;

(10) Terms and conditions applicable to consumer protection as provided in rules and regulations adopted by the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety;

(11) A requirement that certain communications between a licensed electric power supplier and a licensed gas supplier and a customer be in a non-English language, as appropriate; and

(12) Such other terms and conditions as the government aggregator deems necessary.

b. The award of a contract for a government energy aggregation program shall be based on the most advantageous proposal, price and other factors considered. The governing body shall only award a contract for service to residential customers where the rate is the same as or lower than the price of basic generation service pursuant to section 9 of P.L.1999, c.23 (C.48:3-57), plus the pro-rata value of the cost of compliance with the renewable energy portfolio standards imposed pursuant to this act derived from a non-utility generation contract with an electric public utility and transferred by the electric public utility to a supplier of basic generation service or basic gas supply service pursuant to section 10 of P.L.1999, c.23 (C.48:3-58), as determined by the board. The governing body may award a contract for electric generation service where the rate is higher than the price of basic generation service as determined by the board pursuant to section 9 of P.L.1999, c.23, plus the pro-rata value of the cost of compliance with the renewable energy portfolio standards imposed pursuant to this act derived from a non-utility generation contract with an electric public utility and transferred by the electric public utility to a supplier of basic generation service, provided that the award is for electricity the percentage of which that is derived from verifiable Class I or Class II renewable energy as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51) is greater than the percentage of Class I and Class II renewable energy required pursuant to subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87), and that the

customers are informed, in a manner determined by the board secretary, that such a higher rate is under consideration by the governing body.

c. No concession fees, finders' fees, or other direct monetary benefit shall be paid to any government aggregator by, or on behalf of, a licensed electric power supplier or licensed gas supplier or broker or energy agent as a result of the contract.

d. A licensed electric power supplier or licensed gas supplier shall be subject to the prohibitions against political contributions in accordance with the provisions of R.S.19:34-45.

e. A government aggregator may enter into more than one contract for the provision of electric generation service and gas supply service, provided, however that the governing body indicates in each contract which is the default provider if a customer does not choose one of the providers.

f. A county government acting as a government aggregator shall not enter into a contract for the provision of a government energy aggregation program that is in competition with any existing contract of any government aggregator within its territorial jurisdiction.

(1) A county government may enter into a contract for a government energy aggregation program only if one or more constituent municipalities in the county adopt an ordinance authorizing the county to enter into such a contract.

(2) A county government energy aggregation program shall only be conducted for residential and business customers located within the constituent municipalities that have approved participation in the county's government energy aggregation program.

5. Section 45 of P.L.1999, c.23 (C.48:3-94) is amended to read as follows:

**C.48:3-94 Operation of government energy aggregation program.**

45. a. (1) A government aggregator that is a municipality or a county may operate a government energy aggregation program that provides for the aggregation of residential electric generation service or gas supply service, non-residential electric generation service or gas supply service on a voluntary basis, and appliance repair services for residential and non-residential customers on a voluntary basis, either separately or bundled, in accordance with the provisions of this section.

(2) Electric generation service or gas supply service for residential customers within the municipality or county and for non-residential customers on a voluntary basis, and for appliance repair services for residential and non-residential customers on a voluntary basis, may be aggregated together with electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, for the government aggregator's own facilities or with other government aggregators, provided that each

governing body adopts an ordinance in the case of a municipality, or resolution in the case of a county, after notice and public hearing, indicating its intent to solicit bids for the provision of electric generation service or gas supply service, either separately or bundled, and for appliance repair services on a voluntary basis at a separate price and by separate bid solicitation, as the case may be, which approval shall require passage by a majority vote of the full membership of the governing body.

(3) If an ordinance or resolution adopted pursuant to paragraph (2) of this subsection would include non-residential customers in a government energy aggregation program on a voluntary basis, the adoption of the ordinance or resolution shall be accompanied by a public notice that non-residential customers will be included in the government energy aggregation program if they contact the appropriate governing body within 30 days of the adoption of the ordinance or resolution stating their affirmative choice to be included in the government energy aggregation program.

(4) (a) If an ordinance or resolution adopted pursuant to paragraph (2) of this subsection would include appliance repair services for residential or non-residential customers on a voluntary basis at a separate price and by separate bid solicitation, the adoption of the ordinance or resolution shall be accompanied by a public notice that residential or non-residential customers may receive appliance repair services if they contact the appropriate governing body within 30 days of the adoption of the ordinance or resolution stating their affirmative choice to receive appliance repair services under the government energy aggregation program.

(b) The Board of Public Utilities shall adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), rules and regulations determining the manner in which electric related services and gas related services, other than appliance repair services, shall be included in government energy aggregation programs.

(5) A government energy aggregation program shall be structured to provide that each residential or non residential customer, as the case may be, shall receive electric generation service or gas supply service from one licensed electric power supplier or one licensed gas supplier, as the case may be.

(6) Any residential or non-residential customer receiving electric generation service or gas supply service from a licensed electric power supplier or a licensed gas supplier prior to the establishment of a government energy aggregation program pursuant to this section shall be exempt from a government energy aggregation program established pursuant to this section. Under no circumstance shall a residential or non-residential customer's affirmative choice to be included in a government energy aggregation program abrogate the existing terms of an electric power or gas supply contract between a non-residential customer and a licensed electric power supplier or licensed gas supplier.

b. (1) The governing body shall commence public bidding pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to receive bids from a licensed electric power supplier or licensed gas supplier, as appropriate, for electric generation service or gas supply service at one or more projected load levels, either separately or bundled, for customers within the municipality or county, and if appropriate, for any appliance repair services at a separate price and by separate bid solicitation, and for electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, for the government aggregator's own facilities. Thirty days prior to the commencement of public bidding the governing body shall transmit the bid notice and all bidding documents to the board and the Division of the Ratepayer Advocate for review. The board and the Division of the Ratepayer Advocate shall have 15 days to review the bid notice and bidding documents and provide comments to the governing body, which may accept or reject the comments.

(2) Upon receipt of the bids, the governing body shall evaluate the proposals. The governing body shall select a licensed electric power supplier or licensed gas supplier, or both, based on the most advantageous proposal, price and other factors considered. The governing body shall only select a licensed electric power supplier or licensed gas supplier to be awarded a contract for service where the rate is the same as or lower than the price of basic generation service pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) plus the pro-rata value of the cost of compliance with the renewable energy portfolio standards imposed pursuant to this act derived from a non-utility generation contract with an electric public utility and transferred by the electric public utility to a supplier of basic generation service or basic gas supply service pursuant to section 10 of P.L.1999, c.23 (C.48:3-58), as determined by the board. The governing body may award a contract for electric generation service where the rate is higher than the price of basic generation service as determined by the board pursuant to section 9 of P.L.1999, c.23 plus the pro-rata value of the cost of compliance with the renewable energy portfolio standards imposed pursuant to this act derived from a non-utility generation contract with an electric public utility and transferred by the electric public utility to a supplier of basic generation service, provided that the award is for electricity the percentage of which that is derived from verifiable Class I or Class II renewable energy as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51) is greater than the percentage of Class I and Class II renewable energy required pursuant to subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87), and that the customers are informed, in a manner determined by the board secretary, that such a higher rate is under consideration by the governing body.

c. Upon selection of a licensed electric power supplier or licensed gas supplier, or both, pursuant to subsection b. of this section, the governing body

shall enter into a written agreement with the selected licensed supplier. The written agreement shall include:

(1) the contract with the selected licensed electric power supplier or licensed gas supplier, or both, for the government aggregator's own load; and

(2) a contract form which shall comply with and include the requirements of subsection a. of section 43 of P.L.1999, c.23 (C.48:3-92).

The governing body shall transmit a copy of the written agreement to the board and the Division of the Ratepayer Advocate, each of which shall have 15 days to review the written agreement and provide comments to the governing body, which may accept or reject the comments.

d. (Deleted by amendment, P.L.2003, c.24).

e. (1) After entering into the agreement pursuant to section c. of this section, the governing body shall provide written individual notice to customers advising them of their individual right to affirmatively decline participation in the government energy aggregation program, and providing 30 days for customers to respond to the governing body of their decision to affirmatively decline participation in the government energy aggregation program and providing them with the price and other factors allowing the customer to compare the government energy aggregation program to other alternatives; and

(2) upon expiration of the 30-day period required pursuant to paragraph (1) of this subsection, the governing body shall determine the number and identity of customers who did not affirmatively decline to participate in the government energy aggregation program.

(3) The governing body shall then authorize the selected licensed electric power supplier or licensed gas supplier, or both, to enroll each customer within the municipality or county who did not initially affirmatively decline to be part of a government energy aggregation program pursuant to the provisions of paragraph (1) of subsection e. of this section.

(4) The Board of Public Utilities shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations regarding service for residential and non-residential customers in municipalities and counties in which government energy aggregation programs have been established providing for the notification to new customers of the availability of the established government energy aggregation program and their option to enroll in the program, and establishing a process by which customers that have been enrolled in a government energy aggregation program and that move to a new location where that same government energy aggregation program is available may consent to continue in the program without reverting to basic generation service or basic gas service. The rules and regulations adopted by the board pursuant to this section shall provide for the recovery by an electric public utility or a gas public utility of all reasonable costs incurred by the electric

public utility or gas public utility in complying with the regulations adopted pursuant to this section.

f. The licensed electric power supplier or licensed gas supplier, or both, selected pursuant to the provisions of this section shall be subject to the provisions of section 37 of this act.

g. Whenever the process results in a change of provider of energy or of price to program participants, the governing body shall give residential customers notice, as determined by the board, of their right to decline continued participation.

h. A government aggregator that is a county may implement the provisions of this section only as authorized pursuant to the provisions of subsection f. of section 43 of this act.

i. The provisions of this section shall only apply to government energy aggregation programs for residential customers and to non-residential customers on a voluntary basis.

j. Nothing in this section shall preclude a government energy aggregation program from including non-residential customers as participants on a voluntary basis and in a clear and consistent manner.

k. Nothing in this section shall preclude a residential customer who did not affirmatively decline to participate in a government energy aggregation program from switching electric service to another electric power supplier or to basic generation service pursuant to regulations adopted by the board.

**C.48:3-93.3 Contributions to campaign committees, candidates, office holders; restrictions; enforcement.**

6. a. The provisions of any law, or rule or regulation adopted pursuant thereto, to the contrary notwithstanding, a government aggregator that is a municipality or a county shall not award a contract to a licensed electric power supplier, a licensed gas supplier, or appliance repair service provider if the licensed electric power supplier, licensed gas supplier, or appliance repair service provider has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a campaign committee of any candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any State, county or municipal party committee or legislative leadership committee, in excess of the thresholds specified in subsection c. of this section within one calendar year immediately proceeding commencement of negotiations for the contract.

b. No licensed electric power supplier, licensed gas supplier, or appliance repair service provider which enters into negotiations for, or agrees to, any contract with a government aggregator that is a municipality or a county shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any candidate or holder of



the public office having ultimate responsibility for the award of the contract, or to any State, county or municipal party committee or legislative leadership committee, between the commencement of negotiations for and the later of the termination of negotiations or the completion of the contract.

c. Any individual included within the definition of a licensed electric power supplier, licensed gas supplier, or appliance repair service provider pursuant to subsection o. of this section may annually contribute a maximum of \$250 for any purpose to any candidate for the office of Governor or for the office of member of the Legislature, or \$500 to any State, county or municipal party committee or legislative leadership committee, without violating subsection a. of this section. However, any group of individuals meeting the definition of a licensed electric power supplier, a licensed gas supplier, or appliance repair service provider pursuant to subsection o. of this section, in the aggregate shall not annually contribute for any purpose in excess of \$5,000 to all candidates for the office of Governor or for the office of member of the Legislature and officeholders with ultimate responsibility for the awarding of the contract, and all State, county and municipal political parties and legislative leadership committees combined, without violating subsection a. of this section.

d. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be any elected official of the governing body of the municipality or county serving as the government aggregator.

e. No contribution of money or other thing of value, including in-kind contributions, made by a licensed electric power supplier, a licensed gas supplier, or appliance repair service provider to any candidate for the office of Governor or for the office of member of the Legislature or State, county or municipal party committee or legislative leadership committee shall be deemed a violation of section a. of this section nor shall an agreement for property, goods or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the licensed electric power supplier, licensed gas supplier, or appliance repair service provider prior to the effective date of P.L.2003, c.24 (C.48:3-93.1 et al.).

f. (1) Prior to awarding any contract to a licensed electric power supplier, a licensed gas supplier, or appliance repair service provider, a government aggregator that is a municipality or a county shall receive a sworn statement from the licensed electric power supplier, licensed gas supplier, or appliance repair service provider made under penalty of perjury that the licensed electric power supplier, licensed gas supplier, or appliance repair service provider has not made a contribution in violation of subsection a. of this section.

(2) A licensed electric power supplier, licensed gas supplier, and appliance repair service provider shall have a continuing duty to report any violations of this section that may occur during the negotiation or duration of the contract.

g. Candidates for the office of Governor or for the office of member of the Legislature, and State and county party committees and legislative leadership committees shall use reasonable efforts to notify contributors and potential contributors that contributions, including in-kind contributions, from a licensed electric power supplier, a licensed gas supplier, or appliance repair service provider and certain individuals associated with a licensed electric power supplier, licensed gas supplier, or appliance repair service provider may affect the ability of the licensed electric power supplier, licensed gas supplier, or appliance repair service provider to contract or continue to contract with a government aggregator that is a municipality or a county. Such reasonable efforts shall include, but need not be limited to, notification in written fundraising solicitations or donor information request forms or other fundraising solicitation materials. The failure of a licensed electric power supplier, licensed gas supplier, or appliance repair service provider to receive the notice prescribed in this subsection shall not be a defense to a violation of subsection a. of this section.

h. A licensed electric power supplier, licensed gas supplier, appliance repair service provider, candidate for the office of Governor or for the office of member of the Legislature, an officeholder or a State, county or municipal party committee or legislative leadership committee may cure a violation of subsection a. of this section if, within 30 days after the election for which a contribution is made the licensed electric power supplier, licensed gas supplier, or appliance repair service provider seeks and receives reimbursement of a contribution from the candidate for the office of Governor or for the office of member of the Legislature or State, county or municipal political party or legislative leadership committee.

i. It shall be a breach of the terms of a contract for a licensed electric power supplier, licensed gas supplier, or appliance repair service provider to violate subsection a. of this section or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, and any such licensed electric power supplier, licensed gas supplier, or appliance repair service provider shall be subject to penalties prescribed in subsection k. of this section and any other penalties prescribed by law.

j. No person shall make and no person, other than a candidate or an official representative of the candidate committee or joint candidates committee of the candidate, shall accept any contribution on the condition or with the agreement that it will be contributed to any other particular candidate, subject

to penalties prescribed in subsection k. of this section and any other penalties prescribed by law. The expenditure of funds received by a person shall be made at the sole discretion of the recipient person.

k. Any licensed electric power supplier, licensed gas supplier, or appliance repair service provider who knowingly fails to reveal a contribution made in violation of subsection a. of this section, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future energy aggregation program contracts for a period of four calendar years from the date of the determination of violation, and shall have any contract with the State then in effect immediately terminated.

l. The governing body of a county or municipality shall have the option to promulgate and implement its own ordinances restricting campaign contributions by licensed electric power suppliers and licensed gas suppliers.

m. (1) Any licensed electric power supplier, licensed gas supplier, or appliance repair service provider making a contribution to any candidate, committee, or political party shall file an annual disclosure statement with the New Jersey Election Law Enforcement Commission setting forth all political contributions made during the 12 months prior to the reporting deadline.

(2) The Election Law Enforcement Commission shall prescribe forms and procedures for the reporting required in paragraph (1) of this subsection which, at a minimum, shall require the following information:

(a) The names and addresses of the licensed electric power supplier, licensed gas supplier, or appliance repair service provider making the contributions, and the amount contributed;

(b) The name of the candidate committee or political party receiving the contribution; and

(c) The amount of money received from a government aggregator that is a municipality or a county.

n. The Election Law Enforcement Commission shall maintain a list of such reports for public inspection both at the commission's office and through the commission's electronic disclosure Web site.

o. (1) For purposes of this section, "electric power supplier" and "gas supplier" shall have the same meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51), and shall include all principals who own 10 percent or more of the equity in an entity that is an electric power supplier or a gas supplier, partners, and all officers in the aggregate employed by the entity, as well as any subsidiaries directly controlled by the entity. "Appliance repair service provider" means any person or entity engaged in the maintenance, repair or replacement of appliances and providing such services as part of a government energy aggregation program pursuant to P.L.1999, c.23, and shall include

all principals who own 10 percent or more of the equity in an entity which is an appliance repair service provider, partners, and all officers in the aggregate employed by the entity, as well as any subsidiaries directly controlled by the entity. "Contract" shall mean a contract between a government aggregator that is a municipality or a county for a government energy aggregation program entered into pursuant to the provisions of section 2 of P.L.2003, c.24 (C.48:3-93.2) or the provisions of P.L.1999, c.23.

(2) For the purposes of this section, "contribution," "in-kind contribution," "other thing of value," "candidate," "candidate committee," "joint candidates committee," "legislative leadership committee," "State, county or municipal political party" and "State, county or municipal party committee" shall have the meanings set forth in the "New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.).

**Repealer.**

7. Section 44 of P.L.1999, c.23 (C.48:3-93) is repealed.

8. This act shall take effect immediately.

Approved February 27, 2003.

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## CHAPTER 25

AN ACT concerning certain tobacco product manufacturers and supplementing Title 52 of the Revised Statutes.

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

**C.52:4D-4 Findings, declarations relative to enforcement of the Model Statute.**

1. The Legislature finds and declares that facilitating the diligent enforcement of P.L.1999, c.148 (C.52:4D-1 et seq.), the so-called "Model Statute" contemplated by the "Master Settlement Agreement" which settled tobacco-related litigation between the settling states, including New Jersey, and leading United States tobacco product manufacturers, is beneficial to the public interest. The Model Statute requires tobacco product manufacturers that are not participants in the Master Settlement Agreement to pay into a qualified escrow fund to guarantee a source of compensation to pay any future judgment or settlement that may be reached with the State. Overall tobacco industry compliance with the provisions of the Model Statute will be encouraged by requiring cigarette distributors to stamp and distribute only cigarettes of tobacco product manufacturers that are in compliance with the act and by requiring holders of certificates of authority under P.L.1990, c.39 (C.54:40B-1

et seq.) and other persons that collect or pay the tax on a tobacco product as defined in section 2 of P.L.1990, c.39 (C.54:40B-2) that is also defined as a cigarette under section 2 of P.L.1999, c.148 (C.52:4D-2) to distribute only the tobacco products of tobacco product manufacturers that are in compliance with the act. The establishment of additional procedural enhancements and penalties related to these requirements will aid the State in its continuing diligent enforcement of this law and thereby safeguard the Master Settlement Agreement and the effectuation of the goals of the tobacco litigation settlement, which in turn will have a salutary effect on the fiscal soundness of the State and the public health.

**C.52:4D-5 Definitions relative enforcement of the Model Statute.**

2. As used in this act, unless the context otherwise requires, the following words and terms shall have the following meanings:

"Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100's" and includes any similar use of a brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

"Cigarette" has the same meaning as that term is defined in section 2 of P.L.1999, c.148 (C.52:4D-2).

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Licensed distributor" means a person that is authorized pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.), to affix tax stamps or impress or attach metered impressions of tax to packages or other containers of cigarettes or any person that is required to pay the excise tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.).

"Master Settlement Agreement" means the settlement agreement, and related documents, entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers.

"Non-Participating Manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

"Participating Manufacturer" has the meaning given that term in Section II(jj) of the Master Settlement Agreement and all amendments thereto.

"Qualified escrow fund" has the same meaning as prescribed for that term under section 2 of P.L.1999, c.148 (C.52:4D-2).

"Tobacco product manufacturer" has the same meaning as prescribed for that term under section 2 of P.L.1999, c.148 (C.52:4D-2).

"Units sold" has the same meaning as prescribed for that term under section 2 of P.L.1999, c.148 (C.52:4D-2).

**C.52:4D-6 Certification by tobacco product manufacturer as to compliance.**

3. a. Every tobacco product manufacturer whose cigarettes are sold in this State, whether directly or through a distributor, retailer or similar intermediary or intermediaries, annually shall execute and deliver in the manner prescribed by the Attorney General a certification to the director and Attorney General no later than April 30, certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is a participating manufacturer or is in full compliance with the requirements of P.L.1999, c.148 (C.52:4D-1 et seq.).

(1) A participating manufacturer shall include in its certification a complete list of its brand families. The participating manufacturer shall update such list no later than 30 days prior to any addition or modification to brand families by executing and delivering a supplemental certification to the Attorney General.

(2) A non-participating manufacturer shall include in its certification a complete list of all of its brand families: (a) separately listing brand families of cigarettes and the number of units sold for each brand family that were sold in the State during the preceding calendar year; (b) all of its brand families that have been sold in the State at any time during the current calendar year; (c) indicating, by an asterisk, any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the certification; and (d) identifying by name and address any other manufacturer of those brand families in the preceding calendar year. The non-participating manufacturer shall update the list no later than 30 days prior to any addition or modification to its brand families by executing and delivering a supplemental certification to the Attorney General.

(3) In the case of a non-participating manufacturer, the certification shall further certify: (a) that the non-participating manufacturer is registered to do business in the State or has appointed a resident agent for service of process and provided notice thereof as required by subsection b. of section 6 of this act; (b) that the non-participating manufacturer has (i) established and continues to maintain a qualified escrow fund; and (ii) executed a qualified escrow agreement that has been reviewed and approved by the Attorney General and that governs the qualified escrow fund; (c) that the non-participating manufacturer is in full compliance with P.L.1999, c.148 (C.52:4D-1 et seq.), and this act, and any regulations promulgated pursuant thereto; (d) (i) the name, address and telephone number of the financial institution at which the non-participating manufacturer has established the qualified escrow fund required pursuant to section 3 of P.L.1999, c.148 (C.52:4D-3), and all regulations promulgated thereto; (ii) the account number of the qualified escrow

fund and sub-account number for the State of New Jersey; (iii) the amount the non-participating manufacturer placed in the fund for units sold in the State during the preceding calendar year, the date and amount of each of those deposits, and such evidence or verification as may be deemed necessary by the Attorney General to confirm the foregoing; and (iv) the amounts of and dates of any withdrawal or transfer of funds the non-participating manufacturer made at any time from the fund or from any other qualified escrow fund into which it has ever made escrow payments pursuant to section 3 of P.L.1999, c.148 (C.52:4D-3) and all regulations promulgated thereto.

b. A tobacco product manufacturer shall not include a brand family in its certification unless:

(1) in the case of a participating manufacturer, that participating manufacturer affirms that the brand family is to be deemed to be cigarettes of the participating manufacturer for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement; and

(2) in the case of a non-participating manufacturer, that non-participating manufacturer affirms that the brand family is to be deemed to be cigarettes of the non-participating manufacturer for purposes of calculating its units sold pursuant to section 3 of P.L.1999, c.148 (C.52:4D-3).

Nothing in this section shall be construed as limiting or otherwise affecting the State's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of P.L.1999, c.148 (C.52:4D-1 et seq.).

c. A tobacco product manufacturer shall maintain all invoices and documentation of sales and any other information relied upon for the certification for a period of five years, unless otherwise required by law to maintain them for a longer period of time.

**C.52:4D-7 Development, publication of directory listing compliers.**

4. a. Not later than 60 days after enactment of this act, the Attorney General shall develop and publish through the Internet a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection a. of section 3 of this act in a timely manner, pursuant to the initial schedule provided in section 9 of this act, and all brand families that are listed in those certifications, except as noted below.

b. The Attorney General shall not include or retain in the directory the name or brand families of any non-participating manufacturer that fails to provide the required certification or whose certification the Attorney General determines is not in compliance with paragraph (2) or paragraph (3) of

subsection a. of section 3 of this act, unless the Attorney General has determined that the violation has been cured to the satisfaction of the Attorney General.

c. The Attorney General shall not include or retain a tobacco product manufacturer or brand family in the directory if the Attorney General concludes that (1) in the case of a non-participating manufacturer all escrow payments required pursuant to section 3 of P.L. 1999, c. 148 (C.52:4D-3), for any period for any brand family, whether or not listed by that non-participating manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General, or (2) all outstanding final judgments, including interest thereon, for violations of P.L. 1999, c. 148 (C.52:4D-1 et seq.) have not been fully satisfied for that brand family and that manufacturer.

d. The Attorney General shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand families to keep the directory in conformity with the requirements of this act.

**C.52:4D-8 Unlawful practices.**

5. It shall be unlawful for any person: a. to affix a tax stamp or impress or attach a metered impression of tax to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory established pursuant to section 4 of this act, or, b. to sell, offer or possess for sale in this State, cigarettes of a tobacco product manufacturer or brand family not included in the directory established pursuant to this act.

**C.52:4D-9 Registered agent necessary for listing of non-resident, non-participating manufacturer.**

6. a. Any non-resident or foreign non-participating manufacturer that has not registered to do business in this State as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory established pursuant to section 4 of this act, appoint and continually engage without interruption the services of an agent in New Jersey to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of the act and P.L. 1999, c. 148 (C.52:4D-1 et seq.), may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the non-participating manufacturer. The non-participating manufacturer shall provide the name, address, telephone number and proof of the appointment and availability of such agent to the Attorney General.

b. A non-participating manufacturer shall provide notice to the director and Attorney General not later than 30 calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new agent no less than five



calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the non-participating manufacturer shall notify the director and Attorney General of that termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

c. A non-participating manufacturer whose products are sold in this State, without appointing or designating an agent as herein required shall be deemed to have appointed the Secretary of State as that agent and may be proceeded against in the courts of this State by service of process upon the Secretary of State; provided however, that the appointment of the Secretary of State as that agent shall not satisfy the condition precedent to having its brand families listed or retained in the directory established pursuant to section 4 of this act.

**C.52:4D-10 Submission of information.**

7. a. Within 20 days after the end of each calendar quarter, and more frequently if so directed by the director, each licensed distributor and each holder of a certificate of authority pursuant to section 6 of P.L.1990, c.39 (C.54:40B-6) shall submit such information as the director requires to facilitate compliance with this section, including, but not limited to, a list by brand family of the total number of cigarettes or in the case of roll your own, the equivalent stick count, for which the licensed distributor affixed stamps or impressed or attached metered impressions or for which the holder of the certificate of authority otherwise paid the tax due for such cigarettes during the previous calendar quarter. Each licensed distributor and holder of a certificate of authority shall, for a period of five years, maintain, and make available to the director and the Attorney General, all invoices and documentation of sales of all cigarettes sold by the licensed distributor or holder of a certificate of authority that were manufactured by a non-participating manufacturer and any other information relied upon in reporting to the director.

b. The director is authorized to disclose to the Attorney General any information received under this act or requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of this act. The director and Attorney General shall share with each other the information received under this act, and may share such information with other federal, State or local agencies only for purposes of enforcement of this act, P.L.1999, c.148 (C.52:4D-1 et seq.), or the corresponding laws of other states.

c. The Attorney General may require at any time that a non-participating manufacturer provide from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with P.L.1999, c.148 (C.52:4D-1 et seq.), proof of the amount of money in the

fund being held on behalf of the State and the dates of deposits, and listing the amounts of all withdrawals from the fund and the dates thereof.

d. In addition to the information required to be submitted pursuant to this section, the director or Attorney General may require a stamping agent, licensed distributor, holder of a certificate of authority pursuant to section 6 of P.L. 1990, c.39 (C.54:40B-6), or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family, as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with this act.

e. To promote compliance with the provisions of this act, the Attorney General may promulgate regulations requiring a tobacco product manufacturer subject to the requirements of paragraph (2) of subsection a. of section 3 of this act to make the escrow deposits required in more frequent installments during the year in which the sales covered by the deposits are made. The Attorney General may require production of information sufficient to enable the Attorney General to determine the adequacy of the amount of the installment deposit.

**C.52:4D-11 Additional penalties.**

8. a. In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that any person has violated section 5 of this act or any regulation adopted pursuant thereto, the director may revoke or suspend the license of any person pursuant to section 203 of P.L. 1948, c.65 (C.54:40A-5) or revoke or suspend the holder's certificate of authority pursuant to procedures applicable to the suspension of a license set forth in section 203 of P.L. 1948, c.65 (C.54:40A-5). Each stamp or metered impression affixed and each offer to sell cigarettes in violation of section 5 of this act shall constitute a separate violation. For each violation hereof, the director may also impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes sold or \$5,000 upon a determination of violation of section 5 of this act or any regulations adopted pursuant thereto.

b. Any cigarettes that have been sold, offered for sale or possessed for sale in this State in violation of section 5 of this act shall be deemed contraband, without regard to whether the violation was knowing under section 607 of P.L. 1948, c. 65 (C.54:40A-30), and those cigarettes shall be subject to seizure and forfeiture as provided in section 607, and all cigarettes so seized and forfeited shall be destroyed and not resold.

c. The Attorney General, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of section 5 of this act, or subsection a. or subsection b. of section 7 of this act by a licensed distributor or a holder of a certificate of authority pursuant to section 6 of P.L. 1990, c.39 (C.54:40B-6) and to compel the licensed distributor or holder of a certificate of authority

to comply with the requirements provided therein. In any action brought pursuant to this section, the State shall be entitled to recover the costs of investigation, costs of the action and reasonable attorney fees.

d. It shall be unlawful for any person to sell or distribute cigarettes or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the State in violation of section 5 of this act. A violation of this subsection shall be a crime of the third degree.

**C.52:4D-12 Determination to not list, remove from list, review.**

9. a. A determination of the Attorney General to not list or to remove from the directory a brand family or tobacco product manufacturer shall be subject to review in the manner prescribed by the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. No person shall be issued a license or granted a renewal of a license to act as a stamping agent, or a certificate of authority pursuant to section 6 of P.L.1990, c.39 (C.54:40B-6), unless that person has certified in writing, under penalty of perjury that the person will comply fully with this section.

c. Notwithstanding the dates otherwise prescribed in this act:

(1) the first report required after enactment of this act by a licensed distributor or a holder of a certificate of authority pursuant to subsection a. of section 7 of this act shall be due 30 days after enactment of this act;

(2) the first certification required after enactment of this act by a tobacco product manufacturer described in subsection a. of section 3 of this act shall be due 45 days after enactment of this act; and

(3) the first publication required after enactment of this act of the directory described in subsection a. of section 4 of this act shall be completed within 90 days after the enactment of this act.

d. The Attorney General may promulgate regulations necessary to effect the purposes of this act.

e. In any action brought by the State to enforce this act, the State shall be entitled to recover the costs of investigation, expert witness fees, costs of the action and reasonable attorney fees.

f. If a court determines that a person has violated this act, the court shall order any profits, gain, gross receipts or other benefit from the violation to be disgorged and paid to the State Treasurer. Unless otherwise expressly provided, the remedies or penalties provided by this act are cumulative, and in addition to the remedies or penalties available under all other laws of this State.

10. This act shall take effect immediately.

Approved February 27, 2003.

## CHAPTER 26

AN ACT concerning the demonstration of firefighting equipment or apparatus and supplementing Title 52 of the Revised Statutes.

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

**C.52:27D-25ii Demonstration, operation of firefighting equipment.**

1. Notwithstanding any law, rule or regulation to the contrary, for educational purposes fire department or districts may conduct demonstrations of firefighting equipment or apparatus for officers and employees of the State or any county or municipality and any agency or instrumentality thereof, in which said officers or employees may operate the equipment or apparatus, provided they are directly supervised by a person certified to operate the equipment or apparatus and reasonable measures have been taken to ensure the safety of the operator.

2. This act shall take effect immediately.

Approved March 10, 2003.

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CHAPTER 27

AN ACT concerning notification by employers and insurers with regard to health benefits plans and supplementing Title 34 of the Revised Statutes and Title 17B of the New Jersey Statutes.

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

**C.34:11A-16 Findings, declarations relative to notification with regard to health benefits plans.**

1. The Legislature finds and declares that:
  - a. Many employers in this State offer health benefits coverage to their employees under a health benefits plan as an incentive to attract and retain qualified employees.
  - b. Health benefits coverage is very important to employees and their families and the availability of such coverage through an employer can be the determining factor as to whether an individual accepts employment with a particular employer.
  - c. According to data tabulated by the Urban Institute based on the 1999 National Survey of America's Families, approximately 5.5 million New Jersey

residents, which includes employees and their dependents, were covered by an employer-sponsored health benefits plan in 1999.

d. In certain instances, an employer may make a business decision not to continue an employee health benefits plan, due to rising health care costs and other economic factors, and may not always notify the employees beforehand of its decision.

e. It is a disservice to the working people of this State not to require that an employer provide prior notification to its employees when the employee health benefits plan will be terminated, for whatever reason.

**C.34:11A-17 Notice by employer of termination, change of benefits.**

2. An employer that provides a health benefits plan as defined in section 2 of P.L. 1997, c.192 (C.26:2S-2) to its employees in this State shall provide, in writing, 30 days' prior notice to those employees before the health benefits plan is terminated; except that, in the case of an employer that changes a health benefits plan, the employer shall immediately notify its employees in writing of the change upon receipt by the employer of notification from the health insurer that its employees will be covered by the new plan.

**C.34:11A-18 Violations, penalties.**

3. a. The Commissioner of Labor shall enforce and administer the provisions of sections 1 through 4 of this act, and the commissioner or his authorized representatives are empowered to investigate violations of those provisions.

b. When the commissioner finds that an employer has violated this act by failing to provide the notice required pursuant to section 2 of this act, the commissioner is authorized to assess and collect administrative penalties specified in a schedule of penalties to be promulgated by the commissioner by regulation. The penalty amount shall be based on the number of employees covered under the health benefits plan and shall not exceed \$200 an employee.

c. No administrative penalty shall be levied pursuant to this section unless the commissioner provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon that hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order.

d. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.).

**C.34:11A-19 Regulations.**

4. The Commissioner of Labor shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of sections 1 through 4 of this act.

**C.17B:30-40 Definitions, construction, regulations on notice of premium increase to employers.**

5. a. As used in this section:

"Carrier" means any entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Banking and Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company authorized to issue health insurance, a health maintenance organization, a hospital service corporation, medical service corporation and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services. The term "carrier" shall not include a joint insurance fund established pursuant to State law.

"Health benefits plan" means a health benefits plan as defined in section 2 of P.L. 1997, c. 192 (C.26:2S-2).

b. For the renewal of a health benefits plan for which the premium rate will increase, a carrier shall provide, in writing, 60 days' prior notice of the amount of the increase, to the employer that purchased that plan.

c. The provisions of this section shall not be construed to diminish the right of a carrier to negotiate with an employer that purchased a health benefits plan over the amount of any proposed increase in the premium rate for the renewal of that plan.

d. The Commissioner of Banking and Insurance shall promulgate regulations, pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this section.

6. This act shall take effect on the 60th day after enactment, but the Commissioners of Labor and Banking and Insurance may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved March 10, 2003.

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**CHAPTER 28**

**AN ACT creating the "Fire Service Resource Emergency Deployment Act" and supplementing Title 52 of the Revised Statutes.**

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

**C.52:14E-11 Short title.**

1. This act shall be known and may be cited as the "Fire Service Resource Emergency Deployment Act."

**C.52:14E-12 Findings, declarations relative to coordination of fire service resources in emergencies.**

2. The Legislature finds and declares that, in the interest of public safety, it is appropriate to establish a mechanism for the coordination of fire service resources throughout the State to facilitate a quick and efficient response to any emergency incident or situation that requires the immediate deployment of those resources in order to protect life and property from the danger or destruction of fire, explosion or other disaster. This act is remedial in nature and shall be liberally construed to effectuate these purposes.

**C.52:14E-13 Definitions relative to coordination of fire service resources in emergencies.**

3. As used in this act:

"County fire coordinator" means the individual appointed by the State fire coordinator pursuant to subsection a. of section 5 of this act.

"County fire mutual aid plan" means a plan, prepared and adopted by a county in accordance with subsection c. of section 5 of this act, which sets forth the measures that are to be implemented in those instances where the fire service resources of an individual municipality within the county are unable to respond adequately to an emergency incident or a local fire emergency disaster and, therefore, it is necessary for the county to coordinate the delivery of fire service resources and assistance to that municipality from other municipalities in the county.

"Deputy county fire coordinator" means an individual appointed by the county fire coordinator pursuant to subsection a. of section 5 of this act to assist the county fire coordinator with the duties and responsibilities of his position and to serve as the county fire coordinator in his absence.

"Deputy State fire coordinator" means an individual appointed by the State fire coordinator from the employees of the Division of Fire Safety to assist the State fire coordinator with the duties and responsibilities of his position and to serve as the State fire coordinator in his absence.

"Division" means the Division of Fire Safety in the Department of Community Affairs.

"Emergency incident" means any situation to which a unit of the fire service responds to deliver emergency services including, but not limited to, rescue, fire suppression, special operations and other forms of hazard control and mitigation.

"Fire service resources" means fire fighters and other personnel utilized by a unit of the fire service to provide rescue, fire suppression and related activities whether those fire fighters and personnel are volunteer or career; trucks, rescue vehicles and other vehicles used for fire fighting and emergency purposes; and fire fighting and rescue equipment used for fire or emergency purposes, including communications and protective equipment. Fire service resources shall not include emergency medical service providers and personnel, except that any unit or personnel that provides both fire and emergency medical services shall be subject to this act while performing fire suppression and related activities.

"Forest fire service" means the agency within the Department of Environmental Protection that is responsible for the protection of life, property and natural resources from wildfire.

"Incident commander" means the individual in overall command or control of the fire service personnel, and associated emergency equipment and emergency vehicles, at the site of an emergency incident.

"Local fire emergency disaster" means an emergency incident which, in the judgment of the incident commander, is of such severe degree and nature that it presents a significant threat to the health, safety and welfare of a municipality and its residents and, therefore, may warrant the implementation of the municipality's municipal emergency operations plan.

"Local fire mutual aid plan" means a plan, prepared and adopted by a municipality or fire district in accordance with section 4 of this act, which sets forth the measures that are to be implemented in those instances when the fire service resources of the municipality or fire district cannot adequately respond to an emergency incident or a local fire emergency disaster and, as a consequence, it is necessary for the municipality or fire district to request assistance and fire service resources from contiguous municipalities.

"Order of deployment" means an order issued by the State fire coordinator pursuant to this act to a unit of the fire service requiring the immediate response, recall or standby of that unit's fire service personnel, emergency equipment or emergency vehicles, or any part thereof.

"State fire coordinator" means the Director of the Division of Fire Safety in the Department of Community Affairs, or his designee.

"State firewarden" means the chief of the forest fire service in the Department of Environmental Protection or his designee.

"Unit of the fire service" means a department or force, be it paid, part-paid or volunteer, established and maintained by the State or any of its instrumentalities, any local governmental unit or any of its instrumentalities, any State or local authority, fire district or non-profit corporation, association or organization for the purposes of fire suppression, rescue and related activities.



**C.52:14E-14 Preparation, adoption of local fire mutual aid plans.**

4. Each municipality or fire district, as the case may be, in this State shall prepare and adopt a local fire mutual aid plan. The plan shall set forth policies and procedures to coordinate the effective utilization of fire service resources in those instances where the implementation of the local fire mutual aid plan is determined to be necessary or appropriate. Each local fire mutual aid plan shall be based upon the planning criteria, objectives, requirements, responsibilities and concepts of operation essential for the implementation of all necessary and appropriate protective or remedial measures to be taken in response to emergency incidents. Each local fire mutual aid plan shall be adopted no later than one year after the effective date of this act. Following adoption, each municipality or fire district shall file a copy of its local fire mutual aid plan with the county fire coordinator. In any instance where a local fire mutual aid plan provides for the provision of assistance and fire service resources by or to a political subdivision of another state, the municipality or fire district also shall file a copy of that plan with the State fire coordinator. Each local fire mutual aid plan shall be reviewed and updated every two years.

**C.52:14E-15 Appointment, duties of county fire coordinator, deputies; county fire mutual aid plans.**

5. a. The State fire coordinator shall appoint a county fire coordinator in each county, pursuant to the provisions of this section, and the county fire coordinator shall appoint at least one deputy county fire coordinator in each county, in accordance with the provisions of this section. More than one deputy county fire coordinator may be appointed in each county.

(1) The State fire coordinator shall determine the duties and responsibilities as deemed necessary for the positions of county fire coordinator and deputy county fire coordinator. The duties and responsibilities shall include, but not be limited to:

- (a) fire service resources management and coordination;
- (b) preparation of the county Emergency Operations Plan Fire Annex in conjunction with the county emergency management coordinator and in accordance with the standards established by the State Office of Emergency Management;
- (c) county fire mutual aid planning, as set forth in subsection c. of this section; and
- (d) continuing training and education requirements.

(2) The county emergency management coordinator in each county shall, in consultation with the fire chiefs of the units of the fire service within each county, submit the name of at least one candidate to the State fire coordinator for consideration as the county fire coordinator. Each candidate shall possess a minimum of seven years of documented fire service experience to be eligible

for appointment as the county fire coordinator. The State fire coordinator shall appoint the county fire coordinator from the list of eligible candidates submitted by the county emergency management coordinator. Each county fire coordinator shall serve for a two-year term and until his or her successor is appointed. Vacancies shall be filled in the same manner as the original appointment.

(3) The county fire coordinator in each county shall, in consultation with the fire chiefs of the units of the fire service within each county, appoint the deputy county fire coordinator or coordinators. Each candidate shall possess a minimum of four years of documented fire service experience to be eligible for appointment as a deputy county fire coordinator. Each deputy county fire coordinator shall serve for a two-year term, which shall be served concurrently with the term of the county fire coordinator appointed in that county. Vacancies shall be filled for the unexpired term only and in the same manner as the original appointment.

b. The county fire coordinator shall implement the county's fire mutual aid plan, coordinate the utilization of fire service resources with the county in response to emergency incidents which require implementation of the county's fire mutual aid plan and perform such other duties as may be necessary and appropriate to effectuate the purposes of this act.

c. Each county in this State shall prepare and adopt a county fire mutual aid plan. The plan shall set forth policies and procedures to coordinate the effective utilization of fire service resources in those instances where the implementation of the county fire mutual aid plan is determined to be necessary or appropriate. Each county fire mutual aid plan shall be based upon the planning criteria, objectives, requirements, responsibilities and concepts of operation essential for the implementation of all necessary and appropriate protective or remedial measures to be taken in response to emergency incidents. Each county fire mutual aid plan shall be adopted no later than one year after the effective date of this act. Following adoption, each county shall file a copy of its county fire mutual aid plan with the State fire coordinator. Each county fire mutual aid plan shall be reviewed and updated every two years.

d. Each unit of the fire service in the county shall participate in the county fire mutual aid plan and shall submit every two years to its county fire coordinator the following information:

- (1) A complete inventory of personnel and equipment;
- (2) A local fire mutual aid plan prepared and updated pursuant to section 4 of this act; and
- (3) A listing of fire companies and departments involved in the local fire mutual aid plan.

**C.52:14E-16 Procedure during emergency incident, local, county.**

6. a. In the event of an emergency incident, the incident commander shall determine whether additional fire service resources are required and, if so, shall first call upon the members of his local fire mutual aid plan.

b. Should the incident commander determine, after calling for assistance from members of his local fire mutual aid plan, that further fire service resources are required to respond to the emergency incident, he shall request that the county fire coordinator place the county fire mutual aid plan into effect. Upon making such a request, the incident commander also shall notify the municipal emergency management coordinator appointed pursuant to section 8 of P.L.1953, c.438 (C.App.A:9-40.1) of the emergency incident so that the municipal emergency management coordinator may alert and utilize his staff should additional emergency resources be required.

c. Upon the activation of a county fire mutual aid plan, the county fire coordinator shall notify the regional fire coordinator assigned to that county and the State fire coordinator with regard to the emergency incident and shall further provide periodic updates to both until termination of the emergency incident. The State fire coordinator shall ensure that the county and State Offices of Emergency Management are notified and provide them with periodic updates until termination of the emergency incident.

d. In the event that the municipal emergency management coordinator determines to mobilize local resources in response to an emergency incident, he shall so notify the county emergency management coordinator appointed pursuant to section 12 of P.L.1953, c.438 (C.App.A:9-42.1) in order that the county emergency management coordinator shall be prepared to respond in the event that local resources are insufficient to effectively deal with the emergency incident.

e. In the event of an emergency incident, the incident commander also may declare a local fire emergency disaster. In making any such determination, the incident commander shall utilize the best information then available.

f. Whenever a local fire emergency disaster is declared pursuant to subsection e. of this section, the municipal emergency management coordinator shall activate the municipal emergency operations plan adopted pursuant to section 19 of P.L.1989, c. 222 (C.App. A:9-43.2). The municipal emergency management coordinator shall coordinate the interactions of all those providing emergency response, emergency resources or both for the emergency incident.

g. The municipal emergency management coordinator shall provide periodic updates to the county emergency management coordinator with regard to the emergency incident. The county emergency management coordinator shall provide additional resources as may be necessary and available. The county emergency management coordinator also shall notify the State Office of Emergency Management in the Division of State Police in the Department

of Law and Public Safety of the emergency incident. Requests for assistance from the State Office of Emergency Management shall be made by the county office of emergency management.

h. The county fire coordinator shall maintain a liaison with the supervisory representative of the forest fire service in deploying fire service resources and coordinating protection activities during wildfire emergency incidents pursuant to R.S.13:9-1 et seq.

i. The county fire coordinator shall request additional resources, beyond those from within his county, through the regional or State fire coordinator. The regional or State fire coordinator shall utilize the Office of Emergency Management system to request these resources.

**C.52:14E-17 Powers of State fire coordinator.**

7. The State fire coordinator shall have all powers necessary or convenient to effectuate the purposes of this act including, without limitation, power:

a. To enforce and administer the provisions of this act; to seek mandatory injunctive relief in State courts; to issue subpoenas for the production of persons, things, and documents that are necessary to achieve compliance with the provisions of this act; and to prosecute or cause to be prosecuted violators of the provisions of this act in administrative hearings and in civil proceedings in State and local courts;

b. To assess penalties and to compromise and settle a claim for a penalty for a violation of the provisions of this act in an amount as may appear appropriate and equitable; and

c. To hold and exercise all the rights and remedies available to a judgment creditor.

**C.52:14E-18 Procedure for coordinating fire service resources.**

8. a. Whenever a county fire coordinator determines that fire service resources are needed from other counties due to an emergency incident or a local fire emergency disaster, the county fire coordinator shall notify the regional fire coordinator with responsibility for that county. Upon receipt of a request for out of county fire service resources from the county fire coordinator, the regional fire coordinator shall notify the State fire coordinator as well as the county fire coordinators from the counties adjacent to the county from which the emergency incident or local fire emergency disaster originates.

b. Whenever the State fire coordinator:

(1) makes the determination that fire service resources should be deployed to assist in fire suppression and related activities in another state during a fire emergency in that state; or

(2) makes the determination, in consultation with the regional fire coordinator and county fire coordinator for the county from which an emergency incident or a local fire emergency disaster originates, that the emergency incident

or local fire emergency disaster requires the deployment of additional fire service resources,

the State fire coordinator shall be empowered and authorized to issue immediately an order of deployment and require any unit of the fire service to respond, be recalled, standby or deploy any or all of its fire service resources to any location and for any period of the emergency incident or local fire emergency disaster. During any such emergency incident or local fire emergency disaster, the assigned fire service resources shall be under the operational command of the incident commander at the site. In issuing an order of deployment, the State fire coordinator also shall be empowered and authorized to direct that any unit of fire service not respond to an emergency incident or a local fire emergency disaster, but remain on standby.

c. If the State fire coordinator determines that the residents of a municipality or any portion thereof may not have sufficient fire service resources as a result of an order of deployment issued pursuant to this section to the unit of the fire service responsible for the fire protection of that municipality or that portion thereof, the State fire coordinator may issue an order of deployment to an adjacent or nearby unit of the fire service to provide necessary fire protection services, including the provision of fire service resources in the affected municipality or portion thereof. An order of deployment issued pursuant to this section shall be terminated by the State fire coordinator when he determines that the deployed unit of the fire service is once again able to provide adequate fire protection to the residents within its area of responsibility without the provision of fire services resources from other units of the fire service.

d. An order of deployment shall remain in effect during the period of the emergency incident or local fire emergency disaster or until otherwise rescinded by the State fire coordinator, superseded by order of the Governor pursuant to P.L. 1942, c. 251 (C.App.A:9-33 et seq.), or superseded by the determination that mutual aid should be provided in accordance with the "Emergency Management Assistance Compact," P.L. 2001, c. 249 (C.38A:20-4 et seq.), or the Interstate Civil Defense and Disaster Compact, N.J.S. 38A:20-3. Upon the issuance of an order of the Governor pursuant to P.L. 1942, c. 251 (C.App.A:9-33 et seq.), the State fire coordinator shall coordinate all fire resources in accordance with the State Emergency Operations Plan. If deemed necessary, and if the emergency incident or local fire emergency disaster continues to exist, the State fire coordinator may reinstate any previously issued order of deployment or any portion of any such order of deployment. The State fire coordinator may modify the terms of an order of deployment issued to a unit of the fire service in order to respond immediately to a current or developing emergency incident or local fire emergency disaster or to provide adequate fire protection to a municipality or any portion thereof impacted

by the order of deployment, including, but not limited to, reducing or increasing the number of deployed fire service personnel, emergency equipment or emergency vehicles.

e. The State fire coordinator shall maintain a liaison with the supervisory representative of the forest fire service in deploying fire service resources and coordinating protection activities during wildfire emergency incidents pursuant to R.S.13:9-1 et. seq.

**C.52:14E-19 Provision of information.**

9. The State fire coordinator may require any unit of the fire service periodically to provide information on the status, condition and readiness of any of the unit's fire service resources or any other information deemed necessary by the State fire coordinator. The State fire coordinator may prescribe the form and the manner in which such information is to be provided.

**C.52:14E-20 Rules, regulations.**

10. The Director of the Division of Fire Safety may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act; except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Community Affairs may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the State fire coordinator deems necessary to implement the provisions of this act, and which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the State fire coordinator in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

**C.52:14E-21 Enforcement of order of deployment.**

11. Any State or local law enforcement agency or officer may enforce an order of deployment issued by the State fire coordinator pursuant to this act. If the State fire coordinator shall determine that such enforcement is essential in order to facilitate the immediate response to an emergency incident or local fire emergency disaster, he shall so notify any State or local law enforcement agency or officer and that agency or officer shall forthwith enforce that order of deployment.

**C.52:14E-22 Violations, penalties.**

12. Any person who knowingly and willfully violates, causes to violate, hinders, or otherwise interferes with an order of the State fire coordinator issued pursuant to this act shall be liable to a penalty of not more than \$10,000 for each violation. Any person aggrieved by an order imposing such penalty shall be entitled to an administrative hearing. The application for the hearing shall be filed with the division by the 15th day after receipt by the person of the

penalty notice. The application for an administrative hearing shall not stay or otherwise delay the implementation of an order of deployment issued by the State fire coordinator pursuant to this act. If the administrative penalty order has not been satisfied by the 30th day after its issuance and an application for an administrative hearing has not been made, the penalty may be recovered in the name of the Commissioner of Community Affairs pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

13. This act shall take effect immediately.

Approved March 10, 2003.

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## CHAPTER 29

AN ACT concerning the State Police and supplementing Title 53 of the Revised Statutes.

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

**C.53:1-5.3 Preparation, updating of catalogue listing State Police positions for enlisted members; posting, inapplicability.**

1. a. The Superintendent shall prepare, or cause to be prepared, and regularly update a catalogue which:

(1) Identifies each employment title and position for enlisted members in the division; and

(2) Sets forth a job description for each such title and position, including any special qualifications or skills that are necessary for appointment to a particular title or position.

b. The catalogue prepared pursuant to subsection a. of this section, shall, as are the lists of State and local employment titles and positions, be made available to the public at designated locations.

c. Except as provided in subsection d. of this section, whenever the superintendent shall determine that the effective operation of the division, or one of its particular duties or responsibilities, necessitates the establishment of a title or position, either on a temporary or permanent basis, which is not set forth in the catalogue prepared pursuant to subsection a. of this section, no appointment to that special title or position shall be made until notice of that special title or position shall be made readily available to enlisted members at division headquarters, each troop headquarters and all other division facilities and adequate time is given to permit interested and qualified enlisted members to apply. The notice shall include, but not be limited to, a description of the

special title or position and the special qualifications or skills that are necessary for appointment. The requirements of this subsection shall not apply to titles or positions on the Superintendent's executive staff which involve managerial executive functions. For purposes of this section, "managerial executive functions" means the formulation of management policies and the direction of the effectuation of such management policies on behalf of the Superintendent.

d. This section shall not apply to titles or positions established on a temporary basis in order to respond to an emergency situation in which immediate action is warranted in order to provide for or maintain the public safety and to titles or positions where public disclosure would jeopardize the safety of any person or jeopardize any investigation in progress or be otherwise inappropriate based on a bona fide law enforcement purpose or the public safety.

e. The information set forth in the catalogue prepared or updated pursuant to subsection a. and in any notices provided pursuant to subsection c. shall not be subject to collective negotiation or collective bargaining. Nothing in this act shall be deemed to affect or impair any rights which are subject to collective negotiation or collective bargaining.

2. This act shall take effect on the first day of the sixth month following enactment.

Approved March 14, 2003.

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## CHAPTER 30

AN ACT permanently extending the deadline for the filing of an application for a homestead property tax reimbursement, designating this extension as the Senior Property Tax Freeze Protection Act, and amending P.L. 1997, c.348.

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

1. Section 3 of P.L. 1997, c.348 (C.54:4-8.70) is amended to read as follows:

**C.54:4-8.70 Filing of application for homestead property tax reimbursement.**

3. An application for a homestead property tax reimbursement hereunder shall be filed with the director annually on or before June 1 of the year following the year for which the claim is being made and shall reflect the prerequisites for a homestead property tax reimbursement on December 31 of the tax year for which the claim is being made; provided, however, that the director may,



by rule, designate a later date as the date by which the application shall be filed or waive the requirement for filing an annual application for any year or years subject to any limitations and conditions the director may deem appropriate. The application shall be on a form prescribed by the director and provided for the use of applicants hereunder. Each applicant making a claim for a homestead property tax reimbursement under this act shall provide, if required by the director, to the director a copy of his or her current year property tax bill or current year site fee bill on the homestead constituting that person's principal residence and a copy of his or her property tax bill for the base year or site fee bill for the base year on the same homestead, or other equivalent proof as permitted by the director.

It shall be the duty of every eligible claimant to inform the director of any change in his or her status or homestead which may affect his or her right to continuance of the homestead property tax reimbursement.

If an eligible claimant receives an additional homestead property tax reimbursement to which the claimant was not entitled or greater than the reimbursement to which the claimant was entitled, the director may, in addition to all other available legal remedies, offset such amount against a gross income tax refund or amount due pursuant to P.L.1990, c.61.

2. Section 4 of P.L.1997, c.348 (C.54:4-8.71) is amended to read as follows:

**C.54:4-8.71 Payments mailed.**

4. The director shall administer the homestead property tax reimbursement program. A payment for the homestead property tax reimbursement amount, as calculated by the director, shall be mailed to each person determined by the director to be an eligible claimant under this act on or before July 15, 1999 and July 15 annually thereafter, except that the payment of any homestead property tax reimbursement amount for an eligible claimant whose application is filed during the period May 1 through June 1 shall be mailed on or before September 1 annually. Provided further, however, that the payment of any homestead property tax reimbursement amount for an eligible claimant whose application is filed during a period after June 1 pursuant to an extended application deadline as may be designated by the director shall be mailed on or before such latter mailing date as the director may determine. All payments made pursuant to this section shall be appropriated from receipts in the Casino Revenue Fund.

3. This act shall take effect immediately

Approved March 14, 2003.

## CHAPTER 31

AN ACT concerning certain acts of official misconduct involving deprivation of civil rights by public officials and supplementing chapter 30 of Title 2C of the New Jersey Statutes.

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

**C.2C:30-5 Findings, declarations relative to deprivation of civil rights by public officials.**

1. The Legislature finds and declares that:
  - a. Public confidence in the institutions of government is undermined when an official engages in any form of misconduct involving the official's office.
  - b. Such misconduct, and the corresponding damage to the public confidence, impairs the ability of government to function properly, fosters mistrust and engenders disrespect for government and public servants.
  - c. A particular concern arises when a law enforcement official, duly entrusted to protect the public safety and impartially enforce the laws, abuses that trust by unlawfully depriving persons of their civil rights, especially in the context of racial profiling.
  - d. It is important to ensure that law enforcement officers are prohibited from using racial characteristics or color, either alone or in conjunction with other composite characteristics such as a generalized vehicle description or the age of the driver or passengers, as the basis for initiating an investigative stop.
  - e. Existing laws must be amended to provide a greater deterrent to this type of conduct, as well as to enhance other provisions of the law targeting official misconduct.
  - f. Accordingly, it is in the public interest to strengthen our laws that define and punish acts of official misconduct by members of law enforcement and other public servants.

**C.2C:30-6 Crime of official deprivation of civil rights.**

2. a. A public servant acting or purporting to act in an official capacity commits the crime of official deprivation of civil rights if, knowing that his conduct is unlawful, and acting with the purpose to intimidate or discriminate against an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation or ethnicity, the public servant: (1) subjects another to unlawful arrest or detention, including, but not limited to, motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes

another in the lawful exercise or enjoyment of any right, privilege, power or immunity.

b. (1) Except as provided in paragraphs (2) and (3) of this subsection, a public servant who violates the provisions of subsection a. of this section is guilty of a crime of the third degree.

(2) If bodily injury results from depriving a person of a right or privilege in violation of subsection a. of this section, the public servant is guilty of a crime of the second degree.

(3) If, during the course of violating the provisions of this section, a public servant commits or attempts or conspires to commit murder, manslaughter, kidnapping or aggravated sexual assault against a person who is being deprived of a right or privilege in violation of subsection a. of this section, the public servant is guilty of a crime of the first degree.

c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction of official deprivation of civil rights under this section shall not merge with a conviction of any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other criminal offense.

d. Proof that a public servant made a false statement, prepared a false report, or, if the agency that employs the public servant, the Attorney General or the county prosecutor having supervisory authority over the agency required a report to be prepared, failed to prepare a report concerning the conduct that is the subject of the prosecution, shall give rise to an inference that the actor knew his conduct was unlawful.

e. For purposes of this section, an act is unlawful if it violates the Constitution of the United States or the Constitution of this State, or if it constitutes a criminal offense under the laws of this State.

**C.2C:30-7 Crime of pattern of official misconduct.**

3. a. A person commits the crime of pattern of official misconduct if he commits two or more acts that violate the provisions of N.J.S.2C:30-2 or section 2 of P.L.2003, c.31 (C.2C:30-6). It shall not be a defense that the violations were not part of a common plan or scheme, or did not have similar methods of commission.

b. Pattern of official misconduct is a crime of the second degree if one of the acts committed by the defendant is a first or second degree crime; otherwise, it is a crime of the third degree, provided, however, that the presumption of nonimprisonment set forth in subsection e. of N.J.S.2C:44-1 for persons who have not previously been convicted of an offense shall not apply. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction of pattern of official misconduct shall not merge with a conviction

of official misconduct, official deprivation of civil rights, or any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of N.J.S.2C:30-2 and sections 2 and 3 of P.L.2003, c.31 (C.2C:30-6 and C.2C:30-7).

4. This act shall take effect immediately.

Approved March 14, 2003.

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## CHAPTER 32

AN ACT reconstituting the membership of the New Jersey Racing Commission and amending P.L.1940, c.17 (5:5-22 et seq.).

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

1. Section 2 of P.L.1940, c.17 (C.5:5-23) is amended to read as follows:

**C.5:5-23 Membership of New Jersey Racing Commission.**

2. The commission shall consist of nine members, all of whom shall be appointed by the Governor, by and with the advice and consent of the Senate, and not more than five of whom shall be of the same political party, and one of whom shall be designated by the Governor to be the chairman of the commission. Each commissioner, at the time of appointment and qualification, shall: (1) be a resident of the State of New Jersey; (2) have resided in the State for a period of at least seven years next preceding appointment and qualification; and (3) be a qualified voter therein and not less than 30 years of age.

At least three commissioners shall be residents of South Jersey, which, for the purposes of this section, shall consist of the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem.

At least one commissioner shall be a resident of Monmouth county.

Two commissioners shall be persons with knowledge of thoroughbred horses, and shall be recommended for nomination by the New Jersey Thoroughbred Horsemen's Association, not more than one of whom shall be from the same political party. Two commissioners shall be persons with knowledge of standardbred horses and shall be recommended for nomination by the Standardbred Breeders' and Owners' Association of New Jersey, not more than one of whom shall be from the same political party. No

commissioner shall breed a horse in New Jersey or hold a license to train or race a horse in New Jersey.

Each commissioner shall hold office for a term of six years and until a successor has been appointed and qualified. The term of office of each commissioner shall commence on confirmation after appointment. Upon the expiration of the term of each commissioner, the Governor, by and with the advice and consent of the Senate, shall appoint a successor, to hold office for a term of six years and until his or her successor has been appointed and qualified. The successor of a commissioner appointed upon the recommendation of the New Jersey Thoroughbred Horsemen's Association or the Standardbred Breeders' and Owners' Association of New Jersey shall be recommended for nomination by that association. Any vacancy in the commission shall be filled for the unexpired term. Each commissioner shall be eligible for reappointment in the discretion of the Governor.

2. Notwithstanding the provisions of any other law to the contrary, the members of the New Jersey Racing Commission serving on the effective date of this act are terminated as of that effective date and the resulting vacancies shall be filled for the remainder of the unexpired terms in the manner provided by section 2 of P.L.1940, c.17 (C.5:5-23). A member terminated pursuant to this section shall holdover in office until a successor is appointed and qualified and shall be eligible for reappointment at the discretion of the Governor.

The Governor shall establish a task force to study the issues contributing to the current status of horseracing in this State.

3. This act shall take effect on the 60th day following enactment.

Approved March 24, 2003.

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## CHAPTER 33

AN ACT concerning fiduciaries and amending N.J.S.3B:14-23.

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

1. N.J.S.3B:14-23 is amended to read as follows:

**Powers.**

3B:14-23. Powers. In the absence of contrary or limiting provisions in the judgment or order appointing a fiduciary, in the will, deed or other

instrument or in a subsequent court judgment or order, every fiduciary shall, in the exercise of good faith and reasonable discretion, have the power:

a. To accept additions to any estate or trust from sources other than the estate of the decedent, minor, mental incompetent or the settlor of a trust;

b. To acquire the remaining undivided interest in an estate or trust asset in which the fiduciary, in his fiduciary capacity, holds an undivided interest;

c. To invest and reinvest assets of the estate or trust under the provisions of the will, deed or other instrument or as otherwise provided by law and to exchange assets for investments and other property upon terms as may seem advisable to the fiduciary;

d. To effect and keep in force fire, rent, title, liability, casualty or other insurance to protect the property of the estate or trust and to protect the fiduciary;

e. With respect to any property or any interest therein owned by an estate or trust, including any real property belonging to the fiduciary's decedent at death, except where the property or any interest therein is specifically disposed of:

(1) To take possession of and manage the property and to collect the rents therefrom, and pay taxes, mortgage interest and other charges against the property;

(2) To sell the property at public or private sale, and on terms as in the opinion of the fiduciary shall be most advantageous to those interested therein;

(3) With respect to fiduciaries other than a trustee, to lease the property for a term not exceeding three years, and in the case of a trustee to lease the property for a term not exceeding 10 years, even though the term extends beyond the duration of the trust, and in either case including the right to explore for and remove mineral or other natural resources, and in connection with mineral leases to enter into pooling and unitization agreements;

(4) To mortgage the property;

(5) To grant easements to adjoining owners and utilities;

(6) A fiduciary acting under a will may exercise any of the powers granted by this subsection e. notwithstanding the effects upon the will of the birth of a child after its execution;

f. To make repairs to the property of the estate or trust for the purpose of preserving the property or rendering it rentable or saleable;

g. To grant options for the sale of any property of the estate or trust for a period not exceeding six months;

h. With respect to any mortgage held by the estate or trust to continue it upon and after maturity, with or without renewal or extension, upon terms as may seem advisable to the fiduciary and to foreclose, as an incident to collection of any bond or note, any mortgage and purchase the mortgaged

property or acquire the property by deed from the mortgagor in lieu of foreclosure;

i. In the case of the survivor or survivors of two or more fiduciaries to administer the estate or trust without the appointment of a successor to the fiduciary or fiduciaries who have ceased to act and to exercise or perform all of the powers given unless contrary to the express provision of the will, deed or other instrument;

j. As a new, alternate, successor, substitute or additional fiduciary or fiduciaries, to have or succeed to all of the powers, duties and discretion of the original fiduciary or fiduciaries, with respect to the estate or trust, as were given to the original fiduciary or fiduciaries named in or appointed by a will, deed or other instrument, unless the exercise of the powers, duties or discretion of the original fiduciary or fiduciaries is expressly prohibited by the will, deed or other instrument to any successor or substitute fiduciary or fiduciaries;

k. Where there are three or more fiduciaries qualified to act, to take any action with respect to the estate or trust which a majority of the fiduciaries shall determine; a fiduciary who fails to act through absence or disability, or a dissenting fiduciary who joins in carrying out the decision of a majority of the fiduciaries if his dissent is expressed promptly in writing to his cofiduciaries, shall not be liable for the consequences of any majority decision, provided that liability for failure to join in administering the trust or to prevent a breach of trust may not thus be avoided;

l. To employ and compensate attorneys for services rendered to the estate or trust or to a fiduciary in the performance of his duties;

m. To compromise, contest or otherwise settle any claim in favor of the estate, trust or fiduciary or in favor of third persons and against the estate, trust or fiduciary, including transfer inheritance, estate, income and other taxes;

n. To vote in person or by proxy, discretionary or otherwise, shares of stock or other securities held by the estate or trust;

o. To pay calls, assessments and any other sums chargeable or accruing against or on account of shares of stock, bonds, debentures or other corporate securities in the hands of a fiduciary, whenever the payments may be legally enforceable against the fiduciary or any property of the estate or trust or the fiduciary deems payment expedient and for the best interests of the estate or trust;

p. To sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers or liquidations, and to consent to corporate sales or leases and encumbrances, and, in the exercise of those powers, the fiduciary is authorized to deposit stocks, bonds or other securities with any custodian, agent, protective or other similar committee, or trustee under a voting trust agreement, under terms and conditions respecting the deposit thereof as the fiduciary may approve;

q. To execute and deliver agreements, assignments, bills of sale, contracts, deeds, notes, receipts and any other instrument necessary or appropriate for the administration of the estate or trust;

r. In the case of a trustee:

(1) To hold two or more trusts or parts of trusts created by the same instrument, as an undivided whole, without separation as between the trusts or parts of the trusts, provided that separate trusts or parts of trusts shall have undivided interests and provided further that no holding shall defer the vesting of any estate in possession or otherwise;

(2) To divide a trust, before or after its initial funding, into two or more separate trusts, provided that such division will not materially impair the accomplishment of the trust purposes or the interests of any beneficiary. Distributions provided for by the governing instrument may be made from one or more of the separate trusts;

s. To distribute in kind any property of the estate or trust as provided in article 1 of chapter 23 of this title;

t. To join with the surviving spouse, the executor of his or her will or the administrator of his or her estate in the execution and filing of a joint income tax return for any period prior to the death of a decedent for which he has not filed a return or a gift tax return on gifts made by the decedent's surviving spouse, and to consent to treat the gifts as being made one-half by the decedent, for any period prior to a decedent's death, and to pay taxes thereon as are chargeable to the decedent;

u. To acquire or dispose of an asset, including real or personal property in this or another state, for cash or on credit, at public or private sale, and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

v. To continue any business constituting the whole or any part of the estate for so long a period of time as the fiduciary may deem advisable and advantageous for the estate and persons interested therein;

w. In the case of a qualified bank as defined in section 1 of P.L.1948, c.67 (C.17:9A-1), and an out-of-State bank as defined in section 1 of P.L.1948, c.67 (C.17:9A-1), which has established a trust office in this State to purchase, sell and maintain for any fiduciary account, securities issued by an investment company which is operated and maintained in accordance with the "Investment Company Act of 1940," 15 U.S.C.s.80a-1 et seq., and for which the qualified bank or out-of-State bank is providing services as an investment advisor, investment manager, custodian or otherwise, including those for which it receives compensation, if:

(1) The investment is otherwise in accordance with applicable fiduciary standards; and



(2) The investment is authorized by the agreement or instrument creating the fiduciary account that gives the qualified bank or out-of-State bank investment authority, or by court order; or

(3) The qualified bank or out-of-State bank provides written notice not less than annually by prospectus, account statement or otherwise, disclosing to any current income beneficiaries of the trust the services provided by the qualified bank or its affiliate or out-of-State bank to the investment company, and the rate, formula, or other method by which compensation paid to the qualified bank or its affiliate or out-of-State bank is determined and the qualified bank or out-of-State bank does not receive a written objection from any current income beneficiary within 30 days after receipt of this notice. If a written objection is received from any current income beneficiary pursuant to this paragraph (3), no such investment of the trust assets of that fiduciary account shall be made or maintained.

Such investment shall not be deemed self-dealing or a fiduciary conflict; nor shall the fact that other beneficiaries of fiduciary accounts of the qualified bank or out-of-State bank have similar investments be deemed to be an improper commingling of assets by the qualified bank or out-of-State bank.

For purposes of this subsection, "fiduciary account" shall include a trust, estate, agency or other account in which funds, property, or both, are held by a qualified bank pursuant to section 28 of P.L.1948, c.67 (C.17:9A-28), or an account for which a qualified bank or out-of-State bank acts as investment advisor or manager or an account held by an out-of-State bank as defined in section 1 of P.L.1948, c. 67 (C.17:9A-1);

x. To employ and compensate accountants from the fiduciary fund for services rendered to the estate or trust or to a fiduciary in the performance of the fiduciary's duties, including the duty of a corporate or other fiduciary with respect to the preparation of accountings, without reduction in commissions due to the fiduciary, so long as such accountings are not the usual, customary or routine services provided by the fiduciary in light of the nature and skill of the fiduciary. In evaluating the actions of the fiduciary under this subsection, the court shall consider the size and complexity of the fiduciary fund, the length of time for which the accounting is rendered, and the increased risk and responsibilities imposed on fiduciaries as a result of revisions to laws affecting fiduciaries including, but not limited to, the "Uniform Principal and Income Act," P.L.2001, c.212 (C.3B:19B-1 et seq.) and the "Prudent Investor Act," P.L.1997, c.26 (C.3B:20-11.1 et seq.) provided that such revisions of the laws affecting fiduciaries were enacted after the fiduciary responsibilities under the corresponding will, deed or other instrument, or court judgment or order, were imposed on, and assumed by, the fiduciary. For purposes of this subsection, "Accountant" means a person who is registered as a certified public accountant pursuant to the provisions of P.L.1997, c.259

(C.45:2B-42 et seq.), or an accounting firm which is organized for the practice of public accounting pursuant to the provisions of P.L.1997, c.259 (C.45:2B-42 et seq.) and P.L.1969, c.232 (C.14A:17-1 et seq.); and

y. The powers set forth in this section are in addition to any other powers granted by law, and by a will, deed or other instrument.

2. This act shall take effect immediately except that the provisions of subsection x. of N.J.S.3B:14-23, as amended by this act shall take effect on the 90th day following enactment.

Approved March 24, 2003.

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## CHAPTER 34

AN ACT concerning sex offenders registration requirements and amending P.L.1994, c.133.

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

1. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read as follows:

**C.2C:7-2 Registration of sex offenders; definition; requirements.**

2. a. (1) A person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for commission of a sex offense as defined in subsection b. of this section shall register as provided in subsections c. and d. of this section.

(2) A person who in another jurisdiction is required to register as a sex offender and (a) is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school, or (b) is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall register in this State as provided in subsections c. and d. of this section. A person who fails to register as required under this act shall be guilty of a crime of the fourth degree.

b. For the purposes of this act a sex offense shall include the following:

(1) Aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these crimes if the court found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, regardless of the date of the commission of the offense or the date of conviction;

(2) A conviction, adjudication of delinquency, or acquittal by reason of insanity for aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1; or an attempt to commit any of these enumerated offenses if the conviction, adjudication of delinquency or acquittal by reason of insanity is entered on or after the effective date of this act or the offender is serving a sentence of incarceration, probation, parole or other form of community supervision as a result of the offense or is confined following acquittal by reason of insanity or as a result of civil commitment on the effective date of this act;

(3) A conviction, adjudication of delinquency or acquittal by reason of insanity for an offense similar to any offense enumerated in paragraph (2) or a sentence on the basis of criteria similar to the criteria set forth in paragraph (1) of this subsection entered or imposed under the laws of the United States, this State or another state.

c. A person required to register under the provisions of this act shall do so on forms to be provided by the designated registering agency as follows:

(1) A person who is required to register and who is under supervision in the community on probation, parole, furlough, work release, or a similar program, shall register at the time the person is placed under supervision or no later than 120 days after the effective date of this act, whichever is later, in accordance with procedures established by the Department of Corrections, the Department of Human Services, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Administrative Office of the Courts, whichever is responsible for supervision;

(2) A person confined in a correctional or juvenile facility or involuntarily committed who is required to register shall register prior to release in accordance with procedures established by the Department of Corrections, the Department of Human Services or the Juvenile Justice Commission;

(3) A person moving to or returning to this State from another jurisdiction shall register with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police within 120 days of the effective date

of this act or 10 days of first residing in or returning to a municipality in this State, whichever is later;

(4) A person required to register on the basis of a conviction prior to the effective date who is not confined or under supervision on the effective date of this act shall register within 120 days of the effective date of this act with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police;

(5) A person who in another jurisdiction is required to register as a sex offender and who is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school shall, within ten days of commencing attendance at such educational institution, register with the chief law enforcement officer of the municipality in which the educational institution is located or, if the municipality does not have a local police force, the Superintendent of State Police;

(6) A person who in another jurisdiction is required to register as a sex offender and who is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall, within ten days after commencing such employment or vocation, register with the chief law enforcement officer of the municipality in which the employer is located or where the vocation is carried on, as the case may be, or, if the municipality does not have a local police force, the Superintendent of State Police;

(7) In addition to any other registration requirements set forth in this section, a person required to register under this act who is enrolled at, employed by or carries on a vocation at an institution of higher education or other post-secondary school in this State shall, within ten days after commencing such attendance, employment or vocation, register with the law enforcement unit of the educational institution, if the institution has such a unit.

d. Upon a change of address, a person shall notify the law enforcement agency with which the person is registered and shall re-register with the appropriate law enforcement agency no less than 10 days before he intends to first reside at his new address. Upon a change of employment or school enrollment status, a person shall notify the appropriate law enforcement agency no later than five days after any such change. A person who fails to notify the appropriate law enforcement agency of a change of address or status in accordance with this subsection is guilty of a crime of the fourth degree.

e. A person required to register under paragraph (1) of subsection b. of this section or under paragraph (3) of subsection b. due to a sentence imposed on the basis of criteria similar to the criteria set forth in paragraph (1) of

subsection b. shall verify his address with the appropriate law enforcement agency every 90 days in a manner prescribed by the Attorney General. A person required to register under paragraph (2) of subsection b. of this section or under paragraph (3) of subsection b. on the basis of a conviction for an offense similar to an offense enumerated in paragraph (2) of subsection b. shall verify his address annually in a manner prescribed by the Attorney General. One year after the effective date of this act, the Attorney General shall review, evaluate and, if warranted, modify pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement.

f. Except as provided in subsection g. of this section, a person required to register under this act may make application to the Superior Court of this State to terminate the obligation upon proof that the person has not committed an offense within 15 years following conviction or release from a correctional facility for any term of imprisonment imposed, whichever is later, and is not likely to pose a threat to the safety of others.

g. A person required to register under this section who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for more than one sex offense as defined in subsection b. of this section or who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under subsection f. of this section to make application to the Superior Court of this State to terminate the registration obligation.

2. Section 4 of P.L.1994, c.133 (C.2C:7-4) is amended to read as follows:

**C.2C:7-4 Forms of registration.**

4. a. Within 60 days of the effective date of this act, the Superintendent of State Police, with the approval of the Attorney General, shall prepare the form of registration statement as required in subsection b. of this section and shall provide such forms to each organized full-time municipal police department, the Department of Corrections, the Administrative Office of the Courts and the Department of Human Services. In addition, the Superintendent of State Police shall make such forms available to the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

b. The form of registration required by this act shall include:

(1) A statement in writing signed by the person required to register acknowledging that the person has been advised of the duty to register and reregister imposed by this act and including the person's name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, address of any current temporary residence, date and place

of employment; and any anticipated or current school enrollment, including but not limited to enrollment at or employment by any institution of higher education;

(2) Date and place of each conviction, adjudication or acquittal by reason of insanity, indictment number, fingerprints, and a brief description of the crime or crimes for which registration is required; and

(3) Any other information that the Attorney General deems necessary to assess risk of future commission of a crime, including criminal and corrections records, nonprivileged personnel, treatment, and abuse registry records, and evidentiary genetic markers when available.

c. Within three days of receipt of a registration pursuant to subsection c. of section 2 of this act, the registering agency shall forward the statement and any other required information to the prosecutor who shall, as soon as practicable, transmit the form of registration to the Superintendent of State Police, and, if the registrant will reside in a different county, to the prosecutor of the county in which the person will reside. The prosecutor of the county in which the person will reside shall transmit the form of registration to the law enforcement agency responsible for the municipality in which the person will reside and other appropriate law enforcement agencies. The superintendent shall promptly transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

d. The Superintendent of State Police shall maintain a central registry of registrations provided pursuant to this act.

3. This act shall take effect on the first day of the fourth month after enactment.

Approved March 27, 2003.

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## CHAPTER 35

AN ACT designating March 16 as "Liberty Day" in the State of New Jersey, memorializing the Congress of the United States to pass legislation designating "Liberty Day" annually and supplementing Title 36 of the Revised Statutes.

WHEREAS, As Americans, we enjoy rights and liberties rooted in the cherished documents that gave birth to our nation, those being the Declaration of Independence and the United States Constitution, with its Bill of Rights; and

- WHEREAS, The patriot James Madison, fourth President of the United States, was the primary author of the Virginia Plan, the model and the basis for the United States Constitution that emerged from the Constitutional Convention of 1787, which established our new form of government replacing the Articles of Confederation; and
- WHEREAS, James Madison kept detailed accounts of the debates and compromises that were an integral part of that Convention, which records were published only after the death of all delegates to the Convention; and
- WHEREAS, James Madison wrote many of the newspaper articles now known as the Federalist Papers, outlining why States should endorse the new Constitution and enduring as some of the best arguments for our form of government; and
- WHEREAS, James Madison introduced the Bill of Rights into the First Congress of the United States, whereupon the first ten amendments to the Constitution were adopted; and
- WHEREAS, It is altogether fitting that the 16th day of March, the birthday of the distinguished founding father, James Madison, be designated as "Liberty Day," a celebration of the Declaration of Independence and the United States Constitution; and
- WHEREAS, It is also fitting and proper for this Legislature and the Governor to memorialize Congress to pass legislation designating "Liberty Day" annually; now therefore,

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

**C.36:2-76 "Liberty Day," March 16; designated.**

1. March 16 is designated as "Liberty Day" throughout the State of New Jersey and all citizens are urged to participate in "Liberty Day" observance.

**C.36:2-77 Observance of "Liberty Day."**

2. The Governor shall issue a proclamation calling upon public officials and the citizens of this State to observe March 16th of each year with appropriate ceremonies and activities.

3. The Congress of the United States is respectfully memorialized to pass legislation designating "Liberty Day" annually as a remembrance of both the freedom that Americans were given in the Declaration of Independence and the extraordinary rights and liberties that Americans were given in their Constitution.

4. Duly authenticated copies of this act, signed by the Governor of the State of New Jersey, shall be transmitted to the presiding officers of the Congress of the United States and each member of New Jersey's Congressional delegation.

5. This act shall take effect immediately and sections 3 and 4 shall expire upon the transmission of copies pursuant to section 4.

Approved April 4, 2003.

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## CHAPTER 36

AN ACT concerning voter registration, amending P.L.1974, c.30 and supplementing Title 18A of the New Jersey Statutes.

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

1. Section 15 of P.L.1974, c.30 (C.19:31-6.3) is amended to read as follows:

**C.19:31-6.3 Public agency defined; completion, submission of registration forms.**

15. a. As used in this section, "public agency" shall mean:

The Division of Worker's Compensation, the Division of Employment Services and the Division of Unemployment and Temporary Disability Insurance, established initially by section 5 of P.L.1948, c.446 (C.34:1A-5), in the Department of Labor;

The Division of Taxation in the Department of the Treasury, continued under section 24 of P.L.1948, c.92 (C.52:18A-24);

The New Jersey Transit Corporation, established pursuant to section 4 of P.L.1979, c.150 (C.27:25-4);

Any free county library established under the provisions of article 1 of chapter 33 of Title 40 of the Revised Statutes;

Any regional library established under the provisions of P.L.1962, c.134 (C.40:33-13.3 et seq.);

Any free public library established under the provisions of article 1 of chapter 54 of Title 40 of the Revised Statutes;

Any joint free public library established under the provisions of P.L.1959, c.155 (C.40:54-29.3 et seq.);

Any public institution of higher education as included under the provisions of N.J.S.18A:62-1;



Any eligible institution, as defined by subsection a. of section 3 of P.L. 1979, c.132 (C.18A:72B-17), that receives financial assistance, aid, or grants from State funds;

Any office or commercial establishment where State licenses or permits, other than licenses or permits issued by a professional or occupational board established under the laws of this State, are available to individual members of the public; and

Any recruitment office of the New Jersey National Guard.

b. Any person entitled to register to vote may register as a voter in the election district in which that person resides at any time prior to the twenty-ninth day preceding any election by completing a registration form described in section 16 of P.L. 1974, c.30 (C.19:31-6.4) and submitting the form to the commissioner of registration of the county wherein the person resides or alternatively, in the case of a registration form provided by the employees or agents of a public agency or a voter registration agency, as defined in subsection a. of section 26 of P.L. 1994, c.182 (C.19:31-6.11), to those employees or agents or to the Attorney General. Any registration form addressed to a commissioner of registration may be mailed to or delivered to the office of that commissioner, and in the case of a registration form available at a public agency, the form shall be mailed to the Attorney General or delivered to the commissioner of registration in the county of the registrant. A registration form postmarked, stamped or otherwise marked as having been received from the registration applicant, on or before the twenty-ninth day preceding any election shall be deemed timely.

**C.18A:62-1.1 Voter registration at public institutions of higher education.**

2. The registrar or other principal officer responsible for the registration of students at each public institution of higher education as included under the provisions of N.J.S.18A:62-1 shall:

a. cause copies of the voter registration forms and instructions furnished under subsection f. of section 16 of P.L. 1974, c.30 (C.19:31-6.4) to be displayed at the office of registration for that institution and to be made available to each eligible enrolled student at and each eligible prospective student of the institution who, when appearing in person at that office, may wish on a voluntary basis to register to vote;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to that office of registration; and

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to each office of registration that is located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

As used in this section:

“eligible enrolled student” means an individual who is already enrolled in a public institution of higher education who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election; and

“eligible prospective student” means an individual who is applying for initial enrollment in a public institution of higher education who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election.

**C.18A:68-1.1 Voter registration at private colleges, universities.**

3. The registrar or other principal officer responsible for the registration of students at each eligible institution, as defined by subsection a. of section 3 of P.L.1979, c.132 (C.18A:72B-17), that receives financial assistance, aid or grants from State funds shall:

a. cause copies of the voter registration forms and instructions furnished under subsection f. of section 16 of P.L.1974, c.30 (C.19:31-6.4) to be displayed at the office of registration for that institution and to be made available to each eligible enrolled student at and each eligible prospective student of the institution who, when appearing in person at that office, may wish on a voluntary basis to register to vote;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to that office of registration; and

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to each office of registration that is located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

As used in this section:

“eligible enrolled student” means an individual who is already enrolled in the eligible institution who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election; and

“eligible prospective student” means an individual who is applying for initial enrollment in the eligible institution who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election.

4. This act shall take effect immediately.

Approved April 4, 2003.

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## CHAPTER 37

AN ACT concerning certain controlled dangerous substances and supplementing chapter 35 of Title 2C of the New Jersey Statutes.

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

**C.2C:35-5.11 Drug enforcement and demand reduction penalty doubled for certain offenses.**

1. Any person who possesses, distributes, dispenses or has under his control with intent to distribute or dispense 3,4-methylenedioxymethamphetamine, 3,4-methylenedioxyamphetamine, gammabutyrolactone, gamma hydroxybutyrate or flunitrazepam, or a controlled substance analog of any of these substances, shall, notwithstanding the provisions of any other law, be subject to a drug enforcement and demand reduction penalty of twice the amount otherwise applicable to the offense

2. This act shall take effect immediately.

Approved April 4, 2003.

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## CHAPTER 38

AN ACT concerning the provision of cable television service and telecommunications service, amending R.S.40:48-1, P.L.1971, c.198, and amending and supplementing P.L.1972, c.186.

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

1. R.S.40:48-1 is amended to read as follows:

**Ordinances; general purpose.**

40:48-1. Ordinances; general purpose. The governing body of every municipality may make, amend, repeal and enforce ordinances to:

Finances and property. 1. Manage, regulate and control the finances and property, real and personal, of the municipality;

Contracts and contractor's bonds. 2. Prescribe the form and manner of execution and approval of all contracts to be executed by the municipality and of all bonds to be given to it;

Officers and employees; duties, terms and salaries. 3. Prescribe and define, except as otherwise provided by law, the duties and terms of office or employment, of all officers and employees; and to provide for the employment and compensation of such officials and employees, in addition to those provided for by statute, as may be deemed necessary for the efficient conduct of the affairs of the municipality;

Fees. 4. Fix the fees of any officer or employee of the municipality for any service rendered in connection with his office or position, for which no specific fee or compensation is provided. In the case of salaried officers or employees, such fee shall be paid into the municipal treasury;

Salaries instead of fees; disposition of fees. 5. Provide that any officer or employee receiving compensation for his services, in whole or in part by fees, whether paid by the municipality or otherwise, shall be paid a salary to be fixed in the ordinance, and thereafter all fees received by such officer or employee shall be paid into the municipal treasury;

Maintain order. 6. Prevent vice, drunkenness and immorality; to preserve the public peace and order; to prevent and quell riots, disturbances and disorderly assemblages; to prohibit the consumption of alcoholic beverages by underage persons on private property pursuant to section 1 of P.L.2000, c.33 (C.40:48-1.2);

Punish beggars; prevention of loitering. 7. Restrain and punish drunkards, vagrants, mendicants and street beggars; to prevent loitering, lounging or sleeping in the streets, parks or public places;

Auctions and noises. 8. Regulate the ringing of bells and the crying of goods and other commodities for sale at auction or otherwise, and to prevent disturbing noises;

Swimming; bathing costume; prohibition of public nudity. 9. Regulate or prohibit swimming or bathing in the waters of, in, or bounding the municipality, and to regulate or prohibit persons from appearing upon the public streets, parks and places clad in bathing costumes or robes, or costumes of a similar character; regulate or prohibit persons from appearing in a state of nudity upon all lands within its borders which are under the jurisdiction of the State including, without limitation, all lands owned by, controlled by, managed by or leased by the State;

Prohibit annoyance of persons or animals. 10. Regulate or prohibit any practice tending to frighten animals, or to annoy or injure persons in the public streets;

Animals; pounds; establishment and regulation. 11. Establish and regulate one or more pounds, and to prohibit or regulate the running at large

of horses, cattle, dogs, swine, goats and other animals, and to authorize their impounding and sale for the penalty incurred, and the costs of impounding, keeping and sale; to regulate or prohibit the keeping of cattle, goats or swine in any part of the municipality; to authorize the destruction of dogs running at large therein;

Hucksters. 12. Prescribe and regulate the place of vending or exposing for sale articles of merchandise from vehicles;

Building regulations; wooden structures. 13. Regulate and control the construction, erection, alteration and repair of buildings and structures of every kind within the municipality; and to prohibit, within certain limits, the construction, erection or alteration of buildings or structures of wood or other combustible material;

Inflammable materials; inspect docks and buildings. 14. Regulate the use, storage, sale and disposal of inflammable or combustible materials, and to provide for the protection of life and property from fire, explosions and other dangers; to provide for inspections of buildings, docks, wharves, warehouses and other places, and of goods and materials contained therein, to secure the proper enforcement of such ordinance;

Dangerous structures; removal or destruction; procedure. 15. Provide for the removal or destruction of any building, wall or structure which is or may become dangerous to life or health, or might tend to extend a conflagration; and to assess the cost thereof as a municipal lien against the premises;

Chimneys and boilers. 16. Regulate the construction and setting up of chimneys, furnaces, stoves, boilers, ovens and other contrivances in which fire is used;

Explosives. 17. Regulate, in conformity with the statutes of this State, the manufacture, storage, sale, keeping or conveying of gunpowder, nitroglycerine, dynamite and other explosives;

Firearms and fireworks. 18. Regulate and prohibit the sale and use of guns, pistols, firearms, and fireworks of all descriptions;

Soft coal. 19. Regulate the use of soft coal in locomotives, factories, power houses and other places;

Theatres, schools, churches and public places. 20. Regulate the use of theatres, cinema houses, public halls, schools, churches, and other places where numbers of people assemble, and the exits therefrom, so that escape therefrom may be easily and safely made in case of fire or panic; and to regulate any machinery, scenery, lights, wires and other apparatus, equipment or appliances used in all places of public amusement;

Excavations. 21. Regulate excavations below the established grade or curb line of any street, not greater than eight feet, which the owner of any land may make, in the erection of any building upon his own property; and to provide for the giving of notice, in writing, of such intended excavation to

any adjoining owner or owners, and that they will be required to protect and care for their several foundation walls that may be endangered by such excavation; and to provide that in case of the neglect or refusal, for 10 days, of such adjoining owner or owners to take proper action to secure and protect the foundations of any adjacent building or other structure, that the party or parties giving such notice, or their agents, contractors or employees, may enter into and upon such adjoining property and do all necessary work to make such foundations secure, and may recover the cost of such work and labor in so protecting such adjacent property; and to make such further and other provisions in relation to the proper conduct and performance of said work as the governing body or board of the municipality may deem necessary and proper;

Sample medicines. 22. Regulate and prohibit the distribution, depositing or leaving on the public streets or highways, public places or private property, or at any private place or places within any such municipality, any medicine, medicinal preparation or preparations represented to cure ailments or diseases of the body or mind, or any samples thereof, or any advertisements or circulars relating thereto, but no ordinance shall prohibit a delivery of any such article to any person above the age of 12 years willing to receive the same;

Boating. 23. Regulate the use of motor and other boats upon waters within or bounding the municipality;

Fire escapes. 24. Provide for the erection of fire escapes on buildings in the municipality, and to provide rules and regulations concerning the construction and maintenance of the same, and for the prevention of any obstruction thereof or thereon;

Care of injured employees. 25. Provide for the payment of compensation and for medical attendance to any officer or employee of the municipality injured in the performance of his duty;

Bulkheads and other structures. 26. Fix and determine the lines of bulkheads or other works or structures to be erected, constructed or maintained by the owners of lands facing upon any navigable water in front of their lands, and in front of or along any highway or public lands of said municipality, and to designate the materials to be used, and the type, height and dimensions thereof;

Lifeguard. 27. Establish, maintain, regulate and control a lifeguard upon any beach within or bordering on the municipality;

Appropriation for life-saving apparatus. 28. Appropriate moneys to safeguard people from drowning within its borders, by location of apparatus or conduct of educational work in harmony with the plans of the United States volunteer life-saving corps in this State;

Fences. 29. Regulate the size, height and dimensions of any fences between the lands of adjoining owners, whether built or erected as division or partition fences between such lands, and whether the same exist or be erected entirely or only partly upon the lands of any such adjoining owners, or along or immediately adjacent to any division or partition line of such lands. To provide, in such ordinance, the manner of securing, fastening or shoring such fences, and for surveying the land when required by statute, and to prohibit in any such ordinance the use at a height of under 10 feet from the ground, of any device, such as wire or cable, that would be dangerous to pedestrians, equestrians, bicyclists, or drivers of off-the-road vehicles, unless that device is clearly visible to pedestrians, equestrians, bicyclists or drivers of off-the-road vehicles. In the case of fences thereafter erected contrary to the provisions thereof, the governing body may provide for a penalty for the violation of such ordinance, and in the case of such fence or fences erected or existing at the time of the passage of any such ordinance, may provide therein for the removal, change or alteration thereof, so as to make such fence or fences comply with the provisions of any such ordinance;

Advertise municipality. 30. Appropriate funds for advertising the advantages of the municipality;

Government Energy Aggregation Programs. 31. Establish programs and procedures pursuant to which the municipality may act as a government aggregator pursuant to sections 40 through 45 of P.L.1999, c.23 (C.48:3-89 through C.48:3-94). Notwithstanding the provisions of any other law, rule or regulation to the contrary, a municipality acting as a government aggregator pursuant to P.L.1999, c.23 (C.48:3-49 et al.) shall not be deemed to be a public utility pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed to be operating any form of public utility service pursuant to R.S.40:62-1 et seq., to the extent such municipality is solely engaged in the provision of such aggregation service and not otherwise owning or operating any plant or facility for the production or distribution of gas, electricity, steam or other product as provided in R.S.40:62-12;

Joint municipal action on consent for the provision of cable television service. 32. Establish programs and procedures pursuant to which a municipality may act together with one or more municipalities in granting municipal consent for the provision of cable television service pursuant to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented. Notwithstanding the provisions of any other law, rule or regulation to the contrary, two or more municipalities acting jointly pursuant to the provisions of P.L.1972, c.186 shall not be deemed a public utility pursuant to R.S.48:1-1 et seq., to the extent those municipalities are solely engaged in granting municipal consent jointly and

are not otherwise owning or operating any facility for the provision of cable television service as provided in P.L.1972, c.186;

Private cable television service aggregation programs. 33. Establish programs and procedures pursuant to which a municipality may employ the services of a private aggregator for the purpose of facilitating the joint action of two or more municipalities in granting municipal consent for the provision of cable television service provided that any such municipality shall adhere to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented, and to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) as amended and supplemented. Notwithstanding the provisions of any other law, rule or regulation to the contrary, a municipality that employs the services of a private aggregator pursuant to the provisions of P.L.1972, c.186 shall not be deemed a public utility pursuant to R.S.48:1-1 et seq., to the extent that the municipality is solely engaged in employing the services of a private aggregator for the purpose of facilitating the joint action of two or more municipalities in granting municipal consent and is not otherwise owning or operating any facility for the provision of cable television service as provided in P.L.1972, c.186.

2. Section 10 of P.L.1971, c.198 (C.40A:11-10) is amended to read as follows:

**C.40A:11-10 Joint agreements for provision and performance of goods and services; cooperative marketing; authorization.**

10. Joint agreements for provision and performance of goods and services; cooperative marketing; authorization.

(a) (1) The governing bodies of two or more contracting units may provide by joint agreement for the provision and performance of goods and services for use by their respective jurisdictions.

(2) The governing bodies of two or more contracting units providing sewerage services pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), R.S.58:14-1 et seq. or R.S.40:63-68 et seq. may provide by joint agreement for the purchase of goods and services related to sewage sludge disposal.

(3) The governing body of two or more contracting units providing electrical distribution services pursuant to and in accordance with R.S.40:62-12 through R.S.40:62-25, may provide by joint agreement for the provision or performance of goods or services related to the distribution of electricity.



(4) The governing bodies of two or more contracting units may provide for the cooperative marketing of recyclable materials recovered through a recycling program.

(5) The governing bodies of two or more contracting units may provide by joint agreement for the purchase of the services of a private aggregator for the purpose of facilitating the joint action of two or more municipalities in granting municipal consent for the provision of cable television service pursuant to R.S.40:48-1 et seq. and the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.

(b) The governing body of any contracting unit may provide by joint agreement with the board of education of any school district for the provision and performance of goods and services for use by their respective jurisdictions.

(c) Such agreement shall be entered into by resolution adopted by each of the participating bodies and boards, which shall set forth the categories of goods or services to be provided or performed, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating body and board, and other matters deemed necessary to carry out the purposes of the agreement.

(d) Each participating body's and board's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the participating body and board.

3. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read as follows:

**C.48:5A-3 Definitions.**

3. As used in this act, except as the context may otherwise clearly require or indicate:

- a. "Board" means the Board of Public Utilities of this State.
- b. "Office" means the Office of Cable Television established by this act.
- c. "Director" means the Director of the Office of Cable Television.
- d. "Cable television system" or "CATV system" means any facility within this State which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable or other device or means for accomplishing such redistribution, to members of the public who subscribe to such service, or distributing through its facility any television signals, whether broadcast or not; or any part of such facility. The term "facility" as used in this subsection includes all real property, antennae,

poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a CATV company in providing service to its subscribers and customers.

e. "Cable television reception service" means the simultaneous delivery through a CATV system of the signals of television broadcast stations to members of the public subscribing to such service, which service may include additional nonbroadcast signals delivered as a part of the service with no additional charge.

f. "Cable communications system" or "cable communications service" means any communications service other than cable television reception service delivered through the facilities of a CATV system and for which charges in addition to or other than those made for cable television reception service are made or proposed to be made.

g. "Cable television company" or "CATV company" means any person owning, controlling, operating or managing a cable television system, and the term "person" as used herein shall be construed, without limiting the generality thereof, to include specifically any agency or instrumentality of this State or of any of its political subdivisions; but this definition shall not include a telephone, telegraph or electric utility company regulated by the Board of Public Utilities in a case where it merely leases or rents or otherwise provides to a CATV company wires, conduits, cables or pole space used in the redistribution of television signals to or toward subscribers or customers of such CATV company.

h. "Highway" includes every street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public.

i. "Certificate" means a certificate of approval issued, or which may be issued, by the board pursuant to this act.

j. "Cable television service" includes the definitions of cable television reception service and cable communications service herein, as well as the provision of any other impulse or signal by a cable television company or other service lawfully provided, utilizing the facilities of the system.

k. "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals.

l. "Hearing impaired individual" means an individual who, because of injury to, disease of, or defect in the inner, middle or outer ear, or any combination thereof, has suffered a loss of hearing acuity such that the individual cannot receive linguistic information without amplification, dubbing or captions.

m. "In series connection" means a connection where the coaxial service wire entering the residence of a subscriber connects first to a television receiver or monitor, with the television receiver or monitor being connected by coaxial wire to a video cassette recorder or other auxiliary equipment or

where the coaxial service wire connects first to a video cassette recorder or auxiliary equipment, with the equipment being connected to a television receiver or monitor and where no external splitting device is used.

n. "Municipality" means one municipality acting singularly or two or more municipalities acting jointly in the granting of municipal consent for the provision of cable television service in accordance with the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.

o. "Open video system" means a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service to multiple subscribers within a municipality and which has been certified by the Federal Communications Commission as being in compliance with Part 76 "Multichannel Video and Cable Television Service" of Title 47 of the Code of Federal Regulations.

p. "Private aggregator" means a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with two or more municipalities for the purpose of facilitating the joint action of those municipalities in granting municipal consent for the provision of cable television service to those municipalities.

4. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to read as follows:

**C.48:5A-19 Certificate of approval; transferability; duration; automatic renewal.**

19. A certificate of approval issued by the board shall be nontransferable, except by consent of the board; shall specify the area to which it applies and the municipal consents upon which it is based, and shall be valid for 15 years from the date of issuance or 20 years from the date of issuance if the board certifies that a CATV company has implemented an open video system in accordance with 47 U.S.C. s.573 within one year after receiving a municipal consent, or until the expiration, revocation, termination or renegotiation of any municipal consent upon which it is based, whichever is sooner. But amendment of the terms of a municipal consent by mutual consent and in conformity with the procedures specified in this act during the term for which it was issued shall not require the issuance of a new certificate of approval. A CATV company holding a certificate based upon a municipal consent with a provision for automatic renewal for a term not exceeding 10 years beyond its expiration date or 15 years beyond its expiration date if the board certifies that the CATV company has implemented an open video system in accordance with 47 U.S.C. s.573, shall be entitled to automatic reissuance of a certificate for such term, unless it shall forfeit such entitlement by

violation of any terms of this act, regulations issued pursuant thereto, or by the terms of the municipal consent.

5. Section 25 of P.L.1972, c.186 (C.48:5A-25) is amended to read as follows:

**C.48:5A-25 Conformance of municipal consent with act.**

25. A municipal consent issued pursuant to this act shall conform in form and substance to all requirements of this act and of rules, regulations and orders duly promulgated by the director. It shall specify with particularity the territory to which it applies, and the term for which it is issued. Such term shall not exceed 15 years or 20 years if the board certifies that a CATV company has implemented an open video system in accordance with 47 U.S.C. s.573 within one year after receiving a municipal consent; but provision may be included for automatic renewal at the expiration thereof for an additional term not exceeding 10 years or 15 years if the board certifies that the CATV company has implemented an open video system in accordance with 47 U.S.C. s.573, unless either the municipality or the company shall not later than 60 days before the expiration of the initial term serve upon the other party notice of its intention not to accept such renewal. No CATV company whose municipal consent or renewal thereof has expired shall be authorized to continue its operations unless prior to such expiration it has obtained a certificate of approval from the board authorizing such continued operation, except that such a CATV company which has initiated proceedings to obtain such certification from the board prior to the expiration of the municipal consent may continue its operations pending the final disposition of such proceedings.

**C.48:5A-64 Contract between private aggregator and municipalities.**

6. a. A private aggregator may enter into a contract with two or more municipalities for the purpose of facilitating the joint action of those municipalities in granting municipal consent for the provision of cable television service, pursuant to the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented, subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

b. A private aggregator shall register with the office, which shall include the filing of basic information pertaining to the aggregator, such as name, address, telephone number, business or organization background, and business or organization profile. A private aggregator shall provide annual updates of this information to the office.

7. Within 12 months of the date of enactment of P.L.2003, c.38 (C.48:5A-64 et al.) and after soliciting public testimony, the Board of Public Utilities shall prepare a study that examines:

a. The technical and regulatory issues associated with classifying every high-speed Internet service as a "telecommunications service," as defined in section 2 of P.L.1991, c.428 (C.48:2-21.17);

b. A requirement that a cable television company shall provide its competitors non-discriminatory access to the CATV company's cable communications system;

c. The state of multi-channel video programming competition between different facilities-based and non-facilities-based telecommunications companies in New Jersey, such as cable television companies, digital broadcast satellite companies, local exchange telecommunications companies and interexchange telecommunications carriers and, in particular, the state of competition in New Jersey among the dominant cable television companies for the same customers; and

d. The technical and regulatory issues associated with promoting multi-channel video programming competition in New Jersey by local exchange telecommunications companies and interexchange telecommunications carriers.

The study shall be transmitted to the Governor, the President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, the Minority Leader of the General Assembly, and the members of the Senate Commerce Committee and the Assembly Telecommunications and Utilities Committee, or their respective successor committees.

**C.48:5A-26.1 Record of complaints, annual report.**

8. a. In addition to the requirements as provided in section 26 of P.L.1972, c.186 (C.48:5A-26), the board shall, upon notice, by order in writing require every CATV company to keep for at least a period of one year, a record of complaints received at the CATV company's office, which shall include the name and address of the subscriber, the date, the nature of complaint, any corrective action taken if required, and the final disposition of the complaint. The record shall be available for inspection by the staff of the office. Copies of such record shall be provided to the staff of the office upon request.

b. Every CATV company shall furnish to the office annually a detailed report of the number and character of complaints made by customers and communicated to the CATV company. In meeting such requirement, the board shall establish a procedure for CATV companies to record and characterize those customer complaints using a uniform reporting methodology and containing those matters as the board may from time to time prescribe. Copies of the report shall be forwarded to the Governor and members of the Legislature. All reports submitted to the office shall comply with the provisions of the

"Cable Subscriber Privacy Protection Act," P.L.1988, c.121 (C.48:5A-54 et seq.).

9. This act shall take effect on the 120th day following enactment, except that the provisions of sections 4 and 5 of this act shall not apply to any certificate of approval issued before the effective date of this act or to any application for a certificate of approval filed with the board within 365 days following the enactment date of this act, and the Board of Public Utilities may take such anticipatory actions as may be necessary for the implementation of this act.

Approved April 14, 2003.

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## CHAPTER 39

AN ACT concerning computer crime, amending and repealing certain sections of P.L.1984, c.184 and amending N.J.S.2C:20-2 and P.L.1982, c.77.

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

1. Section 2 of P.L.1984, c.184 (C.2C:20-23) is amended to read as follows:

**C.2C:20-23 Definitions.**

2. As used in this act:

a. "Access" means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer storage medium, computer system, or computer network.

b. "Computer" means an electronic, magnetic, optical, electrochemical or other high speed data processing device or another similar device capable of executing a computer program, including arithmetic, logic, memory, data storage or input-output operations and includes all computer equipment connected to such a device, computer system or computer network, but shall not include an automated typewriter or typesetter or a portable, hand-held calculator.

c. "Computer equipment" means any equipment or devices, including all input, output, processing, storage, software, or communications facilities, intended to interface with the computer.

d. "Computer network" means the interconnection of communication lines, including microwave or other means of electronic communications, with a computer through remote terminals, or a complex consisting of two or more interconnected computers, and shall include the Internet.

e. "Computer program" means a series of instructions or statements executable on a computer, which directs the computer system in a manner to produce a desired result.

f. "Computer software" means a set of computer programs, data, procedures, and associated documentation concerned with the operation of a computer system.

g. "Computer system" means a set of interconnected computer equipment intended to operate as a cohesive system.

h. "Data" means information, facts, concepts, or instructions contained in a computer, computer storage medium, computer system, or computer network. It shall also include, but not be limited to, any alphanumeric, hexadecimal, octal or binary code.

i. "Data base" means a collection of data.

j. "Financial instrument" includes but is not limited to a check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security and any computer representation of these items.

k. "Services" includes but is not limited to the use of a computer system, computer network, computer programs, data prepared for computer use and data contained within a computer system or computer network.

l. "Personal identifying information" shall have the meaning set forth in subsection a. of N.J.S.2C:21-17, and shall also include passwords and other codes that permit access to any data, data base, computer, computer storage medium, computer program, computer software, computer equipment, computer system or computer network, where access is intended to be secure, restricted or limited.

m. "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

n. "Alter," "damage" or "destroy" shall include, but not be limited to, any change or impairment to the integrity or availability of any data or other information, data base, computer program, computer software, computer equipment, computer, computer storage medium, computer system, or computer network by any means including introduction of a computer contaminant.

o. "User of computer services" shall include, but not be limited to, any person, business, computer, computer network, computer system, computer equipment or any other device which makes use of any resources of a computer, computer network, computer system, computer storage medium, computer equipment, data or data base.

p. "Computer contaminant" means any set of computer instructions that are designed to alter, damage, destroy, record or transmit information within a computer, computer system or computer network without the authorization of the owner of the information. They include, but are not limited to, a group

of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, alter, damage, destroy, record or transmit data or in some other fashion usurp the normal operation of the computer, computer program, computer operations, computer services or computer network.

q. “Authorization” means permission, authority or consent given by a person who possesses lawful authority to grant such permission, authority or consent to another person to access, operate, use, obtain, take, copy, alter, damage or destroy a computer, computer network, computer system, computer equipment, computer software, computer program, computer storage medium, or data. An actor has authorization if a reasonable person would believe that the act was authorized.

2. Section 3 of P.L.1984, c.184 (C.2C:20-24) is amended to read as follows:

**C.2C:20-24 Value of property or services; additional measures.**

3. For the purposes of this act, the value of any property or services, including the use of computer time, shall be their fair market value, if it is determined that a willing buyer and willing seller exist. Value shall include the cost of repair or remediation of any damage caused by an unlawful act and the gross revenue from any lost business opportunity caused by the unlawful act. The value of any lost business opportunity may be determined by comparison to gross revenue generated before the unlawful act that resulted in the lost business opportunity. Value shall include, but not be limited to, the cost of generating or obtaining data and storing it within a computer or computer system.

3. Section 4 of P.L.1984, c.184 (C.2C:20-25) is amended to read as follows:

**C.2C:20-25 Computer criminal activity; degree of crime; sentencing.**

4. A person is guilty of computer criminal activity if the person purposely or knowingly and without authorization, or in excess of authorization:

a. Accesses any data, data base, computer storage medium, computer program, computer software, computer equipment, computer, computer system or computer network;

b. Alters, damages or destroys any data, data base, computer, computer storage medium, computer program, computer software, computer system or computer network, or denies, disrupts or impairs computer services, including access to any part of the Internet, that are available to any other user of the computer services;



c. Accesses or attempts to access any data, data base, computer, computer storage medium, computer program, computer software, computer equipment, computer system or computer network for the purpose of executing a scheme to defraud, or to obtain services, property, personal identifying information, or money, from the owner of a computer or any third party;

d. (Deleted by amendment, P.L.2003, c.39).

e. Obtains, takes, copies or uses any data, data base, computer program, computer software, personal identifying information, or other information stored in a computer, computer network, computer system, computer equipment or computer storage medium; or

f. Accesses and recklessly alters, damages or destroys any data, data base, computer, computer storage medium, computer program, computer software, computer equipment, computer system or computer network.

g. A violation of subsection a. of this section is a crime of the third degree. A violation of subsection b. is a crime of the second degree. A violation of subsection c. is a crime of the third degree, except that it is a crime of the second degree if the value of the services, property, personal identifying information, or money obtained or sought to be obtained exceeds \$5,000. A violation of subsection e. is a crime of the third degree, except that it is a crime of the second degree if the data, data base, computer program, computer software, or information:

(1) is or contains personal identifying information, medical diagnoses, treatments or other medical information concerning an identifiable person;

(2) is or contains governmental records or other information that is protected from disclosure by law, court order or rule of court; or

(3) has a value exceeding \$5,000.

A violation of subsection f. is a crime of the fourth degree, except that it is a crime of the third degree if the value of the damage exceeds \$5,000.

A violation of any subsection of this section is a crime of the first degree if the offense results in:

(1) a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service. The term "substantial interruption or impairment" shall mean such interruption or impairment that:

(a) affects 10 or more structures or habitations;

(b) lasts for two or more hours; or

(c) creates a risk of death or significant bodily injury to any person;

(2) damages or loss in excess of \$250,000; or

(3) significant bodily injury to any person.

Every sentence of imprisonment for a crime of the first degree committed in violation of this section shall include a minimum term of one-third to one-half

of the sentence imposed, during which term the defendant shall not be eligible for parole.

h. Every sentence imposed upon a conviction pursuant to this section shall, if the victim is a government agency, include a period of imprisonment. The period of imprisonment shall include a minimum term of one-third to one-half of the sentence imposed, during which term the defendant shall not be eligible for parole. The victim shall be deemed to be a government agency if a computer, computer network, computer storage medium, computer system, computer equipment, computer program, computer software, computer data or data base that is a subject of the crime is owned, operated or maintained by or on behalf of a governmental agency or unit of State or local government or a public authority. The defendant shall be strictly liable under this subsection and it shall not be a defense that the defendant did not know or intend that the victim was a government agency, or that the defendant intended that there be other victims of the crime.

A violation of any subsection of this section shall be a distinct offense from a violation of any other subsection of this section, and a conviction for a violation of any subsection of this section shall not merge with a conviction for a violation of any other subsection of this section or section 10 of P.L.1984, c.184 (C.2C:20-31), or for conspiring or attempting to violate any subsection of this section or section 10 of P.L.1984, c.184 (C.2C:20-31), and a separate sentence shall be imposed for each such conviction.

When a violation of any subsection of this section involves an offense committed against a person under 18 years of age, the violation shall constitute an aggravating circumstance to be considered by the court when determining the appropriate sentence to be imposed.

4. Section 10 of P.L.1984, c.184 (C.2C:20-31) is amended to read as follows:

**C.2C:20-31 Wrongful access, disclosure of information; degree of crime; sentencing.**

10. a. A person is guilty of a crime of the third degree if the person purposely or knowingly and without authorization, or in excess of authorization, accesses any data, data base, computer, computer storage medium, computer software, computer equipment, computer system and knowingly or recklessly discloses or causes to be disclosed any data, data base, computer software, computer programs or personal identifying information.

b. A person is guilty of a crime of the second degree if the person purposely or knowingly and without authorization, or in excess of authorization, accesses any data, data base, computer, computer storage medium, computer software, computer equipment, computer system or computer network and purposely or knowingly discloses or causes to be disclosed any data, data base,

computer software, computer program or other information that is protected from disclosure by any law, court order or rule of court. Every sentence imposed upon a conviction pursuant to this subsection shall include a period of imprisonment. The period of imprisonment shall include a minimum term of one-third to one-half of the sentence imposed, during which term the defendant shall not be eligible for parole.

5. Section 12 of P.L.1984, c.184 (C.2C:20-33) is amended to read as follows:

**C.2C:20-33 Obtaining, copying, accessing program, software valued at \$1,000 or less.**

12. It is an affirmative defense to a prosecution pursuant to subsection e. of section 4 of P.L.1984, c.184 (C.2C:20-25), which shall be proved by clear and convincing evidence, that the actor obtained, copied or accessed a computer program or computer software that had a retail value of less than \$1,000 and the actor did not disseminate or disclose the program or software to any other person.

6. Section 13 of P.L.1984, c.184 (C.2C:20-34) is amended to read as follows:

**C.2C:20-34 Situs of offense, determination.**

13. For the purpose of prosecution under this act, and in addition to determining the situs of the offense pursuant to the provisions of N.J.S.2C:1-3, the situs of an offense of computer criminal activity shall also be the location of the computer, computer storage medium, computer program, computer software, computer equipment, computer system or computer network which is accessed, or where the computer, computer storage medium, computer program, computer software, computer equipment, computer system, computer network or other device used in the offense is situated, or where the actual damage occurs.

7. N.J.S.2C:20-2 is amended to read as follows:

**Consolidation of theft offenses; grading; provisions applicable to theft generally.**

2C:20-2. Consolidation of Theft Offenses; Grading; Provisions Applicable to Theft Generally.

a. Consolidation of Theft and Computer Criminal Activity Offenses. Conduct denominated theft or computer criminal activity in this chapter constitutes a single offense, but each episode or transaction may be the subject of a separate prosecution and conviction. A charge of theft or computer criminal activity may be supported by evidence that it was committed in any manner that would be theft or computer criminal activity under this chapter,

notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure fair trial by granting a bill of particulars, discovery, a continuance, or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

b. Grading of theft offenses.

(1) Theft constitutes a crime of the second degree if:

(a) The amount involved is \$75,000.00 or more;

(b) The property is taken by extortion;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram;

(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is \$75,000 or more; or

(e) The property stolen is human remains or any part thereof.

(2) Theft constitutes a crime of the third degree if:

(a) The amount involved exceeds \$500.00 but is less than \$75,000.00;

(b) The property stolen is a firearm, motor vehicle, vessel, boat, horse, domestic companion animal or airplane;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than \$75,000.00 or is undetermined and the quantity is one kilogram or less;

(d) It is from the person of the victim;

(e) It is in breach of an obligation by a person in his capacity as a fiduciary;

(f) It is by threat not amounting to extortion;

(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;

(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than \$75,000;

(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research;

(j) The property stolen is a New Jersey Prescription Blank as referred to in R.S.45:14-14; or

(k) The property stolen consists of an access device or a defaced access device.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least \$200.00 but does not exceed \$500.00. If the amount involved was less than \$200.00 the offense constitutes a disorderly persons offense.

(4) The amount involved in a theft or computer criminal activity shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts or computer criminal activities committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

c. Claim of right. It is an affirmative defense to prosecution for theft that the actor:

(1) Was unaware that the property or service was that of another;

(2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did; or

(3) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

d. Theft from spouse. It is no defense that theft or computer criminal activity was from or committed against the actor's spouse, except that misappropriation of household and personal effects, or other property normally accessible to both spouses, is theft or computer criminal activity only if it occurs after the parties have ceased living together.

8. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read as follows:

**C.2A:4A-26 Referral to another court without juvenile's consent.**

7. Referral to another court without juvenile's consent.

a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the Superior Court, Chancery Division, Family Part to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

(1) The juvenile was 14 years of age or older at the time of the charged delinquent act; and

(2) There is probable cause to believe that the juvenile committed a delinquent act or acts which if committed by an adult would constitute:

(a) Criminal homicide other than death by auto, strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would constitute a crime of the first degree, carjacking, aggravated sexual assault, sexual assault,

aggravated assault which would constitute a crime of the second degree, kidnapping or aggravated arson; or

(b) A crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted, on the basis of any of the offenses enumerated in subsection a.(2)(a); or

(c) A crime committed at a time when the juvenile had previously been sentenced and confined in an adult penal institution; or

(d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a.(2)(a) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or

(e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5; or

(f) Crimes which are a part of a continuing criminal activity in concert with two or more persons and the circumstances of the crimes show the juvenile has knowingly devoted himself to criminal activity as a source of livelihood; or

(g) An attempt or conspiracy to commit any of the acts enumerated in paragraph (a), (d) or (e) of this subsection; or

(h) Theft of an automobile pursuant to chapter 20 of Title 2C of the New Jersey Statutes; or

(i) Possession of a firearm with a purpose to use it unlawfully against the person of another under subsection a. of N.J.S.2C:39-4, or the crime of aggravated assault, aggravated criminal sexual contact, burglary or escape if, while in the course of committing or attempting to commit the crime including the immediate flight therefrom, the juvenile possessed a firearm; or

(j) Computer criminal activity which would be a crime of the first or second degree pursuant to section 4 or section 10 of P.L.1984. c.184 (C.2C:20-25 or C.2C:20-31); and

(3) Except with respect to any of the acts enumerated in subparagraph (a), (i) or (j) of paragraph (2) of subsection a. of this section, or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

- b. (Deleted by amendment, P.L.1999, c.373).
- c. An order referring a case shall incorporate therein not only the alleged act or acts upon which the referral is premised, but also all other delinquent acts arising out of or related to the same transaction.
- d. A motion seeking waiver shall be filed by the prosecutor within 30 days of receipt of the complaint. This time limit shall not, except for good cause shown, be extended.
- e. If the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted. This subsection shall not apply with respect to a juvenile 16 years of age or older who is charged with committing any of the acts enumerated in subparagraph (a), (i) or (j) of paragraph (2) of subsection a. of this section or with respect to a violation of N.J.S.2C:35-3, N.J.S.2C:35-4 or section 1 of P.L.1998, c.26 (C.2C:39-4.1).
- f. The Attorney General shall develop for dissemination to the county prosecutors those guidelines or directives deemed necessary or appropriate to ensure the uniform application of this section throughout the State.

**Repealer.**

9. Sections 5 through 9 and section 11 of P.L.1984, c.184 (C.2C:20-26 to 2C:20-30, inclusive, and 2C:20-32) are hereby repealed.

10. This act shall take effect immediately.

Approved April 14, 2003.

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CHAPTER 40

AN ACT concerning the Division of Youth and Family Services and supplementing Title 30 of the Revised Statutes.

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

**C.30:4C-3.7 Photographing, fingerprinting of child under custody of DYFS.**

1. a. The Division of Youth and Family Services in the Department of Human Services shall provide for the photographing of each child under its custody no later than two months after the division assumes custody of the child. A child who is under the custody of the division on the effective date of this act shall be photographed for the purposes of this act no later than one year after its effective date.

The division shall, in addition, provide for the fingerprinting of any child under its custody with respect to whom the division determines, in accordance with criteria as the Commissioner of Human Services shall establish by regulation, that the availability of a fingerprint record would be appropriate; the fingerprints of any child with respect to whom such a determination is made shall be taken no later than two months after the division has made that determination.

b. The division shall update the photograph of each child taken pursuant to subsection a. of this section at least every two years. In addition, the division shall retain the fingerprint information and photograph of each child for whom such records are taken for at least one year after the date that the child is no longer under the custody of the division.

c. The division shall be entitled to receive the assistance of any other State department, division or agency as it may deem necessary and may receive the assistance of any county or municipal government agency, as may be available, in carrying out the provisions of this act.

**C.30:4C-3.8 Rules, regulations.**

2. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

3. This act shall take effect immediately, but section 1 shall remain inoperative until the 180th day after enactment, and the Commissioner of Human Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved April 14, 2003.

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**CHAPTER 41**

AN ACT to prevent discrimination against victims of domestic violence in certain insurance contracts, and supplementing chapter 29B of Title 17 of the Revised Statutes and P.L.1985, c.179 (C.17:23A-1 et seq.).

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

**C.17:29B-16 Definitions relative to victims of domestic violence.**

1. As used in this act:

"Domestic violence" and "victim of domestic violence" shall have the same meaning as in section 3 of P.L.1991, c.261 (C.2C:25-19). "Domestic



violence" shall also mean intentionally, knowingly or recklessly causing or attempting to cause damage to property so as to intimidate or attempt to control the behavior of a person in a relationship with a perpetrator of one or more acts of domestic violence.

"Domestic violence-related condition" means a medical condition which arises in whole or in part from one or more acts of domestic violence.

"Insurer" means:

a. any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), but shall not include health insurance, accident and health insurance, automobile medical payment insurance or personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.);

b. any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance that provides policies or contracts of life insurance delivered, issued, executed or renewed in this State pursuant to Subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance; and

c. the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

**C.17:29B-17 Prohibited insurance practices relative to victims of domestic violence.**

2. An insurer, on the basis that the insured or prospective insured: is or may be a victim of domestic violence; employs a person who is or may be a victim of domestic violence; or is a domestic violence shelter that is operating pursuant to the standards set forth in P.L.1979, c.337 (C.30:14-1 et seq.) or is employed by a domestic violence shelter, shall not discriminate by engaging in the practices set forth in subsections a., b. and c. of this section. The prohibited practices are:

a. denying, refusing to issue or renew, canceling or otherwise terminating an insurance policy;

b. (1) restricting, excluding or limiting benefits under an insurance policy, (2) denying a covered claim incurred by an insured as a result of domestic violence, or (3) failing to pay claims arising out of abuse to an innocent claimant to the extent of that claimant's legal interest in the covered property if the loss is caused by the intentional act of an insured, or using other exclusions or limitations on coverage which the Commissioner of Banking and Insurance has determined unreasonably restrict the ability of a victim of domestic violence to be indemnified for the loss; or

c. adding a premium differential to any insurance policy.

The provisions of paragraphs (2) and (3) of subsection b. of this section shall not require payment in excess of the loss or policy limits. The provisions of paragraph (3) of subsection b. of this section shall not require payment in the event that the claimant conspires with the insured to commit insurance fraud. Nothing in paragraphs (2) and (3) of subsection b. of this section shall be construed to prohibit an insurer from applying reasonable standards of proof to claims under this section.

Nothing contained in this section shall be construed to require an insurer to issue or renew an insurance policy or contract, or provide benefits or coverage for claims, solely on the basis that an insured or prospective insured: is or may be a victim of domestic violence; employs a person who is or may be a victim of domestic violence; or is a domestic violence shelter or is employed by a domestic violence shelter.

**C.17:23A-13.3 Disclosure of information relative to victim of domestic violence prohibited; exceptions.**

3. An insurer or insurance producer shall not disclose any personal or privileged information collected or received in connection with an insurance transaction regarding an individual's status as a victim of domestic violence or a domestic violence-related condition as defined in section 1 of P.L.2003, c.41 (C.17:29B-16), or the individual's status as an employer of a victim of domestic violence, unless the disclosure is:

- a. To the individual or another person with the written authorization of the individual;
- b. To a licensed physician or health care provider for the direct provision of health care services with the written authorization of the individual;
- c. Ordered by a court of competent jurisdiction;
- d. Necessary to perform a valid business purpose, including the transfer of personal or privileged information that cannot be reasonably segregated without undue hardship, provided that the recipient of the information has executed a written agreement with the insurer or insurance producer and the disclosure is for the benefit of the individual. The disclosure shall only be made to the following:

(1) A reinsurer who seeks to reinsure a policy covering the individual and cannot write or satisfy the reinsurer's obligations under a reinsurance agreement without the disclosure;

(2) A party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of an insurer or insurance producer;

(3) A medical or claims professional contracting with the insurer or insurance producer, when necessary, to process an application, perform the insurer or insurance producer's duties under a policy, or protect the safety or privacy of the individual; or

(4) A person, other than the insurer or insurance producer, to enable the person to transact business with the disclosing insurer or insurance producer, if the business cannot be transacted without the individual's address and telephone number, and the person agrees not to disclose the information further without the individual's written authorization;

e. To an attorney for the purpose of representing the insurer or insurance producer in a judicial matter, provided that the insurer or insurance producer informs the attorney of its obligations under this section and requests the attorney to exercise due diligence in preventing the disclosure of the information, unless disclosure is reasonably necessary to enable the attorney to effectively represent the insurer or insurance producer;

f. To a policyholder or assignee, in the course of delivering an insurance policy, if the policy contains information about the individual's status as a victim of domestic violence or domestic violence-related condition or an employer of a victim of domestic violence;

g. To any other entity as ordered by the commissioner; or

h. Otherwise required by law.

As used in this section, "individual" shall have the same meaning as defined in section 2 of P.L.1985, c.179 (C.17:23A-2).

**C.17:29B-18 Complaints, penalties for violations.**

4. a. A person aggrieved by a violation of this act may file a complaint with the Commissioner of Banking and Insurance. Upon receipt of the complaint, the commissioner shall investigate an insurer to determine whether the insurer has violated any provision of this act.

b. The commissioner may:

(1) order an insurer that is in violation to pay a monetary penalty of \$5,000 for each violation;

(2) order the insurer to make restitution to the aggrieved person; or

(3) obtain equitable relief in a State or federal court of competent jurisdiction against an insurer, as well as the costs of suit, attorney's fees and expert witness fees.

**C.17:29B-19 Rules, regulations.**

5. The Commissioner of Banking and Insurance shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved April 14, 2003.

## CHAPTER 42

AN ACT concerning the payment of sales taxes by vendors under the sales and use tax, amending P.L.1966, c.30.

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

1. Section 14 of P.L.1966, c.30 (C.54:32B-14) is amended to read as follows:

**C.54:32B-14 Liability for tax.**

14. (a) Every person required to collect any tax imposed by this act shall be personally liable for the tax imposed, collected or required to be collected under this act. Any such person shall have the same right in respect to collecting the tax from that person's customer or in respect to non-payment of the tax by the customer as if the tax were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided, however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

(b) Where any customer has failed to pay a tax imposed by this act to the person required to collect the same, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the customer directly to the director and it shall be the duty of the customer to file a return with the director and to pay the tax to the director within 20 days of the date the tax was required to be paid.

(c) The director may, whenever the director deems it necessary for the proper enforcement of this act, provide by regulation that customers shall file returns and pay directly to the director any tax herein imposed, at such times as returns are required to be filed and payment over made by persons required to collect the tax.

(d) No person required to collect any tax imposed by this act shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax is not considered as an element in the price, amusement charge or rent payable by the customer, or except as provided by subsection (f) of this section that the person required to collect the tax will pay the tax, that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer. Upon written application duly made and proof duly presented to the satisfaction of the director showing that in the particular business of the person required to collect the tax it would be impractical for the vendor to separately charge the tax to the customer, the director may waive the application of the requirement herein as to such vendor.

(e) All vendors of energy or utility service shall include the tax imposed by the "Sales and Use Tax Act" within the purchase price of the tangible personal property or service.

(f) A vendor other than a vendor subject to subsection (e) of this section making retail sales of tangible personal property or sales of services may advertise that the vendor will pay the tax for the customer subject to the conditions of this subsection.

(1) The advertising shall indicate that the vendor is, in fact, paying the tax for the customer and shall not indicate or imply that the sale or charge is exempt from taxation.

(2) Notwithstanding the provisions of section 12 of P.L.1966, c.30 (C.54:32B-12) to the contrary, any sales slip, invoice, receipt or other statement or memorandum of the price or service charge paid or payable given to the customer shall state that the tax will be paid by the vendor; provided however that such record shall be otherwise subject to the provisions of section 12 of P.L.1966, c.30 (C.54:32B-12).

(3) The vendor shall pay the amount of tax due on the retail sale or service receipt, as determined pursuant to section 4 of P.L.1966, c.30 (C.54:32B-4), as trustee for and on account of the State, and shall have the same liability for that amount of tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), as for an amount collected from a customer.

2. This act shall take effect immediately.

Approved April 14, 2003.

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## CHAPTER 43

AN ACT concerning the solicitation or collection of funds for a charitable purpose and amending N.J.S.2C:20-4.

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

1. N.J.S.2C:20-4 is amended to read as follows:

**Theft by deception.**

2C:20-4. Theft by deception.

A person is guilty of theft if he purposely obtains property of another by deception. A person deceives if he purposely:

a. Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind, and including, but not limited to, a false impression that the person is soliciting or collecting funds for a charitable purpose; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

b. Prevents another from acquiring information which would affect his judgment of a transaction; or

c. Fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.

The term "deceive" does not, however, include falsity as to matters having no pecuniary significance, or puffing or exaggeration by statements unlikely to deceive ordinary persons in the group addressed.

2. This act shall take effect immediately.

Approved April 16, 2003.

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## CHAPTER 44

AN ACT concerning carbon monoxide detectors in certain single-family and two-family homes, amending P.L.1975, c.217 and amending and supplementing P.L.1999, c.15.

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

1. Section 1 of P.L.1999, c.15 (C.52:27D-133.3) is amended to read as follows:

**C.52:27D-133.3 Carbon monoxide sensor device required for issuance of certificate of occupancy; terms defined.**

1. a. In any case in which a change of occupancy of any dwelling unit in a building with fewer than three dwelling units is subject to a municipal ordinance requiring the issuance of a certificate of occupancy, certificate of inspection or other documentary certification of compliance with laws and regulations relating to the safety, healthfulness and upkeep of the premises, no such certificate shall issue until the officer or agency responsible for its issuance has determined that: (1) the dwelling unit is equipped with one or more carbon monoxide sensor devices, or (2) that there is no potential carbon monoxide hazard in the dwelling unit. Any such determination shall be made in accordance with rules adopted by the Commissioner of Community Affairs.

b. In the case of an initial occupancy or a change of occupancy of any dwelling unit in a building with fewer than three dwelling units to which the provisions of subsection a. of this section do not apply, no owner shall sell, lease or otherwise permit occupancy for residential purposes of that dwelling unit without first obtaining from the relevant enforcing agency under the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) a certificate indicating: (1) that the dwelling unit is equipped with one or more carbon monoxide sensor devices, or (2) that there is no potential carbon monoxide hazard in the dwelling unit. Any such determination shall be made in accordance with rules adopted by the Commissioner of Community Affairs.

c. The local governing body having jurisdiction over the enforcing agency or, where the Division of Fire Safety is the enforcing agency, the Commissioner of Community Affairs, may establish a fee which covers the cost of inspection and of issuance of the certificate; however, if an inspection is being made and a certificate is being issued evidencing compliance with section 2 of P.L.1991, c.92 (C.52:27D-198.2), the fee authorized therein shall cover the costs of complying with this section.

d. For the purposes of this section:

"Carbon monoxide sensor device" means a carbon monoxide alarm or detector that bears the label of a nationally recognized testing laboratory, and has been tested and listed as complying with the most recent Underwriters Laboratories standard 2034 or its equivalent.

"Dwelling unit" means a structure, or a room or group of rooms within a structure, used or intended for use, in whole or in part, for residential purposes.

e. An owner who sells, leases or otherwise permits occupancy of a dwelling unit without complying with the provisions of this section shall be subject to a fine of not more than \$100, which may be collected and enforced by the local enforcing agency by summary proceedings pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

f. This section shall become operative on the 61st day after enactment of P.L.2003, c.44 (C.52:27D-133.5 et al.).

2. Section 6 of P.L.1975, c.217 (C.52:27D-124) is amended to read as follows:

**C.52:27D-124 Powers of the commissioner.**

6. The commissioner shall have all the powers necessary or convenient to effectuate the purposes of this act, including, but not limited to, the following powers in addition to all others granted by this act:

a. To adopt, amend and repeal, after consultation with the code advisory board, rules: (1) relating to the administration and enforcement of this act and (2) the qualifications or licensing, or both, of all persons employed by enforcing agencies of the State to enforce this act or the code, except that,

plumbing inspectors shall be subject to the rules adopted by the commissioner only insofar as such rules are compatible with such rules and regulations, regarding health and plumbing for public and private buildings, as may be promulgated by the Public Health Council in accordance with Title 26 of the Revised Statutes.

b. To enter into agreements with federal and State of New Jersey agencies, after consultation with the code advisory board, to provide insofar as practicable (1) single-agency review of construction plans and inspection of construction and (2) intergovernmental acceptance of such review and inspection to avoid unnecessary duplication of effort and fees. The commissioner shall have the power to enter into such agreements although the federal standards are not identical with State standards; provided that the same basic objectives are met. The commissioner shall have the power through such agreements to bind the State of New Jersey and all governmental entities deriving authority therefrom.

c. To take testimony and hold hearings relating to any aspect of or matter relating to the administration or enforcement of this act, including but not limited to prospective interpretation of the code so as to resolve inconsistent or conflicting code interpretations, and, in connection therewith, issue subpoena to compel the attendance of witnesses and the production of evidence. The commissioner may designate one or more hearing examiners to hold public hearings and report on such hearings to the commissioner.

d. To encourage, support or conduct, after consultation with the code advisory board, educational and training programs for employees, agents and inspectors of enforcing agencies, either through the Department of Community Affairs or in cooperation with other departments of State government, enforcing agencies, educational institutions, or associations of code officials.

e. To study the effect of this act and the code to ascertain their effect upon the cost of building construction and maintenance, and the effectiveness of their provisions for insuring the health, safety, and welfare of the people of the State of New Jersey.

f. To make, establish and amend, after consultation with the code advisory board, such rules as may be necessary, desirable or proper to carry out his powers and duties under this act.

g. To adopt, amend, and repeal rules and regulations providing for the charging of and setting the amount of fees for the following code enforcement services, licenses or approvals performed or issued by the department, pursuant to the "State Uniform Construction Code Act:"

(1) Plan review, construction permits, certificates of occupancy, demolition permits, moving of building permits, elevator permits and sign permits; and



(2) Review of applications for and the issuance of licenses certifying an individual's qualifications to act as a construction code official, subcode official or assistant under this act.

(3) (Deleted by amendment, P.L.1983, c.338).

h. To adopt, amend and repeal rules and regulations providing for the charging of and setting the amount of construction permit surcharge fees to be collected by the enforcing agency and remitted to the department to support those activities which may be undertaken with moneys credited to the Uniform Construction Code Revolving Fund.

i. To adopt, amend and repeal rules and regulations providing for:

(1) Setting the amount of and the charging of fees to be paid to the department by a private agency for the review of applications for and the issuance of approvals authorizing a private agency to act as an on-site inspection and plan review agency or an in-plant inspection agency;

(2) The setting of the amounts of fees to be charged by a private agency for inspection and plan review services; provided, however, that such fees shall not be more than those adopted and charged by the department when it serves as a local enforcement agency pursuant to section 10 of P.L.1975, c.217 (C.52:27D-128); and

(3) The formulation of standards to be observed by a municipality in the evaluation of a proposal submitted by a private agency to provide inspection or plan review services within a municipality.

j. To enforce and administer the provisions of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the code promulgated thereunder, and to prosecute or cause to be prosecuted violators of the provisions of that act or the code promulgated thereunder in administrative hearings and in civil proceedings in State and local courts.

k. To monitor the compliance of local enforcing agencies with the provisions of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), to order corrective action as may be necessary where a local enforcing agency is found to be failing to carry out its responsibilities under that act, to supplant or replace the local enforcing agency for a specific project, and to order it dissolved and replaced by the department where the local enforcing agency repeatedly or habitually fails to enforce the provisions of the "State Uniform Construction Code Act."

l. To adopt, amend and repeal rules and regulations implementing the provisions of P.L.1999, c.15 and P.L.2003, c.44 concerning the installation and maintenance of carbon monoxide sensors.

**C.52:27D-133.5 Rules, regulations.**

3. Notwithstanding any provision of law, rule or regulation to the contrary, within two months of the effective date of P.L.2003, c.44 (C.52:27D-133.5

et al.) the Commissioner of Community Affairs shall promulgate pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the rules and regulations necessary to effectuate this act.

4. This act shall take effect immediately.

Approved April 16, 2003.

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## CHAPTER 45

AN ACT concerning county budget caps.

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

1. Notwithstanding the provisions of section 4 of P.L.1976, c.68 (C.40A:4-45.4) to the contrary, for budget year 2003, and upon application by a county board of chosen freeholders, the Director of the Division of Local Government Services shall determine the increase in the net cost of housing inmates in a county correctional facility between budget year 2000 and budget year 2003 and shall permanently add, without retroactivity, such increase to the allowable county purpose tax before exceptions.

The net cost of housing inmates in a county correctional facility shall be calculated by subtracting from the total of salary and wages and other expenses for county correctional facilities, the revenues received from State and federal government for housing inmates in a county correctional facility. The director shall base the calculation on the actual expenditures in budget year 2000 and amounts appropriated for county correctional facilities in 2003.

2. This act shall take effect immediately.

Approved April 22, 2003.

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## CHAPTER 46

AN ACT concerning domestic violence education and supplementing Title 18A of the New Jersey Statutes.

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

**C.18A:35-4.23 Domestic violence, child abuse, instruction on those problems.**

1. A board of education may include instruction on the problems of domestic violence and child abuse in an appropriate place in the curriculum of elementary school, middle school and high school pupils. The instruction shall enable pupils to understand the psychology and dynamics of family violence, dating violence and child abuse, the relationship of alcohol and drug use to such violence and abuse, the relationship of animal cruelty to such violence and abuse, and to learn methods of non-violent problem-solving.

2. This act shall take effect on the 180th day following enactment.

Approved April 23, 2003.

**CHAPTER 47**

**AN ACT establishing the Jewish Heritage Trail Study Commission.**

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

1. There is established the Jewish Heritage Trail Study Commission. The commission shall consist of seven public members: three of whom shall be appointed by the Governor; two of whom shall be appointed by the Senate President, not more than one of whom shall be of the same political party; one of whom shall be appointed by the Speaker of the General Assembly; and one of whom shall be appointed by the Minority Leader of the General Assembly. Members of the commission shall have an interest in, and a knowledge of, Jewish culture in New Jersey.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. The commission shall be located in, but not of, the Department of State.

2. The members of the commission shall be appointed within 30 days after the enactment of this act and shall hold their initial organizational meeting within 60 days after such enactment. The members shall elect one of the members to serve as chairman. The chairman may appoint a secretary, who need not be a member of the commission. The members of the commission shall serve without compensation but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

3. The commission shall meet at the call of the chairman or upon the request of four of its members. Four members of the commission shall constitute a quorum at any meeting thereof.

4. The commission shall study the feasibility of developing a Jewish Heritage Trail across the State of New Jersey. Sites for possible heritage trail designation shall include, but are not limited to, historic buildings, homes, farm colonies, cultural areas, commercial establishments and synagogues. Designated sites shall display trail markers and offer handouts.

5. The commission shall be entitled to call to its assistance and avail itself of the services of any State, county, or municipal department, board, bureau, commission or agency as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

6. The commission shall report its findings and recommendations to the Governor and the Legislature within one year following its initial organizational meeting.

7. This act shall take effect immediately and shall expire 30 days after the commission submits its findings and recommendations to the Governor and the Legislature.

Approved April 23, 2003.

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## CHAPTER 48

AN ACT concerning the "Three Strikes" law and amending P.L.1995, c.126.

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

1. Section 2 of P.L.1995, c.126 (C.2C:43-7.1) is amended to read as follows:

**C.2C:43-7.1 Life imprisonment without parole.**

2. a. Life Imprisonment Without Parole. A person convicted of a crime under any of the following: N.J.S.2C:11-3; subsection a. of N.J.S.2C:11-4;

a crime of the first degree under N.J.S.2C:13-1, paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2; N.J.S.2C:15-1; or section 1 of P.L.1993, c.221 (C.2C:15-2), who has been convicted of two or more crimes that were committed on prior and separate occasions, regardless of the dates of the convictions, under any of the foregoing sections or under any similar statute of the United States, this State, or any other state for a crime that is substantially equivalent to a crime under any of the foregoing sections, shall be sentenced to a term of life imprisonment by the court, with no eligibility for parole.

b. **Extended Term for Repeat Violent Offenders.** A person shall be sentenced to an extended term of imprisonment pursuant to N.J.S.2C:43-7 if:

(1) The person is convicted of any of the following crimes: a crime of the second degree under N.J.S.2C:11-4; a crime of the second or third degree under subsection b. of N.J.S.2C:12-1; a crime of the second degree under N.J.S.2C:13-1; a crime under N.J.S.2C:14-3 for aggravated criminal sexual contact under any of the circumstances set forth in paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2; a crime of the second degree under N.J.S.2C:15-1; a crime of the second degree under N.J.S.2C:18-2; or a crime of the second degree under N.J.S.2C:39-4 for possession of a weapon with the purpose of using it unlawfully against the person of another, and the person has been convicted of any of the foregoing crimes or any of the crimes enumerated in subsection a. of this section or under any similar statute of the United States, this State, or any other state for a crime that is substantially equivalent to a crime enumerated in this subsection or in subsection a. of this section committed on two or more prior and separate occasions regardless of the dates of the convictions; or

(2) The person is convicted of a crime enumerated in subsection a. of this section, does not have two or more prior convictions that require sentencing under subsection a. and has two or more prior convictions that would require sentencing under paragraph (1) of this subsection if the person had been convicted of a crime enumerated in paragraph (1).

c. The provisions of this section shall not apply unless the prior convictions are for crimes committed on separate occasions and unless the crime for which the defendant is being sentenced was committed either within 10 years of the date of the defendant's last release from confinement for commission of any crime or within 10 years of the date of the commission of the most recent of the crimes for which the defendant has a prior conviction.

d. The court shall not impose a sentence of imprisonment pursuant to this section, unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed. The defendant shall have the right to hear and controvert

the evidence against him and to offer evidence upon the issue. Prior convictions shall be defined and proven in accordance with N.J.S.2C:44-4.

e. For purposes of this section, a term of life shall mean the natural life of a person sentenced pursuant to this section. Except that a defendant who is at least 70 years of age and who has served at least 35 years in prison pursuant to a sentence imposed under this section shall be released on parole if the full Parole Board determines that the defendant is not a danger to the safety of any other person or the community.

2. This act shall take effect immediately.

Approved April 23, 2003.

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## CHAPTER 49

AN ACT to validate marriages heretofore solemnized by certain persons who were not authorized to solemnize marriages.

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

1. All marriages, if otherwise valid, heretofore solemnized by a person who purported to be a minister of religion but who was not at the time of such solemnization authorized as a minister by the rules or customs of a religious society, institution or organization shall be as valid as if the same had been solemnized by a minister of religion.

This validating act in no way changes the requirement that marriages covered by this act required the persons intending to be married to obtain marriage licenses in compliance with the provisions of chapter 1 of Title 37 of the Revised Statutes.

2. This act shall take effect immediately.

Approved April 23, 2003.

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## CHAPTER 50

AN ACT concerning terrorism and amending P.L.2002, c.26.

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

1. Section 5 of P.L.2002, c.26 (C.2C:38-5) is amended to read as follows:

**C.2C:38-5 Soliciting or providing material support or resources for terrorism.**

5. Soliciting or Providing Material Support or Resources for Terrorism.

- a. As used in this section:

"Charitable organization" means: (1) any person determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3); or

(2) any person who is, or holds himself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

"Charitable purpose" means: (1) any purpose described in section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3); or (2) any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

"Material support or resources" means: (1) services or assistance with knowledge or purpose that the services or assistance will be used in preparing for or carrying out an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2);

(2) currency, financial securities or other monetary instruments, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, including but not limited to persons recruited to participate directly or indirectly in a terrorist organization, transportation and other physical assets or anything of value; or

(3) any chemical weapon, or any biological agent, toxin, vector or delivery system for use as a weapon, or any nuclear or radiological device, as defined in subsection c. of section 3 of P.L.2002, c.26 (C.2C:38-3).

"Professional fund raiser" means any person who for compensation performs for a charitable organization any service in connection with which contributions are or will be solicited in this State by that compensated person or by any compensated person he employs, procures, or engages, directly or indirectly to solicit contributions. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be a professional fund raiser. No attorney, accountant or banker who advises a person to make a charitable contribution during the course of rendering professional services

to that person shall be deemed, as a result of that advice, to be a professional fund raiser.

b. (1) It shall be unlawful for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources with the purpose or knowledge that such material support or resources will be used, in whole or in part, to aid, plan, prepare or carry out an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or with the purpose or knowledge that such material support or resources are to be given, in whole or in part, to a person or an organization that has committed or has the purpose to commit or has threatened to commit an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2).

(2) It shall be unlawful for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources to or on behalf of a person or an organization that is designated as a foreign terrorist organization by the United States Secretary of State pursuant to 8 U.S.C. s.1189. It shall not be a defense to a prosecution for a violation of this section that the actor did not know that the person or organization is designated as a foreign terrorist organization.

c. A person who violates the provisions of subsection b. of this section shall be guilty of a crime of the first degree if the act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) results in death. Otherwise, it is a crime of the second degree.

2. This act shall take effect immediately.

Approved April 23, 2003.

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## CHAPTER 51

AN ACT concerning the liability of public entities and public employees for acquiring, stockpiling, distributing and dispensing certain drugs and vaccines and supplementing chapter 6 of Title 59 of the New Jersey Statutes.

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

**C.59:6-8 Immunity for public entities, employees relative to certain actions for response to CBR agents.**

1. Notwithstanding any other provision of law to the contrary, a public entity or public employee shall not be liable in any civil action for damages as a result of the public entity's or public employee's acts of commission or



omission arising out of and in the course of the acquisition, stockpiling, distribution or dispensing by the public entity or public employee of drugs and vaccines which mitigate the effects of exposure to nuclear, chemical or biological agents caused by an act of terrorism or arising out of a state of emergency as declared by the Governor, including but not limited to, potassium iodide pills.

Nothing in this act shall be deemed to grant immunity to any person or entity causing damage by a willful, wanton or grossly negligent act of commission or omission.

**C.59:6-9 Procedures, rules, regulations.**

2. Within six months of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health and Senior Services shall adopt and implement adequate procedures and promulgate rules and regulations necessary to implement the acquisition, stockpiling, distribution and dispensing of drugs and vaccines which mitigate the effects of exposure to nuclear, chemical or biological agents, including but not limited to, potassium iodide pills.

The rules and regulations shall include, but need not be limited to, provisions concerning: (1) the monitoring and inspection procedures for stockpiled drugs and vaccines; (2) the maintenance and retention of records of information from monitoring activities; (3) the submission to the Department of Health and Senior Services of monitoring reports; and (4) any other related information as the Commissioner of Health and Senior Services may require.

3. This act shall take effect immediately.

Approved April 23, 2003.

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CHAPTER 52

AN ACT eliminating the requirement that certain certificates of searches for municipal liens be kept as permanent records and amending R.S.54:5-16.

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

1. R.S.54:5-16 is amended to read as follows:

**Searches certified as correct; duplicates kept.**

54:5-16. Searches certified as correct; duplicates kept.

All searches so made shall be certified as correct by the designated official, and the fees collected shall be paid by him to the governing body of the municipality. The designated official shall keep a duplicate copy of each certificate, which shall be consecutively numbered and show the amount of fees charged. The Division of Archives and Records Management in the Department of State, with the approval of the State Records Committee, shall determine a retention schedule for all certificates made by the designated official.

2. This act shall take effect immediately.

Approved April 23, 2003.

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## CHAPTER 53

AN ACT concerning emergency evacuation plans of certain multiple dwellings, amending and supplementing P.L. 2001, c.80, and amending P.L.1953, c.438.

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

1. Section 1 of P.L. 2001, c. 80 (C.52:27D-224.1) is amended to read as follows:

**C.52:27D-224.1 Evacuation plans for certain multiple dwellings, filing with municipality.**

1. An owner of a multiple dwelling, as defined under section 3 of P.L.1967, c.76 (C.55:13A-3), which is comprised of more than 20 dwelling units and reserves occupancy for residents who have attained the minimum age of 55, shall annually prepare and maintain an emergency building evacuation plan for the multiple dwelling, in coordination with the appropriate local fire and emergency response agencies. A copy of the plan shall be filed with the municipal emergency management coordinator.

If the health, safety or welfare of any resident of such a multiple dwelling cannot be maintained during the disruption of essential services as defined pursuant to section 2 of P.L.2003, c.53 (C.52:27D-224.2), the emergency evacuation plan shall provide for individualized evacuation of such a resident.

**C.52:27D-224.2 Notification relative to disruption of services, "essential services" defined.**

2. Whenever in a multiple dwelling for which an annual emergency building evacuation plan is required to be filed pursuant to section 1 of P.L.2001, c.80 (C.52:27D-224.1) essential services are disrupted for a

period of time longer than two hours, the owner of the multiple dwelling shall notify, in writing and by voice communication, the municipal emergency management coordinator. For the purposes of this section, "essential services" means the supply of adequate heat, water, hot water, electricity, gas, and telephone service.

3. Section 8 of P.L.1953, c.438 (C.App.A:9-40.1) is amended to read as follows:

**C.App.A:9-40.1 Municipal emergency management coordinator.**

8. In every municipality of this State the mayor or, in the case of a municipality which has adopted the commission form of government pursuant to the provisions of the "commission form of government law" (R.S.40:70-1 et seq.), the commissioner serving as director of the department to which the responsibility for emergency management has been assigned, shall appoint a municipal emergency management coordinator from among the residents of the municipality. The municipal emergency management coordinator, subject to fulfilling the requirements of this section, shall serve for a term of three years. As a condition of his appointment and his right to continue for the full term of his appointment, each municipal emergency management coordinator shall have successfully completed at the time of his appointment or within one year immediately following his appointment or the effective date of this act, whichever is later, the current approved Home Study Course and the basic Emergency Management workshop. The failure of any municipal emergency management coordinator to fulfill such requirement within the period prescribed shall disqualify the coordinator from continuing in the office of coordinator and thereupon a vacancy in said office shall be deemed to have been created.

The provisions of this section shall not bar a municipality from entering into an agreement pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) to designate (1) a municipal emergency management coordinator to serve two or more municipalities jointly, or (2) the county emergency management coordinator appointed pursuant to section 12 of P.L.1953, c.438 (C.App.A:9-42.1) for the county in which that municipality is located as the municipal emergency management coordinator, subject to approval of the governing body of the county. A municipality entering into such an agreement shall notify the State Emergency Management Coordinator.

4. This act shall take effect immediately.

Approved April 23, 2003.

## CHAPTER 54

AN ACT concerning individuals with developmental disabilities and amending and supplementing P.L.1979, c.105.

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

**C.30:1AA-1.1 Findings, declarations relative to individuals with developmental disabilities.**

1. The Legislature finds and declares that:
  - a. Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, exert control and choice over their own lives, and fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural and educational mainstream of United States society;
  - b. Recent studies indicate that individuals with developmental disabilities comprise between 1.2 and 1.65% of the United States population, and individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
  - c. Individuals with developmental disabilities often encounter discrimination in the provision of critical services and are at greater risk than the general population of abuse, neglect, financial and sexual exploitation, and the violation of their legal and human rights;
  - d. A substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services, including access to assistive technology, from generic and specialized service systems, and remain unserved or underserved;
  - e. Individuals with developmental disabilities often require lifelong community services, individualized supports and other forms of assistance that are most effective when provided in a coordinated manner;
  - f. There is a need to ensure that services, supports and other assistance are provided in a culturally competent manner, which ensures that individuals from racial and ethnic minority backgrounds are fully included in all activities provided under P.L.2003, c.54 (C.30:1AA-1.1 et al.);
  - g. Family members, friends and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family members, friends and community members are provided with the necessary community services, individualized supports and other forms of assistance;

h. Current research indicates that 88% of individuals with developmental disabilities live with their families or in their own households, and many service delivery systems and communities are not prepared to meet the impending needs of the adults with developmental disabilities who are living at home with parents who are 60 years of age or older and serve as the primary caregivers of these adults;

i. Individuals with developmental disabilities are waiting for appropriate services in their communities, and the public needs increased awareness of the capabilities and competencies of individuals with developmental disabilities, particularly in cases in which the individuals are provided with necessary services, supports and other assistance;

j. As increasing numbers of individuals with developmental disabilities are living, learning, working and participating in all aspects of community life, there is an increasing need for a well trained workforce that is able to provide the services, supports and other forms of direct assistance that are required to enable the individuals to carry out those activities;

k. There needs to be greater effort to recruit individuals from minority backgrounds into professions serving individuals with developmental disabilities and their families;

l. The goals of the State properly include providing individuals with developmental disabilities with the information, skills, opportunities and support to: make informed choices and decisions about their lives; live in homes and communities in which these individuals can exercise their full rights and responsibilities as citizens; pursue meaningful and productive lives; contribute to their families, communities, the State and the nation; have interdependent friendships and relationships with other persons; live free of abuse, neglect, financial and sexual exploitation, and violations of their legal and human rights; and achieve full integration and inclusion in society, in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities and capabilities of each individual;

m. As the nation, states and communities maintain and expand community living options for individuals with developmental disabilities, there is a need to evaluate the access to those options by individuals with developmental disabilities and the effects of those options on those individuals; and

n. Therefore, the purpose of this act is to assure that individuals with developmental disabilities and their families participate in the design of, and have access to, needed community services, individualized supports and other forms of assistance which promote self-determination, independence, productivity, and integration and inclusion in all facets of community life, through culturally competent advocacy, capacity-building and systemic-change activities conducted by the State Council on Developmental

Disabilities, as required by the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," Pub.L.106-402, 42 U.S.C. s.15001 et seq. These activities shall:

- (1) be consistent with the purpose described in this subsection and the public policy described in section 2 of P.L.2003, c.54 (C.30:1AA-1.2); and
- (2) contribute to a coordinated, consumer- and family-centered and consumer- and family-directed comprehensive system which includes needed community services, individualized supports and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families.

**C.30:1AA-1.2 Provisions relative to programs, projects, activities declared as public policy.**

2. It is the public policy of the State that all programs, projects and activities conducted by the State Council on Developmental Disabilities shall be carried out in a manner consistent with the following provisions:

- a. Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of self-determination, independence, productivity, and integration and inclusion in all facets of community life, but often require the provision of community services, individualized supports and other forms of assistance;
- b. Individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported and encouraged, and any assistance to these individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities and capabilities of these individuals;
- c. Individuals with developmental disabilities and their families are the primary decision-makers regarding the services and supports they receive, including services and supports for choosing, from available options, where the individuals live, and they should play decision-making roles in policies and programs that affect their lives;
- d. Services, supports and other assistance should be provided in a manner that demonstrates respect for individual dignity, personal preferences and cultural differences;
- e. Individuals with developmental disabilities from racial and ethnic minority backgrounds and their families need specific efforts to ensure that they can enjoy increased and meaningful opportunities to access and use community services, individualized supports and other forms of assistance available to other individuals with developmental disabilities and their families;
- f. Recruitment efforts relating to pre-service training, community training, practice, administration and policymaking must focus on bringing

larger numbers of racial and ethnic minorities into these disciplines in order to provide appropriate skills, knowledge, role models and sufficient personnel to address the growing needs of an increasingly diverse population with developmental disabilities;

g. With education and support, communities can be accessible and responsive to the needs of individuals with developmental disabilities and their families, and they are enriched by the contributions and full and active participation in community activities by individuals with developmental disabilities and their families;

h. Individuals with developmental disabilities should have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities and make contributions to their families, communities, the State and the nation;

i. Efforts undertaken to maintain or expand community-based living options for individuals with disabilities must be monitored in order to determine and report to appropriate individuals and entities the extent of access by individuals with developmental disabilities to those options, and the extent of compliance with quality assurance standards by entities providing the options;

j. Families of children with developmental disabilities need to have access to, and use of, safe and appropriate child care and before- and after-school programs in the most integrated settings in order to enrich the participation of the children in community life;

k. Individuals with developmental disabilities need to have access to, and use of, public transportation in order to be independent and directly contribute to, and participate in, all facets of community life; and

l. Individuals with developmental disabilities need to have access to, and use of, recreational, leisure and social opportunities in the most integrated settings in order to enrich their participation in community life.

3. Section 1 of P.L.1979, c.105 (C.30:1AA-1) is amended to read as follows:

**C.30:1AA-1 State Council on Developmental Disabilities, additional powers, duties.**

1. a. The State Council on Developmental Disabilities, established pursuant to Executive Order Number 20 of 1971, as amended by Executive Order Number 49 of 1973 and Executive Order Number 42 of 1976, is hereby established and continued in the Executive Branch of State Government.

b. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the State Council on Developmental Disabilities is hereby allocated within the Department of Human Services, but, notwithstanding said allocation, the council shall be

independent of any supervision or control by the department or any board or officer thereof, or any other cabinet-level department, board or officer thereof. The council shall operate in a manner that shall assure compliance with State and federal administrative, fiscal, legislative, procedural and personnel requirements.

c. In addition to the powers and duties herein provided, the State Council on Developmental Disabilities shall constitute the planning entity authorized in the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," Pub.L.106-402, 42 U.S.C. s.15001 et seq., and shall exercise all the powers and duties as may be necessary to effectuate the purposes and provisions thereof.

4. Section 2 of P.L.1979, c.105 (C.30:1AA-2) is amended to read as follows:

**C.30:1AA-2 Definition of developmental disability.**

2. For the purposes of this act, a "developmental disability" means:

a. A severe, chronic disability of a person which

(1) Is attributable to a mental or physical impairment or combination of mental or physical impairments;

(2) Is manifest before age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and

(5) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, or other services which are of lifelong or extended duration and are individually planned and coordinated.

b. Other disabilities requiring services and treatment similar to that required by those who meet the criteria defined above.

5. Section 3 of P.L.1979, c.105 (C.30:1AA-3) is amended to read as follows:

**C.30:1AA-3 Membership of council; vacancies; compensation; terms.**

3. The council shall consist of a minimum of 25 members, but shall not exceed 30 members, of whom:

a. seven shall be representatives of State agencies who shall serve ex officio at the pleasure of the Governor in accordance with the qualifications established in section 4 of P.L.1979, c.105 (C.30:1AA-4);

b. a minimum of 15 shall be public members appointed by the Governor with the advice and consent of the Senate;



c. one each shall represent a University Center for Excellence in Developmental Disabilities Education, Research, and Service in the State and the State's designated protection and advocacy system; and

d. one shall be a representative of local and non-governmental agencies or private nonprofit groups concerned with services for individuals with developmental disabilities, appointed by the Governor with the advice and consent of the Senate.

The appointed members shall serve for a term of three years and until their respective successors have been appointed and have qualified.

Vacancies shall be filled in the same manner as the original appointment. Public members shall receive no compensation, but shall be entitled to reimbursement for necessary expenses incurred in the performance of their duties. Members serving on the council at the time of enactment of P.L.2003, c.54 (C.30:1AA-1.1 et al.) shall continue to serve until the expiration of their current terms, and until their respective successors are appointed and have qualified.

6. Section 4 of P.L.1979, c.105 (C.30:1AA-4) is amended to read as follows:

**C.30:1AA-4 Qualifications of members.**

4. The public members shall be representative of the diverse social, economic and geographical interests in the State, and shall include at least 15 persons who are consumers or immediate family members of consumers of services for persons with developmental disabilities. The seven State members shall be official representatives of State agencies, as follows: five representatives, each of whom shall administer funds provided under at least one of the following federal laws related to individuals with disabilities: the "Rehabilitation Act of 1973" (29 U.S.C. s.701 et seq.), the "Individuals With Disabilities Education Act" (20 U.S.C. s.1400 et seq.), the "Older Americans Act of 1965" (42 U.S.C. s.3001 et seq.) and Titles V and XIX of the Social Security Act (42 U.S.C. s.701 et seq. and 42 U.S.C. s.1396 et seq.); one representative from the Division of Developmental Disabilities in the Department of Human Services; and one representative from the Division of Disability Services in the Department of Human Services.

7. Section 6 of P.L.1979, c.105 (C.30:1AA-6) is amended to read as follows:

**C.30:1AA-6 Executive director; appointment, duties.**

6. The council shall employ, subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes and other applicable statutes, an executive director. The executive director shall:

a. Articulate and implement policies established by the State Council on Developmental Disabilities.

b. Appoint and remove, subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes and other applicable statutes, such other employees as may be necessary to perform the duties and responsibilities of the council and shall promulgate fees and compensation within the limits of available appropriations and as shall be provided by law. The State shall not apply hiring freezes, reductions in force, prohibitions on travel or other policies to the staff of the council, to the extent that these policies would adversely impact the staff or functions funded with federal funds or would prevent the council from carrying out its functions.

c. Select and retain the services of consultants whose advice is considered necessary to assist the council in obtaining information or developing plans or programs required for the performance of the duties and responsibilities of the council.

8. Section 7 of P.L.1979, c.105 (C.30:1AA-7) is amended to read as follows:

**C.30:1AA-7 Rules.**

7. The council shall promulgate, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules as it deems necessary for the proper conduct of its work.

9. Section 8 of P.L.1979, c.105 (C.30:1AA-8) is amended to read as follows:

**C.30:1AA-8 Duties of council, staff.**

8. It shall be the duty of the council and its staff to:
- a. (Deleted by amendment, P.L.2003, c.54).
  - b. (Deleted by amendment, P.L.2003, c.54).
  - c. (Deleted by amendment, P.L.2003, c.54).
  - d. (Deleted by amendment, P.L.2003, c.54).
  - e. (Deleted by amendment, P.L.2003, c.54).
  - f. (Deleted by amendment, P.L.2003, c.54).
  - g. (Deleted by amendment, P.L.2003, c.54).
  - h. (Deleted by amendment, P.L.2003, c.54).
  - i. (Deleted by amendment, P.L.2003, c.54).
  - j. (Deleted by amendment, P.L.2003, c.54).
  - k. (Deleted by amendment, P.L.2003, c.54).
  - l. (Deleted by amendment, P.L.2003, c.54).
  - m. Serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects and activities which carry out the

mandate of advocacy, capacity-building and systemic change, pursuant to the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," Pub.L.106-402, 42 U.S.C. s.15001 et seq.;

n. At the end of each year, examine goals to determine the extent to which each goal was achieved, the needs that would require amendment of the five-year strategic State plan and customer satisfaction with council-supported or council-conducted activities;

o. Develop and implement a State plan by conducting and supporting advocacy, capacity-building and systemic-change activities, which shall contribute to the purpose set forth in section 1 of P.L.2003, c.54 (C.30:1AA-1.1) and may include:

(1) outreach activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the council, and to assist and enable the individuals and families to obtain services, individualized supports and other forms of assistance, including access to special adaptation of generic community services or specialized services;

(2) training for persons who are professionals, paraprofessionals, students, volunteers and other community members to enable these persons to obtain access to or to provide community services, individualized supports and other forms of assistance, including special adaptation of generic community services or specialized services for individuals with developmental disabilities and their families;

(3) technical assistance activities to public and private entities;

(4) assistance to, or support of, activities to assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families through education, by encouraging local networks to provide informal and formal supports and by enabling neighborhoods and communities to offer the individuals and their families access to, and use of, services, resources and opportunities;

(5) activities to promote interagency collaboration, coordination and planning in order to better serve, support, assist or advocate for individuals with developmental disabilities and their families;

(6) activities to enhance coordination of services with:

(i) other councils, entities or committees authorized by federal or State law concerning individuals with disabilities, such as the State interagency coordinating council established under part C of the "Individuals with Disabilities Education Act" (20 U.S.C. s.1431 et seq.), the State Rehabilitation Council and the Statewide Independent Living Council established under the "Rehabilitation Act of 1973" (29 U.S.C. s.701 et seq.), the State mental health planning council established under part B of Title XIX of the Public Health Service Act (42 U.S.C. s.300x-1 et seq.), councils, entities or

committees concerning activities authorized under section 101 or 102 of the "Assistive Technology Act of 1998" (29 U.S.C. s.3011 or 29 U.S.C. s.3012), and any councils, entities or committees carrying out similar functions;

(ii) parent training and information centers under part D of the "Individuals with Disabilities Education Act" (20 U.S.C. s.1451 et seq.) and other entities carrying out federally funded projects that assist parents of children with disabilities; and

(iii) other groups interested in advocacy, capacity-building and systemic-change activities to benefit individuals with disabilities;

(7) activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, and to enhance systems design and redesign as well as citizen participation to address issues identified in the State plan;

(8) activities to educate the public about the capabilities, preferences and needs of individuals with developmental disabilities and their families, and activities to develop and support coalitions that support the policy agenda of the council, including training in self-advocacy, education of policymakers and training in citizen leadership skills;

(9) activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions and recommendations. The council may provide the information directly to federal, State and local policymakers, including the United States Congress, the federal executive branch of government, the Governor and the Legislature, the governors and legislatures of other states, and State agencies, in order to increase the ability of these policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families;

(10) on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities, which are a part of an overall strategy for systemic change. The strategy may involve the education of policymakers and the public about how to effectively deliver services, supports and assistance to individuals with developmental disabilities and their families; and

(11) other advocacy, capacity-building and systemic-change activities to promote the development of a coordinated, consumer- and family-centered and consumer- and family-directed comprehensive system of community services, individualized supports and other forms of assistance;

p. Supervise and annually evaluate the executive director of the council;

q. Prepare and transmit an annual report to the Department of Health and Human Services, which shall contain information about the progress made by the council in achieving the purpose set forth in section 1 of P.L.2003, c.54 (C.30:1AA-1.1). The report shall be available in accessible formats and the council shall provide a description of the method by which it shall widely disseminate the report to affected constituencies and the general public; and

r. Prepare, approve and implement a budget using amounts paid to the State to fund and implement all programs, projects and activities carried out pursuant to P.L.2003, c.54 (C.30:1AA-1.1 et al.).

10. This act shall take effect immediately.

Approved April 23, 2003.

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## CHAPTER 55

AN ACT concerning certain motor vehicle accidents and amending R.S.39:4-129, P.L.1997, c.111 and N.J.S.2C:44-1.

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

1. R.S.39:4-129 is amended to read as follows:

**Action in case of accident.**

39:4-129. (a) The driver of any vehicle, knowingly involved in an accident resulting in injury or death to any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined not less than \$2,500 nor more than \$5,000, or be imprisoned for a period of 180 days, or both. The term of imprisonment required by this subsection shall be imposed only if the accident resulted in death or injury to a person other than the driver convicted of violating this section.

In addition, any person convicted under this subsection shall forfeit his right to operate a motor vehicle over the highways of this State for a period of one year from the date of his conviction for the first offense and for a subsequent offense shall thereafter permanently forfeit his right to operate a motor vehicle over the highways of this State.

(b) The driver of any vehicle knowingly involved in an accident resulting only in damage to a vehicle, including his own vehicle, or other property which is attended by any person shall immediately stop his vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined not less than \$200 nor more than \$400, or be imprisoned for a period of not more than 30 days, or both, for the first offense, and for a subsequent offense, shall be fined not less than \$400 nor more than \$600, or be imprisoned for a period of not less than 30 days nor more than 90 days or both.

In addition, a person who violates this subsection shall, for a first offense, forfeit the right to operate a motor vehicle in this State for a period of six months from the date of conviction, and for a period of one year from the date of conviction for any subsequent offense.

(c) The driver of any vehicle knowingly involved in an accident resulting in injury or death to any person or damage to any vehicle or property shall give his name and address and exhibit his operator's license and registration certificate of his vehicle to the person injured or whose vehicle or property was damaged and to any police officer or witness of the accident, and to the driver or occupants of the vehicle collided with and render to a person injured in the accident reasonable assistance, including the carrying of that person to a hospital or a physician for medical or surgical treatment, if it is apparent that the treatment is necessary or is requested by the injured person.

In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under this subsection, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (a) and (b) of this section, insofar as possible on his part to be performed, shall forthwith report such accident to the nearest office of the local police department or of the county police of the county or of the State Police and submit thereto the information specified in this subsection.

(d) The driver of any vehicle which knowingly collides with or is knowingly involved in an accident with any vehicle or other property which is unattended resulting in any damage to such vehicle or other property shall immediately stop and shall then and there locate and notify the operator or owner of such vehicle or other property of the name and address of the driver and owner of the vehicle striking the unattended vehicle or other property or, in the event an unattended vehicle is struck and the driver or

owner thereof cannot be immediately located, shall attach securely in a conspicuous place in or on such vehicle a written notice giving the name and address of the driver and owner of the vehicle doing the striking or, in the event other property is struck and the owner thereof cannot be immediately located, shall notify the nearest office of the local police department or of the county police of the county or of the State Police and in addition shall notify the owner of the property as soon as the owner can be identified and located. Any person who violates this subsection shall be punished as provided in subsection (b) of this section.

(e) The driver of any motor vehicle involved in an accident resulting in injury or death to any person or damage in the amount of \$250.00 or more to any vehicle or property shall be presumed to have knowledge that he was involved in such accident, and such presumption shall be rebuttable in nature.

For purposes of this section, it shall not be a defense that the operator of the motor vehicle was unaware of the existence or extent of personal injury or property damage caused by the accident as long as the operator was aware that he was involved in an accident.

2. Section 1 of P.L.1997, c.111 (C.2C:11-5.1) is amended to read as follows:

**C.2C:11-5.1 Knowingly leaving scene of motor vehicle accident resulting in death, third degree crime; sentencing.**

1. A motor vehicle operator who knows he is involved in an accident and knowingly leaves the scene of that accident under circumstances that violate the provisions of R.S. 39:4-129 shall be guilty of a crime of the third degree if the accident results in the death of another person. The presumption of nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to persons convicted under the provisions of this section.

If the evidence so warrants, nothing in this section shall be deemed to preclude an indictment and conviction for aggravated manslaughter under the provisions of N.J.S.2C:11-4 or vehicular homicide under the provisions of N.J.S.2C:11-5.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for aggravated manslaughter under the provisions of N.J.S.2C:11-4 or for vehicular homicide under the provisions of N.J.S.2C:11-5 and a separate sentence shall be imposed upon each such conviction.

Notwithstanding the provisions of N.J.S.2C:44-5 or any other provisions of law, when the court imposes multiple sentences of imprisonment for more than one offense, those sentences shall run consecutively.

For the purposes of this section, neither knowledge of the death nor knowledge of the violation are elements of the offense and it shall not be a defense that the operator of the motor vehicle was unaware of the death or of the provisions of R.S.39:4-129.

3. Section 2 of P.L.1997, c.111 (C.2C:12-1.1) is amended to read as follows:

**C.2C:12-1.1 Knowingly leaving scene of motor vehicle accident resulting in serious bodily injury, fourth degree crime; sentencing.**

2. A motor vehicle operator who knows he is involved in an accident and knowingly leaves the scene of that accident under circumstances that violate the provisions of R.S.39:4-129 shall be guilty of a crime of the fourth degree if the accident results in serious bodily injury to another person. The presumption of nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to persons convicted under the provisions of this section.

If the evidence so warrants, nothing in this section shall be deemed to preclude an indictment and conviction for aggravated assault or assault by auto under the provisions of N.J.S.2C:12-1.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for aggravated assault or assault by auto under the provisions of N.J.S.2C:12-1 and a separate sentence shall be imposed upon each conviction.

Notwithstanding the provisions of N.J.S.2C:44-5 or any other provisions of law, whenever in the case of such multiple convictions the court imposes multiple sentences of imprisonment for more than one offense, those sentences shall run consecutively.

For the purposes of this section, neither knowledge of the serious bodily injury nor knowledge of the violation are elements of the offense and it shall not be a defense that the driver of the motor vehicle was unaware of the serious bodily injury or provisions of R.S.39:4-129.

4. N.J.S.2C:44-1 is amended to read as follows:

**Criteria for withholding or imposing sentence of imprisonment.**

2C:44-1. Criteria for Withholding or Imposing Sentence of Imprisonment. a. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court shall consider the following aggravating circumstances:

(1) The nature and circumstances of the offense, and the role of the actor therein, including whether or not it was committed in an especially heinous, cruel, or depraved manner;



(2) The gravity and seriousness of harm inflicted on the victim, including whether or not the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance;

(3) The risk that the defendant will commit another offense;

(4) A lesser sentence will depreciate the seriousness of the defendant's offense because it involved a breach of the public trust under chapters 27 and 30, or the defendant took advantage of a position of trust or confidence to commit the offense;

(5) There is a substantial likelihood that the defendant is involved in organized criminal activity;

(6) The extent of the defendant's prior criminal record and the seriousness of the offenses of which he has been convicted;

(7) The defendant committed the offense pursuant to an agreement that he either pay or be paid for the commission of the offense and the pecuniary incentive was beyond that inherent in the offense itself;

(8) The defendant committed the offense against a police or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority; the defendant committed the offense because of the status of the victim as a public servant; or the defendant committed the offense against a sports official, athletic coach or manager, acting in or immediately following the performance of his duties or because of the person's status as a sports official, coach or manager;

(9) The need for deterring the defendant and others from violating the law;

(10) The offense involved fraudulent or deceptive practices committed against any department or division of State government;

(11) The imposition of a fine, penalty or order of restitution without also imposing a term of imprisonment would be perceived by the defendant or others merely as part of the cost of doing business, or as an acceptable contingent business or operating expense associated with the initial decision to resort to unlawful practices;

(12) The defendant committed the offense against a person who he knew or should have known was 60 years of age or older, or disabled; and

(13) The defendant, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a stolen motor vehicle

b. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court may properly consider the following mitigating circumstances:

- (1) The defendant's conduct neither caused nor threatened serious harm;
- (2) The defendant did not contemplate that his conduct would cause or threaten serious harm;
- (3) The defendant acted under a strong provocation;
- (4) There were substantial grounds tending to excuse or justify the defendant's conduct, though failing to establish a defense;
- (5) The victim of the defendant's conduct induced or facilitated its commission;
- (6) The defendant has compensated or will compensate the victim of his conduct for the damage or injury that he sustained, or will participate in a program of community service;
- (7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present offense;
- (8) The defendant's conduct was the result of circumstances unlikely to recur;
- (9) The character and attitude of the defendant indicate that he is unlikely to commit another offense;
- (10) The defendant is particularly likely to respond affirmatively to probationary treatment;
- (11) The imprisonment of the defendant would entail excessive hardship to himself or his dependents;
- (12) The willingness of the defendant to cooperate with law enforcement authorities;
- (13) The conduct of a youthful defendant was substantially influenced by another person more mature than the defendant.

c. (1) A plea of guilty by a defendant or failure to so plead shall not be considered in withholding or imposing a sentence of imprisonment.

(2) When imposing a sentence of imprisonment the court shall consider the defendant's eligibility for release under the law governing parole, including time credits awarded pursuant to Title 30 of the Revised Statutes, in determining the appropriate term of imprisonment.

d. Presumption of imprisonment. The court shall deal with a person who has been convicted of a crime of the first or second degree by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others. Notwithstanding the provisions of subsection e. of this section, the court shall deal with a person who has been convicted of theft of a motor

vehicle or of the unlawful taking of a motor vehicle and who has previously been convicted of either offense by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

e. The court shall deal with a person convicted of an offense other than a crime of the first or second degree, who has not previously been convicted of an offense, without imposing a sentence of imprisonment unless, having regard to the nature and circumstances of the offense and the history, character and condition of the defendant, it is of the opinion that his imprisonment is necessary for the protection of the public under the criteria set forth in subsection a., except that this subsection shall not apply if the person is convicted of any of the following crimes of the third degree: theft of a motor vehicle; unlawful taking of a motor vehicle; or eluding; or if the person is convicted of a crime of the third or fourth degree constituting bias intimidation in violation of N.J.S.2C:16-1; or if the person is convicted of a crime of the third or fourth degree under the provisions of section 1 or 2 of P.L.1997, c.111 (C.2C:11-5.1 or 2C:12-1.1).

f. Presumptive Sentences. (1) Except for the crime of murder, unless the preponderance of aggravating or mitigating factors, as set forth in subsections a. and b., weighs in favor of a higher or lower term within the limits provided in N.J.S.2C:43-6, when a court determines that a sentence of imprisonment is warranted, it shall impose sentence as follows:

(a) To a term of 20 years for aggravated manslaughter or kidnapping pursuant to paragraph (1) of subsection c. of N.J.S.2C:13-1 when the offense constitutes a crime of the first degree;

(b) Except as provided in paragraph (a) of this subsection to a term of 15 years for a crime of the first degree;

(c) To a term of seven years for a crime of the second degree;

(d) To a term of four years for a crime of the third degree; and

(e) To a term of nine months for a crime of the fourth degree.

In imposing a minimum term pursuant to 2C:43-6b., the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

Unless the preponderance of mitigating factors set forth in subsection b. weighs in favor of a lower term within the limits authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a presumptive term of life imprisonment. Unless the preponderance of aggravating and mitigating factors set forth in subsections a. and b. weighs in favor of a higher or lower term within the limits authorized, sentences imposed pursuant to 2C:43-7a.(2) shall have a presumptive term of 50 years' imprisonment; sentences imposed pursuant to 2C:43-7a.(3) shall have a presumptive term

of 15 years' imprisonment; and sentences imposed pursuant to 2C:43-7a.(4) shall have a presumptive term of seven years' imprisonment.

In imposing a minimum term pursuant to 2C:43-7b., the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

(2) In cases of convictions for crimes of the first or second degree where the court is clearly convinced that the mitigating factors substantially outweigh the aggravating factors and where the interest of justice demands, the court may sentence the defendant to a term appropriate to a crime of one degree lower than that of the crime for which he was convicted. If the court does impose sentence pursuant to this paragraph, or if the court imposes a noncustodial or probationary sentence upon conviction for a crime of the first or second degree, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

g. Imposition of Noncustodial Sentences in Certain Cases. If the court, in considering the aggravating factors set forth in subsection a., finds the aggravating factor in paragraph a.(2) or a.(12) and does not impose a custodial sentence, the court shall specifically place on the record the mitigating factors which justify the imposition of a noncustodial sentence.

h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-11), the presumption of imprisonment as provided in subsection d. of this section shall not preclude the admission of a person to the Intensive Supervision Program, established pursuant to the Rules Governing the Courts of the State of New Jersey.

5. This act shall take effect on the first day of the second month following enactment.

Approved April 23, 2003.

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## CHAPTER 56

AN ACT requiring landlords to maintain a list of tenants for emergencies, excepting common interest associations from the certificate of registration filing requirement under certain circumstances and amending P.L.1974, c.50.

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

1. Section 1 of P.L.1974, c.50 (C.46:8-27) is amended to read as follows:

**C.46:8-27 Landlord, project defined.**

1. The term "landlord," as used in this act, shall mean the person or persons who own or purport to own, or exercise control of any building or project in which there is rented or offered for rent housing space for living or dwelling purposes under either a written or oral lease, provided that this definition shall not include owner-occupied two unit premises. This definition shall include but not be limited to any multiple dwelling subject to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

Whenever: the owner of an apartment in a horizontal property regime as defined in P.L.1963, c.168 (C.46:8A-1 et seq.), a unit owner of a unit in a condominium as defined in P.L.1969, c.257 (C.46:8B-1 et seq.), an owner of a unit in a fee simple community as defined in section 1 of P.L.1989, c.299 (C.40:67-23.2) or an owner in a cooperative entity as defined in section 3 of P.L.1987, c.381 (C.46:8D-3) leases an apartment or unit to a tenant, that owner shall be deemed the landlord for the purposes of filing the certificate of registration as required by section 2 of P.L.1974, c.50 (C.46:8-28). Nothing in P.L.1974, c.50 shall be construed as requiring a council of co-owners of a horizontal property regime, a condominium association, an association managing the common or shared elements or interests in a fee simple community or a cooperative association to comply with the certificate of registration requirement unless the council or association is the owner or lessor of the apartment or unit. Nothing in P.L.1974, c.50 shall be construed to require a cooperative corporation to comply with the certificate of registration requirement unless the corporation leases a unit to a person other than a proprietary shareholder of the cooperative. The foregoing provisions notwithstanding, the council, association or cooperative corporation having jurisdiction over a "multiple dwelling," as defined in section 3 of P.L.1967, c.76 (C.55:13A-3), shall comply with the registration requirements of section 12 of P.L.1967, c.76 (C.55:13A-12) with respect to the multiple dwelling as a whole.

The term "project" as used in this act shall mean a group of buildings which are or are represented to be under common or substantially common ownership and which stand on a single parcel of land or parcels of land which are contiguous and which group of buildings is named, designated or advertised as a common entity. The contiguity of such parcels shall not be adversely affected by public rights-of-way incidental to such buildings.

2. Section 2 of P.L.1974, c.50 (C.46:8-28) is amended to read as follows:

**C.46:8-28 Certificate of registration; filing, contents.**

2. Every landlord shall, within 30 days following the effective date of this act, or at the time of the creation of the first tenancy in any newly constructed or reconstructed building, file with the clerk of the municipality,

or with such other municipal official as is designated by the clerk, in which the residential property is situated, in the case of a one-dwelling unit rental or a two-dwelling unit non-owner occupied premises, or with the Bureau of Housing Inspection in the Department of Community Affairs in the case of a multiple dwelling as defined in section 3 of the "Hotel and Multiple Dwelling Law" (C.55:13A-3), a certificate of registration on forms prescribed by the Commissioner of Community Affairs, which shall contain the following information:

- a. The name and address of the record owner or owners of the premises and the record owner or owners of the rental business if not the same persons. In the case of a partnership the names of all general partners shall be provided;
- b. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation;
- c. If the address of any record owner is not located in the county in which the premises are located, the name and address of a person who resides in the county in which the premises are located and is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the record owner;
- d. The name and address of the managing agent of the premises, if any;
- e. The name and address, including the dwelling unit, apartment or room number of the superintendent, janitor, custodian or other individual employed by the record owner or managing agent to provide regular maintenance service, if any;
- f. The name, address and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith and shall, at all times, have access to a current list of building tenants that shall be made available to emergency personnel as required in the event of an emergency;
- g. The name and address of every holder of a recorded mortgage on the premises;
- h. If fuel oil is used to heat the building and the landlord furnishes the heat in the building, the name and address of the fuel oil dealer servicing the building and the grade of fuel oil used.

3. This act shall take effect on the first day of the fourth month following enactment.

Approved May 1, 2003.

## CHAPTER 57

AN ACT concerning products that contain ephedrine alkaloids and supplementing Title 24 of the Revised Statutes.

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

**C.24:6H-1 Distribution of ephedrine alkaloids to minor, disorderly person; exceptions.**

1. A person who knowingly sells, transfers or otherwise furnishes a product containing ephedrine alkaloids to a minor who is under 18 years of age is a disorderly person, unless:

a. the person is a health care professional licensed pursuant to Title 45 of the Revised Statutes who has obtained consent, as required by law, to the treatment of the minor to whom the product is furnished or the parent or guardian of the minor; or

b. the product is a drug as defined in R.S.24:1-1.

**C.24:6H-2 Label required on ephedrine alkaloid products, certain; required.**

2. A product that contains ephedrine alkaloids that is not a drug as defined in R.S.24:1-1, shall not be sold or offered for sale in this State after the effective date of this act unless its label indicates that the sale of the product to minors under 18 years of age is prohibited by State law, in accordance with regulations adopted by the Commissioner of Health and Senior Services.

**C.24:6H-3 Rules, regulations.**

3. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

4. This act shall take effect on the 120th day following enactment.

Approved May 1, 2003.

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CHAPTER 58

AN ACT establishing an Ergonomics in Education Study Commission.

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

1. There is created a commission to be known as the "Ergonomics in Education Study Commission." The commission shall consist of 15 members, including the Commissioners of Education and Labor, and the Executive Director of the New Jersey Economic Development Authority, or their designees, who shall serve as ex officio members. There shall be six public members, no more than three of whom shall be of the same political party, who shall be appointed by the Governor as follows: one college professor who is published in the field of ergonomics; one academic medical professional who is published in the field of ergonomics; one licensed medical professional with knowledge and experience in the field of pediatrics; one licensed physical therapist with knowledge and experience in the field of physical rehabilitation; one licensed occupational therapist with knowledge and experience in the field of preventive occupational therapy; and one non-academic professional from the ergonomics technology industry. The Governor shall also appoint one representative of each of the following organizations: the New Jersey Education Association; the New Jersey School Boards Association; the New Jersey Association of School Administrators; the New Jersey Principals and Supervisors Association; the New Jersey State Federation of Teachers; and the Advisory Committee for Nonpublic Schools of the Department of Education.

2. All appointments to the commission shall be made within 30 days after the effective date of this act. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members of the commission shall serve without compensation.

3. The commission shall organize within 30 days after the appointment of its members and shall select a chairperson and a vice chairperson from among its members and a secretary who need not be a member of the commission.

4. It shall be the duty of the commission to study the issues associated with ergonomics in New Jersey schools and develop a final report determining the need, viability, and cost associated with educating kindergarten through grade 12 pupils about classroom ergonomics and ergonomic study practices. The commission shall examine ergonomic issues, including, but not limited to:

- a. the types and levels of severity of injuries associated with non-ergonomic study environments and study practices;
- b. the development of ergonomic design standards for current and future school facilities, including classroom design, study equipment, computers, and furniture;
- c. the development of ergonomics education programs and the distribution of information on ergonomic study practices, including computer use; and



d. the funding levels necessary to support high quality ergonomics education programs, including funding for teacher training, appropriate curriculum and materials, and appropriate facilities.

5. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

6. The commission may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature. The commission shall issue a final report to the Governor and Legislature no later than six months following its organizational meeting on the need, viability, and cost associated with educating kindergarten through grade 12 pupils about classroom ergonomics and ergonomic study practices. The final report shall also include a plan for implementing recommended ergonomic design standards and ergonomic study practices. The commission shall expire upon the completion of its final report.

7. This act shall take effect immediately.

Approved May 1, 2003.

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## CHAPTER 59

AN ACT concerning neighborhood revitalization, amending and supplementing P.L.2001, c.415 (C.52:27D-490 et seq.).

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

1. Section 2 of P.L.2001, c.415 (C.52:27D-491) is amended to read as follows:

**C.52:27D-491 Definitions relative to the "Neighborhood Revitalization State Tax Credit Act."**

2. As used in this act:

"Assistance" means the contribution of moneys to aid in the provision of neighborhood preservation and revitalization services or community services.

"Business entity" means any business firm or individual which is authorized to conduct or operate a trade or business in the State and is subject to taxes on business related income.

"Certificate for neighborhood revitalization State tax credits" means the certificate in the form prescribed by the Treasurer and issued by the commissioner to a business entity that specifies the dollar amount of neighborhood preservation and revitalization State tax credits that business entity may take as an annual credit against certain State taxes pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.).

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

"Eligible neighborhood" means a contiguous area located in one or more municipalities that, at the time of the application to the department for approval of a neighborhood preservation and revitalization plan, are either eligible to receive aid under the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) or coextensive with a school district which qualified for designation as an "Abbott district" pursuant to the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.).

"Housing and economic development activities" means those activities carried out in furtherance of a neighborhood preservation and revitalization plan in an eligible neighborhood approved pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), to improve the housing and economic conditions of the neighborhood; and shall include, without limitation, measures to foster the rehabilitation and construction of housing affordable to low and moderate income households within the neighborhood, including planning, design, rehabilitation, construction, and management of low and moderate income housing, home buyer counseling, and related activities needed to effectuate the rehabilitation and construction of housing affordable to low and moderate income households; measures to increase business activity within the neighborhood, including the rehabilitation and construction of commercial facilities and the provision of assistance to small business entities; and measures to increase the income and labor force participation of neighborhood residents, including provision of education, training, child care and transportation assistance to enable low income neighborhood residents to obtain or retain employment.

"Low income household" means a household whose gross household income is less than 50 percent of the median gross household income for the region in which the neighborhood is located for households of similar size as determined by the department.

"Moderate income household" means a household whose gross household income is greater than or equal to 50 percent but less than 80 percent of the median gross household income of the region in which the neighborhood is located for households of similar size as determined by the department.

"Neighborhood preservation and revitalization activities" means housing and economic development activities and other neighborhood preservation and revitalization activities.

"Neighborhood Revitalization Plan" means a plan for the preservation or revitalization of an eligible neighborhood.

"Nonprofit organization" means a private nonprofit corporation that has been determined by the Internal Revenue Service of the United States Department of the Treasury to be exempt from income taxation under 26 U.S.C.s.501(c)(3).

"Other Neighborhood Revitalization Activities" means those activities, other than housing and economic development activities, carried out in furtherance of a State-approved neighborhood preservation and revitalization plan in a qualified low and moderate income neighborhood, and may include, without limitation, improvements to infrastructure, street scape, public open space, and transportation systems; provision of social and community services, health care, crime prevention, recreation activities, community and environmental health services; and community outreach and organizing activities.

"Qualified nonprofit organization" means a nonprofit organization that has demonstrated a commitment to the neighborhood for which it is submitting a plan or project, as reflected in its past activities or proposed activities in a preservation and revitalization plan.

"Qualified project" means one or more housing and economic development activities and which may also include one or more other neighborhood revitalization activities to be carried out in accordance with a neighborhood revitalization plan as approved by the commissioner with funds provided by a business entity eligible to receive a certificate for neighborhood revitalization State tax credits.

2. Section 5 of P.L.2001, c.415 (C.52:27D-494) is amended to read as follows:

**C.52:27D-494 Approval of plan by department; standards.**

5. The department shall determine whether a neighborhood preservation and revitalization plan should be approved. The department shall approve a neighborhood preservation and revitalization plan if it satisfies the following standards:

- (1) the plan designates an eligible neighborhood; and
- (2) The plan was developed through a process that
  - (a) gave written notice to the municipality in which the neighborhood is located of its intention to develop a plan and utilized reasonable means to inform residents, property owners, and businesses in the neighborhood of

its intention to develop a plan and provided opportunities for them to participate in the development of the plan;

(b) gave written notice to the municipality in which the neighborhood is located of the proposed plan and provided an opportunity for it to comment upon it orally and in writing, complied with all of the requirements of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) concerning the plan, utilized reasonable means to inform residents, property owners, and businesses in the neighborhood of the proposed plan and provided an opportunity for them to comment upon it orally and in writing; and

(c) involved consultation with nonprofit organizations located within the neighborhood or providing services to residents of the neighborhood;

(3) The plan is not inconsistent with

(a) any redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and currently being implemented; or

(b) any neighborhood empowerment plan approved by the State pursuant to section 49 of P.L.1996, c.62 (C.55:19-64);

(4) The plan sets forth an overall concept of the future of the neighborhood; one or more strategies to foster preservation and revitalization of the neighborhood in accordance with that concept; one or more activities, including housing and economic development activities and other preservation and revitalization activities proposed within the neighborhood to foster preservation and revitalization of the neighborhood in furtherance of those strategies, including a description of funding sources obtained or to be sought for the planned activities and a timetable for the conduct of those activities; and

(5) The plan covers a period of no less than two and no more than ten years.

b. A nonprofit organization may, in submitting a proposed plan pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), adopt a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and currently being implemented; or a State-approved neighborhood empowerment plan pursuant to section 49 of P.L.1996, c.62 (C.55:19-64) as its neighborhood preservation and revitalization plan or a neighborhood preservation and revitalization plan previously approved by the department.

c. A nonprofit organization that has submitted a neighborhood preservation and revitalization plan to the department may seek to amend it at any time. The department shall approve amendments if they comply with the standards set forth in subsection a. of this section.

3. Section 7 of P.L.2001, c.415 (C.52:27D-496) is amended to read as follows:

**C.52:27D-496 Issuance of certificate.**

7. a. The commissioner shall determine, in accordance with law and regulation, whether to issue a certificate based upon proposed assistance by a business entity to a nonprofit organization to implement a qualified project.

b. The commissioner shall issue a certificate if the proposed assistance satisfies the following standards:

(1) The assistance is to be used for a qualified neighborhood preservation and revitalization project;

(2) The assistance is not less than \$25,000 in each tax year for which credit is sought. Assistance may be approved for the current tax year and up to four additional years in the future. If assistance is approved for years other than the current tax year, the approval shall include a schedule showing the amount of assistance to be provided in each year;

(3) Neither the business entity nor any wholly owned subsidiary has previously failed to provide assistance to a nonprofit organization for which approval was granted. This requirement may be waived by the department upon a showing of good cause; and

(4) The total of all assistance approved on behalf of a nonprofit organization per project does not exceed \$1,000,000.

c. Within 60 days from the date of issuance of the certificate, the business entity shall pay the amount specified in the certificate that is due in the current tax year to the department for deposit into the Neighborhood Revitalization Non-lapsing Trust Fund created pursuant to section 5 of P.L.2003, c.59 (C.52:27D-500). In the case of assistance approved for years other than the current tax year, the business entity shall pay the amount specified no later than the anniversary of the date on which the first payment is due. The commissioner may extend the date payment is due for good cause shown, but no extension shall be granted where the business entity did not submit a written request for the extension at least fifteen days prior to the date payment is due.

d. The commissioner shall issue certificates to business entities applying for certificates and meeting the requirements of this section, up to the maximum amount of tax credits permitted under section 3 of P.L.2001, c.415 (C.52:27D-492), in the following order:

(1) those business entities specifying a project which has been approved by the department and providing assistance which is equal to the amount requested by the nonprofit organization submitting the project.

(2) those business entities not specifying a particular project, but which are willing to provide assistance for approved projects seeking assistance. The commissioner shall issue each business entity providing assistance with a certificate specifying the project to which the assistance will be provided

and shall pool applications by business entities in order to provide the amount of assistance requested by each nonprofit organization submitting each project.

(3) those business entities not specifying a particular project, but which are willing to provide assistance, and for which no project approved by the department is available. The commissioner shall issue the certificate without specifying the project to which the assistance will be provided, and will deposit the amount set forth in the certificate in the Neighborhood Revitalization Non-lapsing Trust Fund created pursuant to section 5 of P.L.2003, c.59 (C.52:27D-500) in accordance with the provisions of this section.

e. In any year that the dollar amount of assistance sought by approved projects shall exceed the amount of assistance available, the department shall allocate any funds in the trust fund for which no project has been specified to provide assistance to such projects. At such time the department will issue the business entity an amended certificate specifying the project for which the assistance is being provided.

f. The department shall use any interest earnings on the funds in the trust fund in any manner that lawfully furthers the purposes of P.L.2001, c.415 (C.52:27D-490 et seq.), including, but not limited to, providing funds to qualified entities to provide training and technical assistance to nonprofit organizations eligible to prepare plans and submit projects under P.L. 2001, c. 415 (C. 52:27D-490 et seq.).

4. Section 9 of P.L.2001, c.415 (C.52:27D-498) is amended to read as follows:

**C.52:27D-498 Establishment of forms, procedures, rules; annual report to Governor, Legislature.**

9. a. In order to administer the neighborhood preservation and revitalization tax credit program, the department shall establish any necessary forms, procedures or rules to effectuate this act, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The department shall seek to foster use of the tax credit and to make the tax credit simple to apply for and simple to use.

b. The department shall act as a clearinghouse. It shall maintain lists of qualified projects and of business entities that have expressed a desire to provide assistance to qualified projects. The department shall pool applications from business entities in order to provide assistance to qualified projects as provided in section 7 of P.L.2001, c.415 (C.52:27D-496).

c. The department shall give priority in processing to applications that demonstrate a multi-year commitment by the business entity to implementation of the neighborhood preservation and revitalization plan.

d. The department shall submit to the Governor and Legislature an annual report which shall include at least:

- (1) the purpose and effectiveness of the credit;
- (2) the benefits of the credit to the State;
- (3) any recommendations by the department as to changes in legislation needed to better carry out the purposes of P.L.2001, c.415 (C.52:27D-490 et seq.).

e. For each application by, or on behalf of, a business entity to approve assistance for a project, the department may charge a fee of up to 1.5 percent of the amount of assistance proposed, or approved, whichever is less, to pay for the administration of this program. The department may require that up to one third of this amount be paid at the time of submission of the application or declaration of intent, and that the balance be taken from the amount deposited into the trust fund upon deposit therein.

**C.52:27D-500 Neighborhood Revitalization Non-lapsing Trust Fund.**

5. A non-lapsing trust fund is hereby established in the State treasury to be known as the Neighborhood Revitalization Non-lapsing Trust Fund, into which all assistance from business entities receiving certificates under the provisions of P.L.2001, c.415 (C.52:27D-490 et seq.) shall be deposited by the department and from which all assistance for projects approved by the department shall be drawn. All interest earned on the funds deposited in the trust fund shall be retained in the trust fund to be used in accordance with sections 7 and 8 of P.L.2001, c.415 (C.52:27D-496 and C.52:27D-497).

6. This act shall take effect immediately.

Approved May 1, 2003.

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CHAPTER 60

AN ACT concerning certain members of the State Police and amending P.L.1997, c.19.

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

1. Section 1 of P.L.1997, c.19 (C.53:1-8.2) is amended to read as follows:

**C.53:1-8.2 Persons eligible to become members of Division of State Police.**

1. a. The following persons may become members of the Division of State Police and, except as provided in this act, P.L.1997, c.19 (C.53:1-8.2 et al.), shall be subject to the provisions of Title 53 applicable to members of the division: all persons employed on the effective date of this act as inspectors by the Alcoholic Beverage Control Enforcement Bureau, as members

of the State Capitol Police Force, or as marine law enforcement officers by the Bureau of Marine Law Enforcement:

- (1) who are between the ages of 18 and 55;
- (2) who satisfy the standards of health and physical fitness established by the superintendent for members of the Division of State Police; and
- (3) whose performance as an inspector, member, or officer demonstrates to the satisfaction of the superintendent the character and ability to perform the duties of a member of the Division of State Police.

b. The appointment of an inspector, member, or officer as a member of the Division of State Police shall be in accordance with R.S.53:1-8, except that notwithstanding the requirements of R.S.53:1-8.1, upon satisfactory completion of the two-year appointment period specified in R.S.53:1-8, the person shall serve continuously as a member of the division during good behavior.

c. In determining seniority for purposes of internal management, a person who becomes a member of the Division of State Police pursuant to this section shall be deemed to have been hired on January 1, 1996. Determination of seniority for internal management purposes shall not reduce the period of creditable service to which the member may be entitled pursuant to section 6 of P.L.1965, c.89 (C.53:5A-6).

d. The salary of a person who becomes a member of the Division of State Police pursuant to this section shall be fixed by the superintendent at an amount approximately equivalent to that person's final salary as an inspector, member, or officer, less that amount of additional compensation customarily referred to in collective bargaining agreements as a "maintenance allowance," which that person will receive upon becoming a member of the division.

e. The rank of a person who becomes a member of the Division of State Police pursuant to this section shall be assigned by the superintendent based on the salary fixed pursuant to subsection d. of this section and on the person's qualifications and the duties to which the person will be assigned.

f. No person who becomes a member of the Division of State Police pursuant to this section shall be entitled to collect a lump sum payment as supplemental compensation for sick leave accumulated prior to becoming a member of the division under the provisions of N.J.S.11A:6-16.

2. This act shall take effect immediately .

Approved May 1, 2003.

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## CHAPTER 61

AN ACT concerning bingo, and amending and supplementing P.L.1954, c.6.



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

1. Section 13 of P.L.1954, c.6 (C.5:8-36) is amended to read as follows:

**C.5:8-36 Advertising bingo games in certain municipalities prohibited.**

13. No game of chance to be conducted under any license issued under this act shall be advertised as to its location, the time when it is to be or has been played, or the prizes awarded or to be awarded, by means of newspapers, radio, television or sound truck, or by means of billboards, posters or handbills or any other means addressed to the general public in any municipality in which the majority of voters voting therein have not voted in favor of the adoption of the provisions of P.L.1954, c.6 (C.5:8-24 et seq.) or in any municipality in which the majority of voters voting therein have voted in favor of rescinding the adoption of the provisions of the act.

**C.5:8-36.1 Regulations governing advertising of bingo in certain municipalities.**

2. The Legalized Games of Chance Control Commission shall promulgate regulations to govern the advertising of games of chance in any municipality in which the majority of voters voting therein have voted in favor of the adoption of the "Bingo Licensing Law," P.L.1954, c.6 (C.5:8-24 et seq.), and in which games of chance are held, operated or conducted under any license issued pursuant to the provisions of that act.

The regulations shall prohibit:

- a. any advertisement from containing any false, deceptive, misleading or fraudulent statement regarding the holding, operation or conduct of a game of chance;
- b. any advertisement from causing undue or unfair competition between organizations registered with the control commission that are holding competing games of chance; and
- c. the use, to an extent deemed excessive, of the proceeds derived from the conduct of any individual game of chance for advertising subsequent games of chance.

3. This act shall take effect immediately.

Approved May 1, 2003.

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CHAPTER 62

AN ACT concerning the Delaware River and Bay Authority and authorizing certain projects.

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

**C.32:11E-1.9 Authorization for Renewable Energy and Agribusiness Park.**

1. For the purposes of complying with the provisions of section 1 of P.L.1989, c.191 (C.32:11E-1.1), the Delaware River and Bay Authority created pursuant to the "Delaware-New Jersey Compact," enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C.s.1701 et seq.) and P.L.1961, c.66 (C.32:11E-1 et seq.) with the consent of the Congress of the United States in accordance with Pub.L.87-678 (1962), is authorized, pursuant to the procedures set forth in section 1 of P.L.1989, c.191 (C.32:11E-1.1), to undertake a project for the development of a Renewable Energy and Agribusiness Park in Gloucester County or Salem County, including the acquisition of a site for the project and the planning, development, financing, construction, operation, maintenance, and improvement thereof, and the authority to lease the same, which shall be considered a project of the authority as defined pursuant to Article II of the "Delaware-New Jersey Compact," P.L.1961, c.66, as amended by P.L.1989, c.192 (C.32:11E-1 et seq.) and P.L.2001, c.414 (C.32:11E-1 et seq.).

Not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction contract undertaken in connection with a project authorized pursuant to this section. The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

2. This act shall take effect immediately.

Approved May 1, 2003.

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CHAPTER 63

AN ACT concerning the Brownfields Redevelopment Task Force, and amending P.L.1997, c.278.

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

1. Section 5 of P.L.1997, c.278 (C.58:10B-23) is amended to read as follows:

**C.58:10B-23 "Brownfield's Redevelopment Task Force"; duties.**

5. a. There is created the "Brownfields Redevelopment Task Force." The task force shall consist of seven representatives from State agencies and six

public members. The State agency representatives shall be from each of the following State agencies: the Office of State Planning in the Department of Community Affairs, the New Jersey Redevelopment Authority in the Department of Community Affairs, the New Jersey Commerce and Economic Growth Commission, the Department of Agriculture, the Economic Development Authority in, but not of, the Department of the Treasury, the Department of Transportation, and the Site Remediation Program in the Department of Environmental Protection. The six public members shall be appointed by the Governor with the advice and consent of the Senate. The public members shall include to the extent practicable: a representative of commercial or residential development interests, a representative of the financial community, a representative of a public interest environmental organization, a representative of a neighborhood or community redevelopment organization, a representative of a labor or trade organization, and a representative of a regional planning entity.

The Office of State Planning shall provide staff to implement the functions and duties of the task force. The public members of the task force shall serve without compensation but may be reimbursed for actual expenses in the performance of their duties. The Governor shall select the chairperson of the task force.

b. The task force shall prepare and update an inventory of brownfield sites in the State. In preparing the inventory, priority shall be given to those areas of the State that receive assistance from the Urban Coordinating Council. To the extent practicable, the inventory shall include an assessment of the contaminants known or suspected to have been discharged or that are currently stored on the site, the extent of any remediation performed on the site, the site's proximity to transportation networks, and the availability of infrastructure to support the redevelopment of the site. The information gathered for the inventory shall, to the extent practicable, be made available to the public by entering it into the Department of Environmental Protection's existing geographic information system, by making this information available on the system and by making copies of any maps and data available to the public. The department may charge a reasonable fee for the reproduction of maps and data which fee shall reflect the cost of their reproduction.

c. In addition to its functions pursuant to subsection b. of this section, the task force shall:

(1) coordinate State policy on brownfields redevelopment, including incentives, regulatory programs, provision of infrastructure, and redevelopment planning assistance to local governments;

(2) use the inventory to prioritize sites based on their immediate economic development potential;

- (3) prepare a plan of action to return these sites to productive economic use on an expedited basis;
  - (4) actively market sites on the inventory to prospective developers;
  - (5) use the inventory to provide a targeted environmental assessment of the sites, or of areas containing several brownfield sites, by the Department of Environmental Protection;
  - (6) consult with the Pinelands Commission concerning the remediation and redevelopment of brownfield sites located in the pinelands area as designated pursuant to section 10 of P.L.1979, c.111 (C.13:18A-11);
  - (7) evaluate the performance of current public incentives in encouraging the remediation and redevelopment of brownfields; and
  - (8) make recommendations to the Governor and the Legislature on means to better promote the redevelopment of brownfields, including the provision of necessary public infrastructure and methods to attract private investment in redevelopment.
- d. As used in this section, "brownfield" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.

2. This act shall take effect immediately.

Approved May 1, 2003.

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## CHAPTER 64

AN ACT prohibiting certain abusive lending practices and supplementing Title 46 of the Revised Statutes.

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

**C.46:10B-22 Short title.**

1. This act shall be known and may be cited as the "New Jersey Home Ownership Security Act of 2002."

**C.46:10B-23 Findings, declarations relative to abusive lending practices.**

- 2. The Legislature finds and declares that:
  - a. Abusive mortgage lending has become an increasing problem in this State, exacerbating the loss of equity in homes and causing an increase in the number of foreclosures in recent years. One of the most common forms of abusive lending is the making of loans that are equity-based, rather than income-

based. The financing of points and fees in these loans provides immediate income to the originator and encourages the repeated refinancing of home loans. The lender's ability to sell loans reduces the incentive to ensure that the homeowner can afford the payments of the loan. As long as there is sufficient equity in the home, an abusive lender benefits even if the borrower is unable to make the payments and is forced to refinance. In addition, the financing of high points and fees causes the loss of precious equity in each refinancing and often leads to foreclosure.

b. Abusive lending has threatened the viability of many communities and caused decreases in home ownership. While the marketplace appears to operate effectively for conventional mortgages, too many homeowners find themselves victims of overreaching lenders who provide loans with unnecessarily high costs and terms that are unnecessary to secure repayment of the loan.

c. As competition and self-regulation have not eliminated the abusive terms from loans secured by a consumer's home, the consumer protection provisions of this act are necessary to encourage lending at reasonable rates with reasonable terms.

**C.46:10B-24 Definitions relative to abusive lending practices.**

3. As used in this act:

"Affiliate" means any company that controls, is controlled by, or is under the common control with any company, as set forth in 12 U.S.C. s.1841 et seq.

"Bona fide discount points" means loan discount points which are:

- (1) Knowingly paid by the borrower;
- (2) Paid for the express purpose of reducing, and which result in a reduction of, the interest rate or time-price differential applicable to the loan;
- (3) In fact reducing the interest rate or time-price differential applicable to the loan from an interest rate which does not exceed the conventional mortgage rate for a home loan secured by a first lien, by more than two percentage points, or for a home loan secured by a junior lien, by more than three and one half percentage points; and

(4) Recouped within the first five years of the scheduled loan payments. Loan discount points will be considered to be recouped within the first five years of the scheduled loan payments if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments such that the borrower's dollar amount of savings in interest over the first five years is equal to or exceeds the dollar amount of loan discount points paid by the borrower.

"Borrower" means any natural person obligated to repay the loan, including a cosigner, cosigner, or guarantor.

"Commissioner" means the Commissioner of Banking and Insurance.

"Conventional mortgage rate" means the most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as published in Statistical Release H.15 or any publication that may supersede it, as of the applicable time set forth in 12 C.F.R. 226.32(a)(1)(I).

"Conventional prepayment penalty" means any prepayment penalty or fee that may be collected or charged in a home loan, and that is authorized by law other than by this act, provided the home loan (1) does not have an annual percentage rate that exceeds the conventional mortgage rate by more than two percentage points; and (2) does not permit any prepayment fees or penalties that exceed two percent of the amount prepaid.

"Covered home loan" means a home loan in which:

(1) The total points and fees payable in connection with the loan, excluding either a conventional prepayment penalty or not more than two bona fide discount points, exceed 4 percent of the total loan amount, or 4.5 percent of the total loan amount if the total loan amount is \$40,000 or less, and 4.5 percent of the total loan amount if the loan is insured by the Federal Housing Administration or guaranteed by the federal Department of Veterans Affairs; or

(2) The home loan is such that it is considered a high-cost home loan under this act.

"Creditor" means a person who extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, and to whom the obligation is payable at any time. Creditor shall also mean any person brokering a home loan, which shall include any person who directly or indirectly solicits, processes, places, or negotiates home loans for others or who closes home loans which may be in the person's own name with funds provided by others and which loans are thereafter assigned to the person providing the funding of such loans, provided that creditor shall not include a person who is an attorney providing legal services to the borrower or a person or entity holding an individual or organization insurance producer license in the line of title insurance or a title insurance company, as defined by subsection c. of section 1 of P.L.1975, c.106 (C.17:46B-1), or any officer, director or employee thereof, providing services in the closing of a home loan who is not also funding the home loan and is not an affiliate of the creditor or an assignee that is subject to the provisions of section 6 of this act.

"Department" means the Department of Banking and Insurance.

"High-cost home loan" means a home loan for which the principal amount of the loan does not exceed \$350,000, which amount shall be adjusted annually to include the last published increase of the housing component of the national Consumer Price Index, New York-Northeastern New Jersey Region, in which

the terms of the loan meet or exceed one or more of the thresholds as defined in this section.

"Home loan" means an extension of credit primarily for personal, family or household purposes, including an open-end credit plan, other than a reverse mortgage transaction, in which the loan is secured by:

- (1) A mortgage or deed of trust on real estate in this State upon which there is located or there is to be located a one to six family dwelling which is or will be occupied by a borrower as the borrower's principal dwelling; or
- (2) A security interest in a manufactured home which is or will be occupied by a borrower as the borrower's principal dwelling.

"Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when erected on land secured in conjunction with the real property on which the manufactured home is located and connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the federal National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. s.5401 et seq. Such term does not include rental property or second homes or manufactured homes when not secured in conjunction with the real property on which the manufactured home is located.

"Points and fees" means:

- (1) All items listed in 15 U.S.C. s.1605(a)(1) through (4), except interest or the time-price differential;
- (2) All charges listed in 15 U.S.C. s.1605(e);
- (3) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table-funded transaction;
- (4) The cost of all premiums financed by the creditor, directly or indirectly for any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments financed by the creditor directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums calculated and paid on a monthly basis shall not be considered financed by the creditor;
- (5) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents;

(6) All prepayment fees or penalties that are incurred by the borrower if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and

(7) For open-end loans, the points and fees are calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the loan documents if prepayment penalties are authorized by law other than by this act, plus the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line.

"Points and fees" shall not include the following items: title insurance premiums and fees, charges and premiums paid to a person or entity holding an individual or organization insurance producer license in the line of title insurance or a title insurance company, as defined by subsection c. of section 1 of P.L.1975, c.106 (C.17:46B-1); taxes, filing fees, and recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest; and reasonable fees paid to a person other than a creditor or an affiliate of the creditor or to the mortgage broker or an affiliate of the mortgage broker for the following, provided that the conditions in 12 C.F.R. s.226.4(c)(7) are met: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determinations; appraisal fees; fees for inspections performed prior to closing; fees for credit reports; fees for surveys; attorneys' fees; notary fees; escrow charges; and fire and flood insurance premiums, provided that the conditions in 12 C.F.R. s.226.4(d)(2) are met.

"Rate" means that annual percentage rate for the loan calculated at closing based on the points and fees set forth in this act and according to the provisions of 15 U.S.C. s. 1601 et seq. and the regulations promulgated thereunder by the Federal Reserve Board.

"Threshold" means any one of the following two items, as defined:

(1) "Rate threshold" means the annual percentage rate of the loan at the time the loan is consummated such that the loan is considered a "mortgage" under section 152 of the federal "Home Ownership and Equity Protection Act of 1994," Pub.L. 103-325 (15 U.S.C. s.1602(aa)), and the regulations promulgated by the Federal Reserve Board, including 12 C.F.R. s.226.32, without regard to whether the loan transaction is or may be a "residential mortgage transaction," as defined in 12 C.F.R. s.226.2(a)(24).

(2) "Total points and fees threshold" means that the total points and fees payable by the borrower at or before the loan closing, excluding either a conventional prepayment penalty or up to two bona fide discount points, exceed:

(a) 5% of the total loan amount if the total loan amount is \$40,000 or more; or



(b) the lesser of 6% of the total loan amount or \$1,000, if the total loan amount is less than \$20,000, and 6% if the total loan amount is \$20,000 or more but less than \$40,000.

"Total loan amount" means the principal of the loan minus those points and fees as defined in this section that are included in the principal amount of the loan. For open-end loans, the total loan amount shall be calculated using the total line of credit allowed under the home loan.

**C.46:10B-25 Creditors, prohibited practices relative to home loans.**

4. a. No creditor making a home loan shall finance, directly or indirectly, any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis shall not be considered financed by the creditor.

b. No creditor shall engage in the unfair act or practice of "flipping" a home loan. "Flipping" occurs when a creditor makes a covered home loan to a borrower that refinances an existing home loan that was consummated within the prior 60 months when the new loan does not have reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the economic and noneconomic circumstances, the purpose of the loan, the cost of the new loan, and the borrower's circumstances. In addition, the following home loan refinancings shall be presumed to be flipping if:

(1) The primary tangible benefit to the borrower is an interest rate lower than the interest rate on a debt satisfied or refinanced in connection with the home loan, and it will take more than four years for the borrower to recoup the costs of the points and fees and other closing costs through savings resulting from the lower interest rate; or

(2) The new loan refinances an existing home loan that is a special mortgage originated, subsidized, or guaranteed by or through a state, tribal or local government, or nonprofit organization, which either bears a below-market interest rate at the time the loan was originated, or has nonstandard payment terms beneficial to the borrower, such as payments that vary with income or are limited to a percentage of income, or where no payments are required under specified conditions, and where, as a result of refinancing, the borrower will lose one or more of the benefits of the special mortgage.

Without limiting the foregoing, it is hereby declared that subsection b. of this section shall create no presumption that any home loan that is not a covered home loan or a high-cost home loan, and any refinancing outside the durational limits set forth above, is not unconscionable, and it is hereby further declared that subsection b. of this section shall create no presumption

that any home loan that is not a covered home loan or a high-cost home loan, and any refinancing outside the durational limits set forth above, shall not constitute an unlawful practice under P.L. 1960, c.39 (C.56:8-1 et seq.), based on factors including those set forth in subsection b. of this section alone or in conjunction with any other circumstances.

c. No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a home loan that refinances all or any portion of that existing loan or debt.

d. No creditor shall charge a late payment fee in relation to a home loan except according to the following rules:

(1) The late payment fee may not be in excess of 5% of the amount of the payment past due.

(2) The fee may only be assessed by a payment past due for 15 days or more.

(3) The fee may not be charged more than once with respect to a single late payment. If a late payment fee is deducted from a payment made on the loan, and such deduction causes a subsequent default on a subsequent payment, no late payment fee may be imposed for such default. If a late payment fee has been once imposed with respect to a particular late payment, no such fee shall be imposed with respect to any future payment which would have been timely and sufficient, but for the previous default.

(4) No fee shall be charged unless the creditor notifies the borrower within 45 days following the date the payment was due that a late payment fee has been imposed for a particular late payment. No late payment fee may be collected from any borrower if the borrower informs the creditor that nonpayment of an installment is in dispute and presents proof of payment within 45 days of receipt of the creditor's notice of the late fee.

(5) The creditor shall treat each and every payment as posted on the same date as it was received by the creditor, servicer, creditor's agent, or at the address provided to the borrower by the creditor, servicer, or the creditor's agent for making payments.

e. No home loan shall contain a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness. This provision does not prohibit acceleration of the loan in good faith due to the borrower's failure to abide by the material terms of the loan.

f. No creditor shall charge a fee for informing or transmitting to any person the balance due to pay off a home loan or to provide a release upon prepayment. Payoff balances shall be provided within seven business days after the request.

**C.46:10B-26 High-cost home loans, limitations, prohibited practices.**

5. A high-cost home loan shall be subject to the following additional limitations and prohibited practices:

a. No high-cost home loan shall contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This provision shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

b. No high-cost home loan shall include payment terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

c. No high-cost home loan shall contain a provision that increases the interest rate after default. This provision shall not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

d. No high-cost home loan shall include terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

e. Without regard to whether a borrower is acting individually or on behalf of others similarly situated, any provision of a high-cost home loan agreement that allows a party to require a borrower to assert any claim or defense in a forum that is less convenient, more costly, or more dilatory for the resolution of a dispute than a judicial forum established in this State if the borrower may otherwise properly bring a claim or defense or limits in any way any claim or defense the borrower may have is unconscionable and void.

f. A creditor shall not make a high-cost home loan unless the creditor has given the following notice, or substantially similar notice, in writing, to the borrower, acknowledged in writing and signed by the borrower not later than the time the notice is required under the notice provision contained in 12 C.F.R. s.226.31(c).

#### NOTICE TO BORROWER

YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO OBTAIN A LOAN AT A LOWER COST. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES. MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH CREDITOR OR BROKER YOU SELECT.

IF YOU ACCEPT THE TERMS OF THIS LOAN, THE CREDITOR WILL HAVE A MORTGAGE LIEN ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER THE LOAN.

YOU SHOULD CONSULT AN ATTORNEY-AT-LAW AND A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. A LIST OF QUALIFIED COUNSELORS IS AVAILABLE BY CONTACTING THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE.

YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS DISCLOSURE OR HAVE SIGNED A LOAN APPLICATION.

REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL CREDITORS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR CREDITOR ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.

g. A creditor shall not make a high-cost home loan to a borrower who finances points and fees in connection with a high-cost home loan without first receiving certification from a third-party nonprofit credit counselor, approved by the United States Department of Housing and Urban Development and the Department of Banking and Insurance, that the borrower has received counseling on the advisability of the loan transaction or completing another substantial requirement developed by the department.

h. A creditor shall not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan, unless the instrument is payable to the borrower or jointly to the borrower and the contractor, or, at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the creditor, and the contractor prior to the disbursement.

i. A creditor shall not charge a borrower any fees or other charges to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan.

j. A creditor shall not charge a borrower points and fees in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same creditor as note holder.

k. Notwithstanding any other law to the contrary, a creditor making a high-cost home loan that has the legal right to foreclose shall use the judicial foreclosure procedures of this State so long as the property securing the loan is located in this State.

l. No creditor making a high-cost home loan shall directly or indirectly finance points and fees in excess of 2% of the total loan amount.

**C.46:10B-27 Affirmative claims, defenses by borrower.**

6. a. Notwithstanding any other law to the contrary, if a home loan was made, arranged, or assigned by a person selling either a manufactured home, or home improvements to the dwelling of a borrower, or was made by or through a creditor to whom the borrower was referred by such seller, the borrower may assert all affirmative claims and any defenses that the borrower may have against the seller or home-improvement contractor limited to amounts required to reduce or extinguish the borrower's liability under the home loan, plus the total amount paid by the borrower in connection with the transaction, plus amounts required to recover costs, including reasonable attorney's fees against the creditor, any assignee or holder, in any capacity.

b. Notwithstanding any other provision of law, any person who purchases or is otherwise assigned a high-cost home loan shall be subject to all affirmative claims and any defenses with respect to the loan that the borrower could assert against the original creditor or broker of the loan; provided that this subsection shall not apply if the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising reasonable due diligence could not determine that the mortgage was a high-cost home loan. It shall be presumed that a purchaser or assignee has exercised such due diligence if the purchaser or assignee demonstrates by a preponderance of the evidence that it: (1) has in place at the time of the purchase or assignment of the loan, policies that expressly prohibit its purchase or acceptance of assignment of any high-cost home loan; (2) requires by contract that a seller or assignor of home loans to the purchaser or assignee represents and warrants to the purchaser or assignee that either (a) it will not sell or assign any high-cost home loan to the purchaser or assignee or (b) that the seller or assignor is a beneficiary of a representation and warranty from a previous seller or assignor to that effect; and (3) exercises reasonable due diligence at the time of purchase or assignment

of home loans or within a reasonable period of time thereafter intended by the purchaser or assignee to prevent the purchaser or assignee from purchasing or taking assignment of any high-cost home loan.

c. Notwithstanding any other law to the contrary, but limited to amounts required to reduce or extinguish the borrower's liability under the home loan plus amounts required to recover costs including reasonable attorney's fees, a borrower acting only in an individual capacity may assert against the creditor or any subsequent holder or assignee of the home loan:

(1) within six years of the closing of a covered home loan, a violation of this act in connection with the loan as an original action, or as a defense, claim or counterclaim after an action to collect on the home loan or foreclose on the collateral securing the home loan has been initiated or the debt arising from the home loan has been accelerated or the home loan has become 60 days in default; and

(2) at any time during the term of a high-cost home loan after an action to collect on the home loan or foreclose on the collateral securing the home loan has been initiated or the debt arising from the home loan has been accelerated or the home loan has become 60 days in default, any defense, claim or counterclaim.

d. It is a violation of this act for any person, in bad faith, to attempt to avoid the application of this act by:

(1) Dividing any loan transaction into separate parts; or  
(2) Any other such subterfuge, with the intent of evading the provisions of this act.

e. Nothing in this section shall be construed to limit the substantive rights, remedies or procedural rights, including, but not limited to, recoupment rights under the common law, available to a borrower against any creditor, assignee or holder under any other law. The limitations on assignee liability in subsection b. of this section shall not apply to the assignee liability in subsections a., c. and d. of this section.

**C.46:10B-28 Enforcement by department.**

7. a. The department shall conduct examinations and investigations and issue subpoenas and orders to enforce the provisions of this act with respect to a person licensed or subject to the provisions of the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.).

b. The department shall examine any instrument, document, account, book, record, or file of a person originating or brokering a high-cost home loan under this act. The department shall recover the cost of examinations from the person. A person originating or brokering high-cost home loans shall maintain its records in a manner that will facilitate the department in determining whether the person is complying with the provisions of this act

and the regulations promulgated thereunder. The department shall require the submission of reports by persons originating or brokering high-cost home loans which shall set forth such information as the department shall require by regulation.

c. In the event that a person fails to comply with a subpoena for documents or testimony issued by the department, the department may request an order from a court of competent jurisdiction requiring the person to produce the requested information.

d. If the department determines that a person has violated the provisions of this act, the department may do any combination of the following that it deems appropriate:

(1) Impose a civil penalty of up to \$10,000 for each offense, 40% of which penalty shall be dedicated for and used by the department for consumer education through nonprofit organizations which can establish to the satisfaction of the department that they have sufficient experience in credit counseling and financial education. In determining the penalty to be assessed, the commissioner shall consider the following criteria: whether the violation was willful; whether the violation was part of a pattern and practice; the amount of the loan; the points and fees charged; the financial condition of the violator; and other relevant factors. The department may require the person to pay investigative costs, if any.

(2) Suspend, revoke, or refuse to renew any license issued by the department.

(3) Prohibit or permanently remove an individual responsible for a violation of this act from working in his present capacity or in any other capacity related to activities regulated by the department.

(4) Order a person to cease and desist any violation of this act and to make restitution for actual damages to borrowers.

(5) Pending completion of an investigation or any formal proceeding instituted pursuant to this act, if the commissioner finds that the interests of the public require immediate action to prevent undue harm to borrowers, the commissioner may enter an appropriate temporary order to be effective immediately and until entry of a final order. The temporary emergent order may include: a temporary suspension of the creditor's authority to make high-cost home loans under this act; a temporary cease and desist order; a temporary prohibition against a creditor transacting high-cost home loan business in this State, or such other order relating to high-cost home loans as the commissioner may deem necessary to prevent undue harm to borrowers pending completion of an investigation or formal proceeding. Orders issued pursuant to this section shall be subject to an application to vacate upon two days' notice, and a preliminary hearing on the temporary emergent order shall be held, in any

event, within five days after it is issued, in accordance with the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.).

(6) Impose such other conditions as the department deems appropriate.

e. Any person aggrieved by a decision of the department and who has a direct interest in the decision may appeal the decision of the department to the commissioner. The appeal shall be conducted in accordance with the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.).

f. The department may maintain an action for an injunction or other process against any person to restrain and prevent the person from engaging in any activity violating this act.

g. A decision of the commissioner shall be a final order of the department and shall be enforceable in a court of competent jurisdiction. The department shall publish the final adjudication issued in accordance with this section, subject to redaction or modification to preserve confidentiality.

h. The provisions of this section shall not limit the authority of the Attorney General or the Public Advocate as established pursuant to P.L. , c. (C. ) (now before the Legislature as Assembly Committee Substitute for Assembly Bill Nos. 345 and 2341) from instituting or maintaining any action within the scope of their respective authority with respect to the practices prohibited under this act.

**C.46:10B-29 Violations, remedies, liability.**

8. a. Any violation of this act constitutes an unlawful practice under P.L. 1960, c.39 (C.56:8-1 et seq.). Any borrower may seek damages under the provisions of section 7 of P.L. 1971, c.247 (C.56:8-19) or subparagraph (a) of paragraph (1) of subsection b. of this section, but not both.

b. Except as provided in subsection a. of this section and, where applicable, subject to any limitation on the amounts recoverable against a holder or assignee pursuant to section 6 of this act, in addition to the remedies available to a borrower under P.L. 1960, c.39 (C.56:8-1 et seq.) and without limiting those remedies:

(1) Any person found by a preponderance of the evidence to have violated this act shall be liable to the borrower for the following:

(a) For material violations, statutory damages equal to the finance charges agreed to in the home loan agreement, plus up to 10% of the amount financed;

(b) Punitive damages, when the violation was malicious or reckless in appropriate circumstances as determined by the fact-finder; and

(c) Costs and reasonable attorneys' fees.

(2) A borrower may be granted injunctive, declaratory, and such other equitable relief as the court deems appropriate in an action to enforce compliance with this act.



(3) The remedies provided in this section are not intended to be the exclusive remedies available to a borrower, nor must the borrower exhaust any administrative remedies provided under this act or any other applicable law before proceeding under this section.

c. A creditor in a home loan who, when acting in good faith, fails to comply with the provisions of this act, will not be deemed to have violated this section if the creditor establishes that either:

(1) Within 45 days of the loan closing, the creditor has made appropriate restitution to the borrower, and appropriate adjustments are made to the loan; or

(2) Within 90 days of the loan closing and prior to receiving any notice from the borrower of the compliance failure, and the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, the borrower is notified of the compliance failure, appropriate restitution is made to the borrower, and appropriate adjustments are made to the loan.

Examples of bona fide errors include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

d. The remedies provided in this section are cumulative.

**C.46:10B-30 Rights, remedies, prohibitions declared additional, cumulative.**

9. The rights, remedies, and prohibitions accorded by the provisions of this act are hereby declared to be in addition to and cumulative of any other right, remedy, or prohibition accorded by the common law or statutes of the United States or of this State, and nothing herein shall be construed to deny, abrogate, or impair any such common law or statutory right, remedy, or prohibition. Without limiting the foregoing, the rights, remedies and prohibitions accorded by the provisions of this act are hereby further declared to create no presumption that any home loan or any term in a home loan is not unconscionable, whether or not the home loan or loan term, alone or in conjunction with other terms of the loan, violates the provisions of this act.

**C.46:10B-31 Law of state of location of property applicable.**

10. The law of the state in which the property is located shall be applied to all transactions governed by this act regardless of where those transactions originated. This act shall apply to all loans made or entered into after the effective date of this act.

**C.46:10B-32 Program of consumer counseling, awareness.**

11. The Director of the Division of Banking in the Department of Banking and Insurance, in consultation with the Director of the Division of Consumer Affairs and the Division of Civil Rights in the Department of Law and Public

Safety, shall develop and implement a program of consumer counseling and awareness designed to inform the public about the methods by which predatory creditors impose unconscionable and noncompetitive fees and charges as part of complex home mortgage transactions, to protect the public from incurring those fees and charges, and otherwise to encourage the informed and responsible use of credit.

**C.46:10B-33 Liability of mortgage broker.**

12. Notwithstanding any provision of this act to the contrary, a mortgage broker shall be liable under the provisions of this act only for acts performed by the mortgage broker in the course of providing mortgage brokering services. However, a mortgage broker may be held liable for acts performed by the mortgage broker outside the scope of mortgage brokering services if the acts are related to the purchasing or the making of a home loan and are otherwise prohibited under this act.

**C.46:10B-34 Preemption of local rules, regulations.**

13. No municipality, county or political subdivision thereof, shall enact an ordinance or resolution or promulgate any rules or regulations relating to this act. The provisions of any ordinance or resolution or rules or regulations of any municipality or county relative to abusive home loan lending practices are superseded by the provisions of this act.

**C.46:10B-35 Regulations.**

14. The Commissioner of Banking and Insurance shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of subsections f. and g. of section 5 and section 11 of this act except that prior to the effective date of this act the commissioner may take those actions and promulgate those regulations necessary to implement these provisions.

15. This act shall take effect on the 210th day following enactment and shall apply to home loans closed on and after that date, except that section 14 shall take effect immediately, and except that a loan in existence on the effective date of this act and which meets the definition of home loan in this act shall be a home loan for the purposes of subsection b. of section 4 of this act

Approved May 1, 2003.

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CHAPTER 65

AN ACT concerning the transport of dredged material and supplementing Title 13 of the Revised Statutes.

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

**C.13:19-33 Transport, dumping of certain dredged materials in certain ocean sites prohibited.**

1. a. The Department of Environmental Protection shall not permit or otherwise authorize the transport in State waters of dredged material for the purpose of placing or dumping of such material into State waters of the Atlantic Ocean at a site designated for remediation if the material is found to exceed an effects level of 113 parts per billion of polychlorinated biphenyls (PCBs) in the tissue of worms tested and analyzed in accordance with the applicable federal procedures, or a level or in accordance with a procedure subsequently determined by the Commissioner of Environmental Protection to be more protective of human health and the environment.

b. The Department of Environmental Protection shall implement the provisions of subsection a. of this section through the enforceable policies of the State, including, but not limited to, any rules and regulations adopted pursuant to R.S.12:5-3.

c. Upon the effective date of this act, the Commissioner of Environmental Protection shall submit P.L.2003, c.65 (C.13:19-33) to the National Oceanic and Atmospheric Administration under the provisions of the federal "Coastal Zone Management Act of 1972", as amended, 16 U.S.C. s.1451 et seq., for incorporation into the enforceable policies of the approved State management program.

2. This act shall take effect immediately.

Approved May 4, 2003.

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CHAPTER 66

AN ACT concerning the qualifications of school bus drivers, amending various parts of the statutory law and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

1. Section 12 of P.L.1998, c.31 (C.18A:6-7.1c) is amended to read as follows:

**C.18A:6-7.1c Employment of applicant on emergent basis, conditions.**

12. A board of education or contracted service provider may employ an applicant on an emergent basis for a period not to exceed three months, pending

completion of a criminal history records check and, with respect to a bus driver applicant, a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1), if the board or service provider demonstrates to the Commissioner of Education that special circumstances exist which justify the emergent employment. The board's or service provider's request to the commissioner shall include: (1) a description of the vacant position that needs to be filled; (2) a statement describing the board's or contract provider's good faith efforts to fill the position on a timely basis or a statement describing the unanticipated need for the applicant's employment; and (3) a sworn statement submitted by the applicant attesting that the applicant has not been convicted or does not have a charge pending for a crime or any other offense enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1) or a record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

In the event that the background check is not completed within three months, the board or contracted service provider may petition the commissioner for an extension of time, not to exceed two months, in order to retain the employee.

2. N.J.S.18A:39-17 is amended to read as follows:

**Names, certain information relative to bus drivers to be filed by secretary of board of education.**

18A:39-17. In each school year, prior to the assignment of any driver or substitute driver to any vehicle operated by the board of education of any district as a school bus, there shall be filed by the secretary of such board with the county superintendent the name and social security number of each such driver or substitute driver and certification of a valid school bus driver's license, criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

3. N.J.S.18A:39-18 is amended to read as follows:

**Information relative to bus drivers furnished by contractor.**

18A:39-18. In each school year, prior to the beginning of transportation of school pupils under a contract awarded by a board of education, the contractor shall furnish to the county superintendent the name, social security number, and certification of a valid school bus driver's license and criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1) of each driver or substitute driver to be assigned to any vehicle in the performance of his contract.

4. Section 6 of P.L.1989, c.104 (C.18A:39-19.1) is amended to read as follows:

**C.18A:39-19.1 Bus drivers required to submit certain information to commissioner; notice of pending charges.**

6. a. Prior to employment as a school bus driver, and upon application for renewal of a school bus driver's license, a bus driver shall submit to the Commissioner of Education his or her name, address and fingerprints in accordance with procedures established by the commissioner. No criminal history record check or check for alcohol and drug-related motor vehicle violations shall be furnished without his or her written consent to such a check. The applicant shall bear the cost for the checks, including all costs for administering and processing the checks.

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, and information on the check for alcohol and drug-related motor vehicle violations from the Division of Motor Vehicle Services, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification as a school bus driver. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. A school bus driver, except as provided in subsection e. of this section, shall be permanently disqualified from employment or service if the individual's criminal history record reveals a record of conviction for which public school employment candidates are disqualified pursuant to section 1 of P.L.1986, c.116 (C.18A:6-7.1) or if the driver has been convicted at least two times within the last 10 years for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), or section 16 of P.L.1990, c.103 (C.39:3-10.24); or once for a violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school children.

Following qualification for employment as a school bus driver pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against the school bus driver. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board or contractor shall take appropriate action. If the pending charge results in conviction, the school bus driver shall not be eligible for continued employment.

A school bus driver shall not be eligible to operate a school bus if the individual's bus driver's license is currently revoked or suspended by the Division of Motor Vehicle Services in accordance with R.S.39:3-10.1.

Following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately forward to the Commissioner of Education any information which the division receives on a conviction for an alcohol or drug-related motor vehicle violation that would disqualify the driver from employment pursuant to the provisions of this subsection. The commissioner shall notify the employing board of education or contractor that the driver is no longer eligible for employment.

b. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal history record check or a check for alcohol and drug-related motor vehicle violations performed pursuant to this section without an opportunity to challenge the accuracy of the disqualifying records.

c. When charges are pending for a crime or any other offense enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the employing board of education or contractor shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

d. The applicant shall have 30 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information or the record of convictions for an alcohol or drug-related motor vehicle violation. If no challenge is filed or if the determination of the accuracy of the criminal history record information or the record of convictions for an alcohol or drug-related motor vehicle violation upholds the disqualification, notification of the applicant's disqualification for employment shall be forwarded to the Division of Motor Vehicle Services. The local board of education or the school bus contractor and the County Superintendent of Schools shall also be notified of the disqualification. Notwithstanding the provisions of any law to the contrary, the Director of the Division of Motor Vehicle Services shall, upon notice of disqualification from the Commissioner of Education, immediately revoke the applicant's special license issued pursuant to R.S.39:3-10.1 without necessity of a further hearing. Candidates' records shall be maintained in accordance with the provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

e. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of a school bus driver employed by a board of education or a contracted service provider who is required to undergo a check upon

application for renewal of a school bus driver's license, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

f. (1) Notwithstanding any provision of this section to the contrary, the check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver and upon application for renewal of a school bus driver's license until such time as the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, are effective and implemented by the State.

(2) Notwithstanding any provision of this section to the contrary, upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, a check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver. A check for alcohol and drug-related motor vehicle violations conducted for any subsequent renewal of a school bus driver's license shall be subject to the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L.106-159.

(3) Upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately notify the Commissioner of Education of the suspension or revocation of a school bus driver's commercial driver's license. The commissioner shall notify the employing board of education or contractor of the suspension or revocation, and the employment of the school bus driver shall be immediately terminated. In the case of a school bus driver whose commercial driver's license has been suspended, the driver may apply for re-employment at the end of the period of suspension.

5. N.J.S.18A:39-20 is amended to read as follows:

**Compliance required for assigning bus driver; violations; fine.**

18A:39-20. No board of education or contractor shall knowingly approve or knowingly assign an individual, as a driver or substitute driver of a school bus, without first complying with the provisions of this chapter, and any person violating, or failing to comply with such provisions shall be subject to a fine of not more than \$5,000 for each driver unlawfully approved or assigned.

**C.39:3-10.32 Additional penalties.**

6. In addition to any other penalty provided by law, a school bus driver who violates section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school children shall be guilty of a disorderly persons offense.

Notwithstanding any other provision of law to the contrary, a conviction under this section shall not merge with a conviction for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24).

7. This act shall take effect on the first day of the sixth month after enactment; except that the State Board of Education and the Division of Motor Vehicle Services may take such administrative and regulatory action in advance as shall be necessary to implement the provisions of this act.

Approved May 5, 2003.

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**CHAPTER 67**

AN ACT concerning certified animal control officers, amending P.L.1983, c.525 and supplementing chapter 22 of Title 4 of the Revised Statutes and Title 2B of the New Jersey Statutes.

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

1. Section 3 of P.L.1983, c.525 (C.4:19-15.16a) is amended to read as follows:

**C.4:19-15.16a Rules, regulations concerning training, educational qualifications for animal control officers.**

3. a. The Commissioner of Health and Senior Services shall, within 120 days after the effective date of P.L.1983, c.525, and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations concerning the training and educational qualifications for the certification of animal control officers, including, but not limited to, a course of study approved by the commissioner and the Police Training Commission, in consultation with the New Jersey Certified Animal Control Officers Association, which acquaints a person with:

- (1) The law as it affects animal control, animal welfare, and animal cruelty;
- (2) Animal behavior and the handling of stray or diseased animals;



(3) Community safety as it relates to animal control; and

(4) The law enforcement methods and techniques required for an animal control officer to properly exercise the authority to investigate and sign complaints and arrest without warrant pursuant to section 8 of P.L.1997, c.247 (C.4:19-15.16c), including, but not limited to, those methods and techniques which relate to search, seizure and arrest. The training in law enforcement methods and techniques described pursuant to this paragraph shall be part of the course of study for an animal control officer only when required by the governing body of a municipality pursuant to section 4 of P.L.1983, c.525 (C.4:19-15.16b).

Any person 18 years of age or older may satisfy the courses of study established pursuant to this subsection at that person's own time and expense; however, nothing in this section shall be construed as authorizing a person to exercise the powers and duties of an animal control officer absent municipal appointment or authorization pursuant to section 4 of P.L.1983, c.525 (C.4:19-15.16b).

b. (1) The commissioner shall provide for the issuance of a certificate to a person who possesses, or acquires, the training and education required to qualify as a certified animal control officer pursuant to paragraphs (1) through (3) of subsection a. of this section and to a person who has been employed in the State of New Jersey in the capacity of, and with similar responsibilities to those required of, a certified animal control officer pursuant to the provisions of P.L.1983, c.525, for a period of three years before January 17, 1987. The commissioner shall not issue a certificate to any person convicted of, or found civilly liable for, a violation of any provision of chapter 22 of Title 4 of the Revised Statutes.

(2) The commissioner shall revoke the certificate of any person convicted of, or found civilly liable for, a violation of any provision of chapter 22 of Title 4 of the Revised Statutes, and shall place the name of the person on the list established pursuant to subsection c. of this section.

c. (1) The commissioner shall establish a list of all persons issued a certificate pursuant to subsection b. of this section (a) for whom that certificate has been revoked, or (b) who have been convicted of, or found civilly liable for, a violation of any provision of chapter 22 of Title 4 of the Revised Statutes. The commissioner shall provide each municipality in the State with a copy of this list within 30 days after the list is established and not less often than annually thereafter if no revised list required pursuant to paragraph (2) of this subsection has been issued in the interim.

(2) Upon receipt of a notice required pursuant to section 3 or 4 of P.L.2003, c.67 (C.4:22-57 or C.2B:12-17.1) involving a person who has been issued a certificate pursuant to subsection b. of this section, the commissioner shall add to the list the name of the person convicted of, or found civilly liable for,

a violation of any provision of chapter 22 of Title 4 of the Revised Statutes according to the notice, and shall issue a copy of the revised list to each municipality within 30 days after receipt of any such notice.

2. Section 4 of P.L.1983, c.525 (C.4:19-15.16b) is amended to read as follows:

**C.4:19-15.16b Appointment of certified animal control officer.**

4. The governing body of a municipality shall, within three years of the effective date of P.L.1983, c.525, appoint a certified animal control officer who shall be responsible for animal control within the jurisdiction of the municipality and who shall enforce and abide by the provisions of section 16 of P.L.1941, c.151 (C.4:19-15.16). The governing body shall not appoint a certified animal control officer, shall not contract for animal control services with any company that employs a certified animal control officer, and shall revoke the appointment of a certified animal control officer, who has been convicted of, or found civilly liable for, a violation of any provision of chapter 22 of Title 4 of the Revised Statutes or whose name is on the list or any revision thereto established and provided by the Commissioner of Health and Senior Services pursuant to subsection c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a). The governing body shall, within 30 days after receipt thereof, review any such list or revision thereto received by the municipality and shall, within that 30-day period, take action accordingly as required pursuant to this section.

The governing body may authorize the certified animal control officer to investigate and sign complaints, arrest violators and otherwise act as an officer for detection, apprehension and arrest of offenders against the animal control, animal welfare and animal cruelty laws of the State and ordinances of the municipality, if the officer has completed the training required pursuant to paragraph 4 of subsection a. of section 3 of P.L.1983, c.525 (C.4:19-15.16a). Only certified animal control officers who have completed the training may be authorized by the governing body to so act as an officer for detection, apprehension and arrest of offenders; however, officers who have completed the training shall not have the authority to so act unless authorized by the governing body which is employing the officer or contracting for the officer's services.

**C.4:22-57 Notice to commissioner of persons ineligible to be certified animal control officers.**

3. a. For the purposes of establishing the list of persons not eligible to be certified animal control officers as required pursuant to subsections b. and c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a), notice shall be provided, within 90 days after the effective date of this section, to the Commissioner of Health and Senior Services of any person who has been convicted of, or found civilly liable for, a violation of any provision of chapter 22 of Title 4

of the Revised Statutes, by any court or other official administrative entity maintaining records of such violations adjudged on or before the effective date of this section.

b. For the purposes of maintaining the list of persons not eligible to be certified animal control officers as established pursuant to subsections b. and c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a), the court or other official adjudging the guilt or liability for a violation of any provision of chapter 22 of Title 4 of the Revised Statutes, shall charge the prosecutor, officer of the New Jersey Society for the Prevention of Cruelty to Animals or the district (county) society for the prevention of cruelty to animals, or other appropriate person, other than a certified animal control officer, with the responsibility to notify within 30 days the commissioner, in writing, of the full name of the person found guilty of, or liable for, an applicable violation, and the violation for which or of which that person was found guilty or liable, and the person charged with the responsibility shall provide such notice.

**C.2B:12-17.1 Responsibility for notification.**

4. As required pursuant to section 3 of P.L.2003, c.67 (C.4:22-57), a municipal court adjudging guilt or liability for a violation of any provision of chapter 22 of Title 4 of the Revised Statutes, shall charge the prosecutor, officer of the New Jersey Society for the Prevention of Cruelty to Animals or the district (county) society for the prevention of cruelty to animals, or other appropriate person, other than a certified animal control officer, with the responsibility to notify within 30 days the Commissioner of Health and Senior Services, in writing, of the full name of the person found guilty of, or liable for, an applicable violation, and the violation for which or of which that person was found guilty or liable, and the person charged with the responsibility shall provide such notice.

5. Sections 1, 3 and 4 of this act shall take effect immediately, and section 2 shall take effect 180 days after the date of enactment.

Approved May 5, 2003.

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CHAPTER 68

AN ACT concerning the core curriculum content standards and supplementing chapter 7F of Title 18A of the New Jersey Statutes.

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

**C.18A:7F-4.1 Findings, declarations relative to core curriculum content standards and cross-content workplace readiness standards.**

1. The Legislature finds and declares that:
  - a. the five cross-content workplace readiness standards, which are a part of the core curriculum content standards, apply to all areas of instruction and are concepts which are designed to be integrated by teachers into all programs in content-specific and grade-appropriate ways;
  - b. one of the cross-content workplace readiness standards is the requirement that all students use technology;
  - c. with the growing importance of technology to our society, it is vital that students receive an education that emphasizes technological literacy;
  - d. rather than being one component of the cross-content workplace readiness standards, technology, given its importance in our knowledge-based economy, should rightfully be one of the core fields of study in school, along with mathematics, science, social studies, world languages, visual and performing arts, comprehensive health and physical education and language arts/literacy that currently comprise the core curriculum content areas.

**C.18A:7F-4.2 Adoption of core curriculum content standards for technology.**

2. a. Within one year of the effective date of this act, the State Board of Education shall adopt core curriculum content standards in the area of technology.
  - b. The State board shall convene a committee comprised of educators, business persons, information technology professionals, parents and Department of Education personnel to develop a set of core curriculum content standards in the area of technology. In developing the standards the committee shall review the Standards for Technological Literacy set forth by the International Technology Education Association, other states' standards and any other information deemed relevant by the committee. The committee shall engage experts to review the standards it develops.
  - c. Prior to adopting the core curriculum content standards in the area of technology, the State board shall conduct at least one public hearing in the northern part of the State, at least one public hearing in the central part of the State, and at least one public hearing in the southern part of the State for the purpose of permitting the public to comment on the rigor, clarity and reasonableness of the standards developed by the committee.

3. This act shall take effect immediately.

Approved May 5, 2003.

## CHAPTER 69

AN ACT concerning contracts for pupil transportation and amending N.J.S.18A:39-3.

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

1. N.J.S.18A:39-3 is amended to read as follows:

**Pupil transportation contracts.**

18A:39-3. a. No contract for the transportation of pupils to and from school shall be made, when the amount to be paid during the school year for such transportation shall exceed \$7,500.00 or the amount determined pursuant to subsection b. of this section, and have the approval of the county superintendent of schools, unless the board of education making such contract shall have first publicly advertised for bids therefor in a newspaper published in the district or, if no newspaper is published therein, in a newspaper circulating in the district, once, at least 10 days prior to the date fixed for receiving proposals for such transportation, and shall have awarded the contract to the lowest responsible bidder.

Nothing in this chapter shall require the advertisement and letting on proposals or bids of annual extensions, approved by the county superintendent, of any contract for transportation entered into through competitive bidding when--

(1) Such annual extensions impose no additional cost upon the board of education, regardless of the fact that the route description has changed; or

(2) The increase in the contractual amount as a result of such extensions does not exceed the rise in the Consumer Price Index as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3) for that school year, regardless of the fact that the route description has changed or an aide has been added or removed; or

(3) (Deleted by amendment, P.L.1982, c.74.)

(4) The increase in the contractual amount as a result of an extension exceeds the rise in the Consumer Price Index as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3) for that school year, but the following apply to the extensions:

(a) The increase is directly attributable to a route change to accommodate new student riders or safety concerns as provided for in the original bid, or the increase is directly attributable to the addition of an aide as provided for in the original bid; and

(b) The school destination remains unchanged from the original contract. Any such extension as described in this paragraph shall require the approval of the county superintendent of schools.

Nothing in this chapter shall require the immediate bid of any contract renewal for the remainder of a school year in which the only change, in addition to route description, is the bus type. However, any such extension shall be approved by the county superintendent of schools and shall be bid for the next school year.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P.L. 1985. c.469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify all local school districts of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

2. This act shall take effect immediately.

Approved May 5, 2003.

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## CHAPTER 70

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to those proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school election for the authorization or issuance of bonds of the school district and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that the proposal was not in the form required pursuant to N.J.S.18A:24-24 and a supplemental debt statement was not filed in accordance with N.J.S.18A:24-17; provided that no action, suit, or other proceeding of any nature to contest the validity of the proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed

therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved May 5, 2003.

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## CHAPTER 71

AN ACT increasing the membership of the State Health Benefits Commission and amending P.L.1961, c.49.

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

1. Section 3 of P.L.1961, c.49 (C.52:14-17.27) is amended to read as follows:

**C.52:14-17.27 State Health Benefits Commission.**

3. There is hereby created a State Health Benefits Commission, consisting of five members: the State Treasurer; the Commissioner of Banking and Insurance; the Commissioner of Personnel; a State employees' representative chosen by the Public Employees' Committee of the AFL-CIO; and a representative chosen by the New Jersey Education Association, which represents the largest number of employees of employers other than the State participating in the State Health Benefits Program.

The treasurer shall be chairman of the commission and the health benefits program authorized by P.L.1961, c.49 shall be administered in the Treasury Department. The Director of the Division of Pensions and Benefits shall be the secretary of the commission. The commission shall establish a health benefits program for the employees of the State, the cost of which shall be paid as specified in section 6 of P.L.1961, c.49. The commission shall establish rules and regulations as may be deemed reasonable and necessary for the administration of P.L.1961, c.49.

The Attorney General shall be the legal advisor of the commission.

The members of the commission shall serve without compensation but shall be reimbursed for any necessary expenditures. The public employee members shall not suffer loss of salary or wages during service on the commission.

The commission shall publish annually a report showing the fiscal transactions of the program for the preceding year and stating other facts

pertaining to the plan. The commission shall submit the report to the Governor and furnish a copy to every employer for use of the participants and the public.

2. This act shall take effect immediately.

Approved May 5, 2003.

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## CHAPTER 72

AN ACT concerning handicapped accessibility of public buildings and multi-family dwellings and amending various parts of the statutory law.

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

1. Section 11 of P.L.1992, c.146 (C.10:5-12.4) is amended to read as follows:

**C.10:5-12.4 Failure to use barrier free housing standards, unlawful discrimination.**

11. A failure to design and construct any multi-family dwelling of four units or more in accordance with barrier free standards promulgated by the Commissioner of Community Affairs pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123) shall be an unlawful discrimination. The Commissioner of Community Affairs shall ensure that standards established meet or exceed the standards established under the federal "Fair Housing Amendments Act of 1988," Pub. L.100-430. Whenever the Attorney General receives a complaint alleging an unlawful discrimination pursuant to this section, the Attorney General shall refer the complaint to the Commissioner of Community Affairs for a determination and report as to whether there is a violation of such standards. Following receipt of the report, a complaint alleging an unlawful discrimination pursuant to this section shall be investigated and prosecuted in accordance with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). Nothing in this section shall be construed to limit any enforcement authority of the Commissioner of Community Affairs or the Attorney General otherwise provided by law. Nothing in the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and P.L.1971, c.269 (C.52:32-4 et seq.) shall be deemed to limit the powers of the Attorney General under this act. The Attorney General and the Commissioner of Community Affairs shall adopt regulations to effectuate the purposes of this section.

2. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to read as follows:



**C.52:27D-123 State Uniform Construction Code; adoption.**

5. a. The commissioner shall after public hearing pursuant to section 4 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-4) adopt a State Uniform Construction Code for the purpose of regulating the structural design, construction, maintenance and use of buildings or structures to be erected and alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of buildings or structures already erected. Prior to the adoption of said code, the commissioner shall consult with the code advisory board and other departments, divisions, bureaus, boards, councils or other agencies of State Government heretofore authorized to establish or administer construction regulations.

Such prior consultations with departments, divisions, bureaus, boards, councils, or other agencies of State Government shall include but not be limited to consultation with the Commissioner of Health and Senior Services and the Public Health Council prior to adoption of a plumbing subcode pursuant to paragraph b. of this section. Said code shall include any code, rule or regulation incorporated therein by reference.

b. The code shall be divided into subcodes which may be adopted individually by the commissioner as he may from time to time consider appropriate. These subcodes shall include but not be limited to a building code, a plumbing code, an electrical code, an energy code, a fire prevention code, a manufactured or mobile home code and mechanical code.

These subcodes shall be adoptions of the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, provided that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of this act. The initial adoption of a model code or standard as a subcode shall constitute adoption of subsequent edition year publications of the model code or standard organization, except as provided for in paragraphs (1) through (4) of this subsection. Adoption of publications shall not occur more frequently than once every three years; provided, however, that a revision or amendment may be adopted at any time in the event that the commissioner finds that there exists an imminent peril to the public health, safety or welfare.

(1) Except as otherwise provided in this subsection, the edition of a model code or standard in effect as a subcode as of July 1, 1995 shall continue in effect regardless of any publication of a subsequent edition of that model code or standard. Prior to establishing the effective date for any subsequent revision or amendment of any model code or standard adopted as a subcode, the commissioner shall review, in consultation with the code advisory board, the

text of the revised or amended model code or standard and determine whether the amended or revised provisions of the model code are essential to carry out the intent and purpose of this act as viewed in contrast to the corresponding provisions of the subcode then currently in effect.

(2) In the event that the commissioner, pursuant to paragraph (1) of this subsection, determines that any amended or revised provision of a model code is essential to carry out the intent and purpose of this act as viewed in contrast to any corresponding provision of the subcode then currently in effect, the commissioner may then adopt that provision of the amended or revised model code.

(3) The commissioner, in consultation with the code advisory board, shall have the authority to review any model code or standard currently in effect as a subcode of the State Uniform Construction Code and compare it with previously adopted editions of the same model code or standard in order to determine if the subcode currently in effect is at least as consistent with the intent and purpose of this act as were previously adopted editions of the same model code or standard.

(4) In the event that the commissioner, after consultation with the code advisory board, determines pursuant to this subsection that a provision of a model code or standard currently in effect as a subcode of the State Uniform Construction Code is less consistent with the intent and purpose of this act than was the corresponding provision of a previously adopted edition of the same model code or standard, the commissioner may delete the provision in effect and substitute in its place the corresponding provision of the previously adopted edition of the same model code or standard determined to be more consistent with the intent and purpose of this act.

(5) The commissioner shall be authorized to adopt a barrier free subcode or to supplement or revise any model code adopted hereunder, for the purpose of insuring that adequate and sufficient features are available in buildings or structures so as to make them accessible to and usable by the physically handicapped. Multi-family residential buildings with four or more dwelling units in a single structure shall be constructed in accordance with the barrier free subcode; for the purposes of this subsection the term "multi-family residential buildings with four or more dwelling units in a single structure" shall not include buildings constructed as townhouses, which are single dwelling units with two or more stories of living space, exclusive of basement or attic, with most or all of the sleeping areas on one story and with most of the remaining habitable space, such as kitchen, living and dining areas, on another story, and with an independent entrance at or near grade level.

c. Any municipality through its construction official, and any State agency or political subdivision of the State may submit an application recommending to the commissioner that a State sponsored code change proposal be adopted.

Such application shall contain such technical justification and shall be submitted in accordance with such rules of procedure as the commissioner may deem appropriate, except that whenever the State Board of Education shall determine that enhancements to the code are essential to the maintenance of a thorough and efficient system of education, the enhancements shall be made part of the code; provided that the amendments do not result in standards that fall below the adopted subcodes. The Commissioner of the Department of Education shall consult with the Commissioner of the Department of Community Affairs prior to publishing the intent of the State Board to adopt any amendments to the Uniform Construction Code. Upon adoption of any amendments by the State Board of Education they shall be transmitted forthwith to the Commissioner of the Department of Community Affairs who shall publish and incorporate the amendments as part of the Uniform Construction Code and the amendments shall be enforceable as if they had been adopted by the commissioner.

At least 45 days prior to the final date for the submission of amendments or code change proposals to the National Model Code Adoption Agency, the code of which has been adopted as a subcode under this act, the commissioner shall hold a public hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), at which testimony on any application recommending a State sponsored code change proposal will be heard.

The commissioner shall maintain a file of such applications, which shall be made available to the public upon request and upon payment of a fee to cover the cost of copying and mailing.

After public hearing, the code advisory board shall review any such applications and testimony and shall within 20 days of such hearing present its own recommendations to the commissioner.

The commissioner may adopt, reject or return such recommendations to the code advisory board for further deliberation. If adopted, any such proposal shall be presented to the subsequent meeting of the National Model Code Agency by the commissioner or by persons designated by the commissioner as a State sponsored code change proposal. Nothing herein, however, shall limit the right of any municipality, the department, or any other person from presenting amendments to the National Model Code Agency on its own initiative.

The commissioner may adopt further rules and regulations pursuant to this subsection and may modify the procedures herein described when a model code change hearing has been scheduled so as not to permit adequate time to meet such procedures.

d. (Deleted by amendment, P.L.1983, c.496.)

3. Section 2 of P.L.1971, c.269 (C.52:32-5) is amended to read as follows:

**C.52:32-5 Regulations relative to access for physically handicapped.**

2. The Department of Community Affairs shall promulgate regulations which shall prescribe the kinds, types and quality of facilities in public buildings as defined in section 3 of P.L.1975, c.220 (C.52:32-6) required to provide access for the physically handicapped. The regulations shall differentiate between small public buildings, defined as those with a total gross enclosed floor area of less than 10,000 square feet, and large public buildings defined as those with a total gross enclosed floor area of 10,000 square feet or more. Small public buildings shall be required to have accessible entrances servicing the first or ground floor areas and facilities for the physically handicapped on all accessible floors, however, the provisions for small public buildings shall not apply to the conversion of a small public building to another use or to renovations or modifications of a small public building if there is insufficient space between the building and its lot lines or between the building and the public way to allow for the installation of an entrance ramp which meets the criteria of the "State Uniform Construction Code" adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.). Large public buildings shall be required to have accessible entrances, facilities for the physically handicapped on all accessible floors, and elevators or other means of access for the physically handicapped between floors, except floors which contain only mechanical equipment or floors which contain less than 3,000 square feet of total floor area.

4. Section 3 of P.L.1975, c.220 (C.52:32-6) is amended to read as follows:

**C.52:32-6 Definitions.**

3. As used in this act:

a. "Public building" means any building, structure, facility or complex used by the general public, including, but not limited to, theaters, concert halls, auditoriums, museums, schools, libraries, recreation facilities, public transportation terminals and stations, factories, office buildings, business establishments, passenger vehicle service stations, shopping centers, hotels or motels, and public eating places, constructed by any State, county or municipal government agency or instrumentality or any private individual, partnership, association or corporation, with the following exceptions: warehouse storage areas and all buildings classified as hazardous occupancies. As used herein, "hazardous occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable, or explosive material, or which has inherent characteristics that constitute a special fire hazard. As used in this act, the term shall not include residential buildings, but shall include hotels and motels. Any

handicapped facility requirements for residential buildings shall be governed by the barrier free subcode promulgated pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123).

b. "Physical handicap" means a physical impairment which confines a person to a wheelchair; causes a person to walk with difficulty or insecurity; affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger; causes faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

c. "Remodel" means, with respect to an existing public building as defined in this act, to construct an addition, alter the design or layout of said public building so that a change or modification of the entrance facilities, toilet facilities, or vertical access facilities is achieved, or make substantial repairs or alterations.

d. "Office building" means a building or structure which is used for the transaction of business; for the rendering of professional service; for other services that involve stocks of goods, wares, or merchandise in limited quantities for use incidental to office uses or sample purposes; or for display and sale purposes involving stocks of goods, wares, or merchandise incidental to these purposes. This definition is intended to include those buildings or structures classified in Use Groups "B" and "M" of the State Uniform Construction Code within the scope of section 5:23-3.14 of the New Jersey Administrative Code pertaining to building subcodes.

e. (Deleted by amendment, P.L.1981, c.35.)

f. "Enforcing agency" means the municipal construction official and subcode officials provided for in the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

5. This act shall take effect immediately and be applied retroactively from April 6, 2001.

Approved May 5, 2003.

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## CHAPTER 73

AN ACT concerning permits to purchase handguns and firearms purchaser identification cards in certain cases and amending N.J.S.2C:58-3.

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

## 1. N.J.S.2C:58-3 is amended to read as follows:

**Purchase of firearms.****2C:58-3. Purchase of Firearms.**

a. Permit to purchase a handgun. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a handgun as provided by this section.

b. Firearms purchaser identification card. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire an antique cannon or a rifle or shotgun, other than an antique rifle or shotgun, unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first exhibits said card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of subsection c. of this section and shall contain his name, address and firearms purchaser identification card number or dealer's registration number. The said certification shall be retained by the seller, as provided in section 2C:58-2a., or, in the case of a person who is not a dealer, it may be filed with the chief of police of the municipality in which he resides or with the superintendent.

c. Who may obtain. No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser identification card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

(1) To any person who has been convicted of a crime, whether or not armed with or possessing a weapon at the time of such offense;

(2) To any drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently an habitual drunkard;

(3) To any person who suffers from a physical defect or disease which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in such a manner that would interfere with or handicap him in the handling of firearms; to any person who knowingly falsifies

any information on the application form for a handgun purchase permit or firearms purchaser identification card;

(4) To any person under the age of 18 years for a firearms purchaser identification card and to any person under the age of 21 years for a permit to purchase a handgun;

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare;

(6) To any person who is subject to a court order issued pursuant to section 13 of P.L. 1991, c.261 (C.2C:25-29) prohibiting the person from possessing any firearm; or

(7) To any person who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon, explosive or destructive device or is enumerated in subsection d. of section 2 of P.L. 1997, c.117 (C.2C:43-7.2).

d. Issuance. The chief of police of an organized full-time police department of the municipality where the applicant resides or the superintendent, in all other cases, shall upon application, issue to any person qualified under the provisions of subsection c. of this section a permit to purchase a handgun or a firearms purchaser identification card.

Any person aggrieved by the denial of a permit or identification card may request a hearing in the Superior Court of the county in which he resides if he is a resident of New Jersey or in the Superior Court of the county in which his application was filed if he is a nonresident. The request for a hearing shall be made in writing within 30 days of the denial of the application for a permit or identification card. The applicant shall serve a copy of his request for a hearing upon the chief of police of the municipality in which he resides, if he is a resident of New Jersey, and upon the superintendent in all cases. The hearing shall be held and a record made thereof within 30 days of the receipt of the application for such hearing by the judge of the Superior Court. No formal pleading and no filing fee shall be required as a preliminary to such hearing. Appeals from the results of such hearing shall be in accordance with law.

e. Applications. Applications for permits to purchase a handgun and for firearms purchaser identification cards shall be in the form prescribed by the superintendent and shall set forth the name, residence, place of business, age, date of birth, occupation, sex and physical description, including distinguishing physical characteristics, if any, of the applicant, and shall state whether the applicant is a citizen, whether he is an alcoholic, habitual drunkard, drug dependent person as defined in section 2 of P.L. 1970, c.226 (C.24:21-2), whether he has ever been confined or committed to a mental institution or hospital for treatment or observation of a mental or psychiatric condition on

a temporary, interim or permanent basis, giving the name and location of the institution or hospital and the dates of such confinement or commitment, whether he has been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an inpatient or outpatient basis for any mental or psychiatric condition, giving the name and location of the doctor, psychiatrist, hospital or institution and the dates of such occurrence, whether he presently or ever has been a member of any organization which advocates or approves the commission of acts of force and violence to overthrow the Government of the United States or of this State, or which seeks to deny others their rights under the Constitution of either the United States or the State of New Jersey, whether he has ever been convicted of a crime or disorderly persons offense, whether the person is subject to a court order issued pursuant to section 13 of P.L. 1991, c.261 (C.2C:25-29) prohibiting the person from possessing any firearm, and such other information as the superintendent shall deem necessary for the proper enforcement of this chapter. For the purpose of complying with this subsection, the applicant shall waive any statutory or other right of confidentiality relating to institutional confinement. The application shall be signed by the applicant and shall contain as references the names and addresses of two reputable citizens personally acquainted with him. Application blanks shall be obtainable from the superintendent, from any other officer authorized to grant such permit or identification card, and from licensed retail dealers.

The chief police officer or the superintendent shall obtain the fingerprints of the applicant and shall have them compared with any and all records of fingerprints in the municipality and county in which the applicant resides and also the records of the State Bureau of Identification and the Federal Bureau of Investigation, provided that an applicant for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he was previously fingerprinted, and who provides other reasonably satisfactory proof of his identity, need not be fingerprinted again; however, the chief police officer or the superintendent shall proceed to investigate the application to determine whether or not the applicant has become subject to any of the disabilities set forth in this chapter.

f. Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of \$2.00, or the application for the firearms purchaser identification card together with a fee of \$5.00, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 30 days from the date of receipt of the application for residents of this State and within 45 days for nonresident applicants. A



permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. A firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the disabilities set forth in subsection c. of this section, whereupon the card shall be void and shall be returned within five days by the holder to the superintendent, who shall then advise the licensing authority. Failure of the holder to return the firearms purchaser identification card to the superintendent within the said five days shall be an offense under section 2C:39-10a. Any firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after hearing upon notice, upon a finding that the holder thereof no longer qualifies for the issuance of such permit. The county prosecutor of any county, the chief police officer of any municipality or any citizen may apply to such court at any time for the revocation of such card.

There shall be no conditions or requirements added to the form or content of the application, or required by the licensing authority for the issuance of a permit or identification card, other than those that are specifically set forth in this chapter.

g. Disposition of fees. All fees for permits shall be paid to the State Treasury if the permit is issued by the superintendent, to the municipality if issued by the chief of police, and to the county treasurer if issued by the judge of the Superior Court.

h. Form of permit; quadruplicate; disposition of copies. The permit shall be in the form prescribed by the superintendent and shall be issued to the applicant in quadruplicate. Prior to the time he receives the handgun from the seller, the applicant shall deliver to the seller the permit in quadruplicate and the seller shall complete all of the information required on the form. Within five days of the date of the sale, the seller shall forward the original copy to the superintendent and the second copy to the chief of police of the municipality in which the purchaser resides, except that in a municipality having no chief of police, such copy shall be forwarded to the superintendent. The third copy shall then be returned to the purchaser with the pistol or revolver and the fourth copy shall be kept by the seller as a permanent record.

i. Restriction on number of firearms person may purchase. Only one handgun shall be purchased or delivered on each permit, but a person shall not be restricted as to the number of rifles or shotguns he may purchase, provided he possesses a valid firearms purchaser identification card and provided further that he signs the certification required in subsection b. of this section for each transaction.

j. Firearms passing to heirs or legatees. Notwithstanding any other provision of this section concerning the transfer, receipt or acquisition of a firearm, a permit to purchase or a firearms purchaser identification card shall

not be required for the passing of a firearm upon the death of an owner thereof to his heir or legatee, whether the same be by testamentary bequest or by the laws of intestacy. The person who shall so receive, or acquire said firearm shall, however, be subject to all other provisions of this chapter. If the heir or legatee of such firearm does not qualify to possess or carry it, he may retain ownership of the firearm for the purpose of sale for a period not exceeding 180 days, or for such further limited period as may be approved by the chief law enforcement officer of the municipality in which the heir or legatee resides or the superintendent, provided that such firearm is in the custody of the chief law enforcement officer of the municipality or the superintendent during such period.

k. Sawed-off shotguns. Nothing in this section shall be construed to authorize the purchase or possession of any sawed-off shotgun.

1. Nothing in this section and in N.J.S.2C:58-2 shall apply to the sale or purchase of a visual distress signalling device approved by the United States Coast Guard, solely for possession on a private or commercial aircraft or any boat; provided, however, that no person under the age of 18 years shall purchase nor shall any person sell to a person under the age of 18 years such a visual distress signalling device.

2. This act shall take effect immediately.

Approved May 6, 2003.

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## CHAPTER 74

AN ACT appropriating \$40,000,000 from the "Hazardous Discharge Fund of 1986" to the "Hazardous Discharge Site Remediation Fund" created pursuant to section 26 of P.L.1993, c.139 (C.58:10B-4) for the cleanup of contaminated sites, appropriating \$40,000,000 from the "1996 Environmental Cleanup Fund" for State funded cleanups of contaminated sites, and canceling a previous appropriation from the "Hazardous Discharge Fund of 1986."

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

1. There is appropriated the sum of \$40,000,000 from the "Hazardous Discharge Fund of 1986" established pursuant to the "Hazardous Discharge Bond Act of 1986," P.L.1986, c.113, as amended by P.L.1989, c.182, to the "Hazardous Discharge Site Remediation Fund" created pursuant to section

26 of P.L.1993, c.139 (C.58:10B-4), for the purposes of the "Hazardous Discharge Site Remediation Fund."

2. The amount of \$40,000,000 previously appropriated to the Department of Environmental Protection from the "Hazardous Discharge Fund of 1986" for the purposes set forth in P.L.1993, c.348 is canceled.

3. There is appropriated the sum of \$40,000,000 from the "1996 Environmental Cleanup Fund" established pursuant to section 19 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, to the Department of Environmental Protection for the purpose of financing the costs incurred by the State for the remediation of hazardous discharge sites and for the construction of water supply facilities to replace potable water supplies determined by the department to be contaminated or threatened by a discharge.

4. This act shall take effect immediately.

Approved May 7, 2003.

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## CHAPTER 75

AN ACT concerning death benefits in the alternate benefit program and amending P.L.1969, c.242.

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

1. Section 10 of P.L.1969, c.242 (C.18A:66-176) is amended to read as follows:

**C.18A:66-176 Group life insurance and disability benefits; noncontributory; coverage.**

10. As of July 1, 1969 the group contract providing life insurance and disability benefits for all participants in the alternate benefit program of each public institution of higher education in the State shall be on a non-contributory basis and shall be in lieu of any non-contributory and contributory benefits provided pursuant to sections 18A:64C-11.1 to 18A:64C-11.9 (inclusive) and article 16 of chapter 65 of Title 18A of the New Jersey Statutes, chapters 278 and 281 of the laws of 1967, and chapter 181 of the laws of 1968. In accordance with the provisions of this act such group contract or contracts

providing life insurance shall be in an amount equal to 3 1/2 times the base annual salary of the participant in the alternate benefit program; provided, however, that if death shall occur after retirement, the amount payable shall equal 1/2 of the participant's base annual salary.

For purposes of this section a participant shall be deemed to be in service and covered by the group life insurance for a period of no more than 93 days while on official leave of absence without pay when such leave is due to any reason other than illness, except for a leave up to one year to fulfill a residency requirement for an advanced degree, for a period of no more than one year in the event of an official leave due to maternity and for a period of no more than two years if satisfactory evidence is presented to the Division of Pensions and Benefits that such official leave of absence without pay is due to illness. A participant shall be deemed to be on an official leave of absence only if the leave is formally approved by his employer prior to the time the leave commenced and timely notice is filed by the employer with the Division of Pensions and Benefits; the lack of such timely notice shall place the responsibility for the payment of any benefits pursuant to this section directly upon the employer if the participant was otherwise eligible for such benefits.

In the event of the death of a participant in active service in the first year of participation as a result of an accident met in the actual performance of duty at some definite time and place, the death benefit payable pursuant to this section shall be computed at the annual rate of base salary.

No beneficiary of a retired member shall be entitled to receive the death benefits payable in the event of death after retirement pursuant to this section unless such member (a) had at least 10 years of credited New Jersey participation in an alternate benefit program established pursuant to this act and (b) had attained 60 years of age and was an actively employed participant in such a program in the year immediately preceding his initial receipt of a retirement annuity.

2. Section 17 of P.L.1969, c.242 (C.18A:66-183) is amended to read as follows:

**C.18A:66-183 Designation of beneficiary; form; payment.**

17. The designation of beneficiary by a participant or retirant shall be made in writing on a form satisfactory to the Division of Pensions and Benefits and filed with the division. The participant or retirant may, from time to time and without the consent of his designee, change the beneficiary by filing a written notice of the change on a satisfactory form. The new nomination will be effective on the date the notice, in proper form, is received and any prior nomination shall thereupon become void.

If more than one beneficiary is nominated and in such nomination the participant or retirant has failed to specify their respective interests, the beneficiaries shall share equally. If any beneficiary predeceases the participant or retirant, the interest of such beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the participant or retirant, unless the participant or retirant has made written request to the contrary in his beneficiary nomination.

Any amounts due for which there is no beneficiary at the death of a participant, retirant or beneficiary shall be payable to the estate of such participant, retirant or beneficiary.

Except with regard to the payment of the group life insurance death benefit upon the death of a retirant, a participant may elect, by making written request, that the whole or any part of his group life death benefits be made payable to his beneficiary either as a life annuity or in equal installments over a period of years specified in such election, and may alter such election from time to time during his lifetime by again making such written request. In the event of a change of beneficiary, any previous arrangement by the participant or retirant under this paragraph shall be void. The election set forth in this paragraph shall not apply or be available when the beneficiary is an estate, or a corporation, partnership, association, institution, trustee, or any fiduciary.

If, at the participant's death, an amount of group life death benefit would be payable to the beneficiary in a single sum, any election with regard to such amount which was available to the participant immediately prior to his death in accordance with the preceding paragraph shall then be available to such beneficiary for the benefit of such beneficiary.

With respect to any death benefits payable on the basis of the individual retirement annuity contract or contracts, all settlement options will be made available to the participant, retirant or beneficiary as are allowed by the insurer or insurers.

The provisions of this section shall be construed separately with respect to each of the death benefits for which a beneficiary is designated by the participant or retirant.

3. This act shall take effect immediately.

Approved May 8, 2003.

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## CHAPTER 76

AN ACT prohibiting unsolicited telemarketing sales calls to certain customers, and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

**C.56:8-119 Findings, declarations relative to telemarketing calls.**

1. a. The Legislature finds and declares that telemarketing calls:
  - (1) Have interrupted the public's privacy, family life and home sanctity with unsolicited phone calls to sell products and services;
  - (2) Cannot be selectively ignored by recipients, since the calls are commonly made by means which do not enable the recipient to use caller I.D. to identify, in advance, a telemarketing call or an emergency;
  - (3) May arrive at inconvenient times when a resident or family member is retired for the night;
  - (4) May arrive when a resident or family member is having a meal and the interruption disrupts valuable time when family members are together, where family members are more remote from a telephone and when food may, during the interruption, cool, melt, thicken, dry, or undergo a change in palatability;
  - (5) May arrive at inconvenient times when a resident or family member is engaged in entertainment, a compelling activity or relaxation;
  - (6) Use a strategy called "predictive calling" which results in tens of thousands of call recipients rushing to answer phone calls, to find no one is on the line. This results in great aggravation and inconvenience to the public, merely to spare telemarketers (who won't identify themselves as the source of the aggravation) the inconvenience of finding no one home;
  - (7) Have been made to wireless phone lines resulting in cost to the recipient, and in some cases, endangering the recipient's safety when they may have been driving;
  - (8) Have been increasing in number, causing increased inconvenience, widespread public outrage and urgent appeals to protect the public from such calls;
  - (9) Are not the only means for marketers to promote their product or services to prospective customers, although marketers often claim it to be more economical and more productive than other means to provide the benefits of increased competition. Marketers have available mail, email, face to face personal solicitation and various forms of advertising;
  - (10) Are in some cases beyond the regulatory jurisdiction of this Legislature and any New Jersey statute, because they are forms of speech protected by State and federal constitutional case law.
- b. The Legislature further declares it to be the policy of this State to provide the broadest possible protection to protect public privacy and the sanctity of homes and to protect families and individuals from unsolicited interruptions.

c. It is not the intent of the State to restrict telemarketing activity where such activity is protected by State and federal case law, where such restriction is prohibited by State and federal constitutional case law or to restrict purely charitable activities.

**C.56:8-120 Definitions relative to telemarketing calls.**

2. As used in this act:

"Customer" means an individual who is a resident of this State and a prospective recipient of a telemarketing sales call.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Local exchange telephone company" means a telecommunications carrier authorized by the Board of Public Utilities to provide local telecommunications services.

"Merchandise" means merchandise as defined in subsection (c) of section 1 of P.L. 1960, c.39 (C.56:8-1), including an extension of credit.

"No telemarketing call list" or "no call list" means a list of customers in this State who desire not to receive unsolicited telemarketing sales calls.

"Telemarketer" means any entity, whether an individual proprietor, corporation, partnership, limited liability corporation or any other form of business organization, whether on behalf of itself or others, who makes residential telemarketing sales calls to a customer when the customer is in this State or any person who directly controls or supervises the conduct of a telemarketer.

"Telemarketing" means any plan, program or campaign which is conducted by telephone to encourage the purchase or rental of, or investment in, merchandise, but does not include the solicitation of sales through media other than a telephone call.

"Telemarketing sales call" means a telephone call made by a telemarketer to a customer to encourage the purchase or rental of, or investment in, merchandise, except for continuing services.

"Unsolicited telemarketing sales call" means any telemarketing sales call other than a call made:

(1) in response to an express written request of the customer called;  
or

(2) to an existing customer, which shall include the ability to collect on accounts and follow up on contractual obligations, unless the customer has stated to the telemarketer that the customer no longer desires to receive the telemarketing sales calls of the telemarketer.

**C.56:8-121 Unsolicited telemarketing calls prohibited, telemarketer registration required; fee.**

3. a. A person shall not make or cause to be made, or attempt to make or cause to be made, an unsolicited telemarketing sales call to a customer in the State of New Jersey unless that person is registered with or employed by a person who is registered with the Division of Consumer Affairs in the Department of Law and Public Safety in accordance with the provisions of this act.

b. Every telemarketer, including telemarketers whose residence or principal place of business is located outside of this State, shall annually register with the director. Application for registration shall be on a form provided by the director and shall include the name and address of the applicant and any other information which the director shall prescribe by rule. The application shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division's expenses incurred in administering and enforcing this act.

**C.56:8-122 Additional requirements for registration.**

4. In addition to any other procedure, condition or information required by this act:

a. Every applicant for registration shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, N.J.S.2C:5-2, N.J.S.2C:12-3, N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:20-4, N.J.S.2C:20-5, N.J.S.2C:20-7, N.J.S.2C:20-9, N.J.S.2C:21-1, N.J.S.2C:21-2, section 1 of P.L.1983, c.565 (C.2C:21-2.1), section 2 of P.L.1997, c.385 (C.2C:21-2.3), N.J.S.2C:21-3, N.J.S.2C:21-4, N.J.S.2C:21-5, N.J.S.2C:21-6, N.J.S.2C:21-7, N.J.S.2C:21-9 through N.J.S.2C:21-17, N.J.S.2C:21-19, or section 3 of P.L.1994, c.121 (C.2C:21-25), chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, or N.J.S.2C:30-3.

b. Each disclosure statement may be reviewed and used by the director as grounds for denying, suspending or revoking registration, except that in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.) apply, the director shall comply with the requirements of that act.

c. An applicant whose registration is denied, suspended or revoked pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing



in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

**C.56:8-123 Refusal to issue, renew; revocation of license.**

5. a. The director may refuse to issue or renew, and may revoke, any registration for failure to comply with, or violation of, the provisions of this act or any regulation promulgated pursuant to this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

b. The director, in lieu of revoking a registration, may suspend the registration for a reasonable period of time, or assess a penalty in lieu of suspension, or both, and may issue a new registration, notwithstanding the revocation of a prior registration, if the applicant is found to have become entitled to the new registration.

**C.56:8-124 Registration number to remain property of State.**

6. a. Any registration number issued by the director shall remain the property of the State and shall be immediately returned to the director upon its suspension, non-renewal or revocation pursuant to this act.

b. The issuance of a registration to an applicant who is a nonresident of this State shall be deemed to be the applicant's irrevocable consent that service of process in any action or proceeding may be made upon the applicant by service upon the director.

**C.56:8-125 Reporting of change in information.**

7. Any material change in any information filed with the director pursuant to this act shall be reported in writing to the director within 30 business days of the change.

**C.56:8-126 Maintenance of bond by registrant.**

8. a. The director may establish that any person required to be registered pursuant to this act maintain a bond issued by a surety authorized to transact business in this State. The principal sum of the bond shall not be less than \$25,000, which amount the director may adjust by regulation. The bond shall be filed or deposited with the director for the use of any person who is damaged or suffers any loss for any violation of this act. Any person claiming against

the bond may maintain an action at law against the surety or director, as the case may be. The aggregate liability of the surety or director to all persons for all breaches of the conditions of the bond held by the director shall not exceed the amount of the bond held by the director.

b. The director may also establish that any person required to be registered pursuant to this act file a copy of the bond with the director and a certificate by the surety that the surety will notify the director at least 10 days in advance of the date of any cancellation or material change in the bond.

**C.56:8-127 Establishment, maintenance of no telemarketing call list.**

9. The division shall establish and maintain a no telemarketing call list. The division may contract with a private vendor to establish and maintain the no call list, provided:

a. the private vendor meets standards established by the division by regulations that require that the vendor:

- (1) is financially sound;
- (2) has the capacity to perform the service required;
- (3) has a record of past performance; and
- (4) does not have a conflict of interest with a telemarketer or an association thereof; and

b. the contract requires the vendor to provide the list in a printed hard copy format, and in any other format, as prescribed by the division.

**C.56:8-128 Requirements relative to telemarketing sales calls.**

10. a. No telemarketer shall make or cause to be made any unsolicited telemarketing sales call to any customer more than 45 days after the customer's telephone number appears on the no telemarketing call list established pursuant to section 9 of this act.

b. A telemarketer making a telemarketing sales call shall, within the first 30 seconds of the call, identify the telemarketer's name, the person on whose behalf the call is being made, and the purpose of the call.

c. A telemarketer shall not make or cause to be made any unsolicited telemarketing sales call to any customer between the hours of 9 p.m. and 8 a.m., local time, at the customer's location.

d. A telemarketer shall not intentionally use any method that blocks a caller identification service from displaying caller identification information or otherwise circumvents a customer's use of a telephone caller identification service.

**C.56:8-129 Inclusion on list, notice to customers of existence of list; directory information.**

11. a. A customer who desires to be included on the no telemarketing call list shall notify the division by calling a toll-free number provided by the division, or in any other manner and at a time prescribed by the division. A

customer who is included on the no call list shall be removed from the no call list upon the customer's written request. The division shall update the no call list not less than quarterly and shall make the no call list available to telemarketers and others for a fee that the division shall prescribe.

b. A local exchange telephone company shall include, in every telephone directory published after the effective date of this act, notice concerning the provisions of this act as those provisions relate to the rights of customers with respect to telemarketers and the no telemarketing call list. A local exchange telephone company shall also enclose, at least semiannually, in every telephone bill, a notice concerning the provisions of this act as those provisions relate to the rights of customers with respect to telemarketers and the no telemarketing call list.

**C.56:8-130 Prohibited practices; "commercial mobile service", "commercial mobile service device" defined.**

12. a. No telemarketer shall make or cause to be made any telemarketing sales call to a commercial mobile service device of any customer, except that a telemarketer that is a commercial mobile services company may call its customer using its commercial mobile services if its customer will not incur telecommunication charges or a usage allocation deduction as a result of such call and the call is directly related to the commercial mobile services of the commercial mobile services company, unless the customer has stated to the commercial mobile services company that the customer no longer desires to receive these calls.

b. For purposes of this section, "commercial mobile service" means a type of mobile telecommunications service as defined in subsection (d) of section 332 of the Communications Act of 1934 (47 U.S.C. s.332(d)); and "commercial mobile service device" means any equipment used for the purpose of providing commercial mobile service.

c. The provisions of this section shall apply to those numbers for commercial mobile service devices which the division is able to distinguish from numbers for devices for telecommunications service as defined in section 2 of P.L.1991, c.428 (C.48:2-21.17) on the 30th day following certification of such to the Governor and the Legislature.

**C.56:8-131 Construction of act.**

13. Nothing in this act shall be construed to restrict any right which a person may have under any other statute or at common law.

**C.56:8-132 Violations, penalties; exceptions.**

14. A violation of any provision of this act shall be an unlawful practice subject to the penalties applicable pursuant to section 1 of P.L.1966, c.39

(C.56:8-13) and section 2 of P.L.1999, c.129 (C.56:8-14.3), except that a person may not be held liable for violating this act if:

- a. the person has obtained a copy of, and updated quarterly, the no call list and has established and implemented written policies and procedures related to the requirements of this act;
- b. the person has trained telemarketers in the person's employ in the requirements of this act;
- c. the person maintains records demonstrating compliance with subsections a. and b. of this section and the requirements of this act; and
- d. any unsolicited telemarketing sales call is an isolated call made no more than one time in a 12-month period.

**C.56:8-133 "Consumer Protection Fund."**

15. There is hereby established in the General Fund a special dedicated, non-lapsing fund to be known as the "Consumer Protection Fund," which shall be administered by the State Treasurer. The State Treasurer shall deposit into the "Consumer Protection Fund" all fees and penalties collected pursuant to this act.

The Legislature shall annually appropriate from the fund monies to the division for the payment of costs of producing and distributing educational materials and conducting educational activities relating to the promotion of the no telemarketing call list and all related costs and expenditures incurred in the administration of this act.

**C.56:8-134 Rules, regulations.**

16. The division, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act, which shall include, but not be limited to:

- a. provisions governing the availability and distribution of the no call list established pursuant to section 9 of this act;
- b. any other matters relating to the no call list established pursuant to section 9 of this act that the division deems necessary; and
- c. such procedures as may be most effective to ensure that the no call list is up-to-date and accurately reflects the names and telephone numbers of persons wishing to be on the no call list and procedures to identify telephone numbers that have been reallocated to persons other than those who have indicated that they wish to be on the no call list. Such procedures may include, but not be limited to, establishing a means of matching the no call list with the names and numbers of persons with current listings supplied by the local exchange telephone companies, or establishing a requirement for re-enrollment to the list from time to time.

**C.56:8-135 Information not considered government record.**

17. Information submitted to the division by a customer pursuant to the provisions of this act shall not be a government record under P.L. 1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to government records except as provided in this act.

18. This act shall take effect immediately but shall remain inoperative until the Director of the Division of Consumer Affairs in the Department of Law and Public Safety certifies to the Attorney General that the division is prepared to establish and maintain a no telemarketing call list, but such operative date shall be no later than the 365th day following enactment, except that the division may take such anticipatory action as shall be necessary to implement the provisions of the act in advance of the operative date.

Approved May 21, 2003.

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**CHAPTER 77**

AN ACT concerning the licensure of home inspectors and amending P.L. 1997, c.323.

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

1. Section 12 of P.L. 1997, c.323 (C.45:8-72) is amended to read as follows:

**C.45:8-72 Licensing of individuals currently engaged in practice of home inspection; criteria.**

12. During the first 360 days after the effective date of P.L. 2003, c.77, the committee shall issue to any individual upon application a home inspector license, provided that the applicant meets the requirements of subsections a., b., and d. of section 8 of this act and a. has been engaged in the practice of home inspections for compensation for not less than three years prior to June 30, 2004 and has performed not less than 300 home inspections for compensation prior to June 30, 2004; or b. has performed not less than 400 home inspections for compensation prior to June 30, 2004.

2. This act shall take effect immediately.

Approved May 23, 2003.

## CHAPTER 78

AN ACT concerning certain publication requirements for elected officials in municipalities operating under the commission form of government and amending R.S.40:73-1.

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

**Qualifications sole test for election, appointment.**

1. R.S.40:73-1 is amended to read as follows:

All officers and employees shall be elected or appointed with reference to their qualifications and fitness, for the good of the public service and without reference to their political faith or party affiliations. No officer or candidate for office in any such municipality shall directly or indirectly give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office to which he may have been elected or appointed.

2. This act shall take effect immediately.

Approved May 23, 2003.

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CHAPTER 79

AN ACT abolishing the New Jersey Highway Authority, transferring its projects and functions to the New Jersey Turnpike Authority, altering or increasing certain powers of the New Jersey Turnpike Authority, supplementing and amending the body and title of P.L.1948, c.454 (C.27:23-1 et seq.) and revising various parts of the statutory law.

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

**C.27:23-41 Findings, declarations relative to transfer of functions of New Jersey Highway Authority to New Jersey Turnpike Authority.**

1. The Legislature finds and declares:
  - a. Increasing traffic and related congestion are impairing the quality of life and economy of the State. In order to deal with the problems of increasing traffic and congestion, it is necessary to provide for a more coordinated and rational organization of the State's two major toll roads by abolishing the New Jersey Highway Authority and providing for the acquisition by the New Jersey

Turnpike Authority of the Garden State Parkway and all other projects of the New Jersey Highway Authority.

b. The abolishment of the New Jersey Highway Authority and the transfer of its functions to the New Jersey Turnpike Authority will permit improved transportation planning, facilitate more efficient operations, improve the capital budget process and achieve administrative economies.

c. Joining the two highways under one umbrella will maintain the historic integrity and separate identities of each roadway while bringing to each economies of scale and financial savings in operations, purchasing, maintenance and administration. These economies and the ability to pool capital resources will create a safer, less congested, better maintained and improved road network. Doing so is vital to fostering a strong State economy and achieving the high quality of life we derive from it.

d. The abolishment and transfer will also permit implementation of effective remedies to address the financial, operational and administrative problems that have hitherto plagued the E-ZPass system. This enactment will stem the brewing E-ZPass crisis threatening the very success of the E-ZPass system now enjoyed by nearly 60% of the drivers on the two roadways for its convenience and easing of congestion by permitting a repayment of over \$300 million in E-ZPass debt and cost overruns without a toll increase.

2. Section 1 of P.L.1948, c.454 (C.27:23-1) is amended to read as follows:

**C.27:23-1 Transportation projects.**

1. Transportation projects. In order to facilitate vehicular traffic and remove the present handicaps and hazards on the congested highways in the State, and to provide for the acquisition and construction of modern express highways embodying every known safety device including center divisions, ample shoulder widths, long sight distances, multiple lanes in each direction and grade separations at all intersections with other highways and railroads, and for the purposes enumerated in section 1 of P.L.2003, c.79 (C.27:23-41), the New Jersey Turnpike Authority is hereby authorized and empowered to acquire, construct, maintain, improve, manage, repair and operate transportation projects (as hereinafter defined) or any part thereof at such locations as shall be established by the authority in its discretion or by law, and to issue transportation revenue bonds of the Authority, payable from tolls, other revenues, proceeds of bonds and other available sources to finance such projects.

**C.27:23-42 Powers, rights, duties conferred as of transfer date.**

3. a. Until the Transfer Date, the New Jersey Turnpike Authority (hereinafter the "authority") shall not exercise any powers, rights or duties conferred by this act or by any other law in any way which will interfere with the powers, rights and duties of the New Jersey Highway Authority (hereinafter

the "Highway Authority"). The authority shall not before the Transfer Date exercise any powers of the Highway Authority. The authority and the Highway Authority are directed to cooperate with each other so that the Transfer Date shall occur as soon as practicable after the date of enactment of this act, and both authorities shall make available information concerning their property and assets, outstanding bonds and other debts, obligations, liabilities and contracts, operations and finances as the authority may require to provide for the retirement of any outstanding bonds, notes or other obligations of either authority and the efficient exercise by the authority of all powers, rights and duties conferred upon it by this act.

b. On the Transfer Date: (1) The authority shall assume all of the powers, rights, assets and duties of the Highway Authority to the extent provided by this act, and such powers shall then and thereafter be vested in and shall be exercised by the authority.

(2) The terms of office of the members of the Highway Authority shall terminate, the officers having custody of the funds of the Highway Authority shall deliver those funds into the custody of the chief financial officer of the authority, the property and assets of the Highway Authority shall, without further act or deed, become the property and assets of the authority, and the Highway Authority shall cease to exist.

(3) The officers and employees of the Highway Authority are transferred to the authority and shall become employees of the authority until determined otherwise by the authority.

Nothing in this act shall be construed to deprive any officers or employees of the Highway Authority of their rights, privileges, obligations or status with respect to any pension or retirement system. The employees shall retain all of their rights and benefits under existing collective negotiation agreements or contracts until such time as new or revised agreements or contracts are agreed to. All existing employee representatives shall be retained to act on behalf of those employees until such time as the employees shall, pursuant to law, elect to change those representatives. Nothing in this act shall affect the civil service status, if any, of those officers or employees.

(4) All debts, liabilities, obligations and contracts of the Highway Authority, except to the extent specifically provided or established to the contrary in this act, are imposed upon the authority, and all creditors of the Highway Authority and persons having claims against or contracts with the Highway Authority of any kind or character may enforce those debts, claims and contracts against the authority as successor to the Highway Authority in the same manner as they might have had against the Highway Authority, and the rights and remedies of those holders, creditors and persons having claims against or contracts with the Highway Authority shall not be limited or restricted in any manner by this act.



(5) In continuing the functions, contracts, obligations and duties of the Highway Authority, the authority is authorized to act in its own name or in the name of the Highway Authority as may be convenient or advisable under the circumstances from time to time.

(6) Any references to the Highway Authority in any other law or regulation shall be deemed to refer and apply to the authority.

(7) All rules and regulations of the Highway Authority shall continue in effect as the rules and regulations of the authority until amended, supplemented or rescinded by the authority in accordance with law. Notwithstanding any requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the authority may adopt regulations, after notice and an opportunity for public comment, amending, supplementing, modifying or repealing the regulations of both authorities or either of them. Such regulations shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months from the Transfer Date and they may, thereafter, be amended, adopted or readopted in accordance with the "Administrative Procedure Act." Regulations of the Highway Authority inconsistent with the provisions of this act or of regulations of the authority shall be deemed void if so judged by the authority acting pursuant to the provisions of this paragraph.

(8) All operations of the Highway Authority shall continue as operations of the authority until altered by the authority as may be permitted pursuant to this act.

(9) The powers vested in the authority by this act shall be construed as being in addition to and not in diminution of the powers heretofore vested by law in the Highway Authority to the extent not otherwise altered or provided for in this act.

c. As soon as practicable after the Transfer Date, the authority shall notify the Governor and the presiding officers of each house of the Legislature that the transfer has occurred, the date of the transfer and any other information concerning the transfer the authority deems appropriate.

d. On and after the Transfer Date, no officer or employee of the authority shall be granted permanent tenure at the authority.

**C.27:23-43 Authorization relative to existing projects, facilities of the Highway Authority.**

4. The authority, pursuant to the provisions of this act, is hereby authorized to construct, maintain, improve, manage, repair and operate a project known as the "Garden State Parkway," authorized pursuant to section 20 of P.L.1952, c.16 (C.27:12B-20), repealed by this act, and any other existing project or facility of the Highway Authority.

5. Section 2 of P.L.1948, c.454 (C.27:23-2) is amended to read as follows:

**C.27:23-2 Credit of State not pledged.**

2. Transportation revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but such bonds, unless refunded by bonds of the Authority created in this act, shall be payable from funds pledged or available for their payment as authorized herein. All such transportation revenue bonds shall contain on the face thereof a statement to the effect that the Authority is obligated to pay the same or the interest thereon only from the tolls, other revenues, proceeds of bonds and other available sources, and that, except as provided in section 41 of P.L.2003, c.79 (C.27:23-44), neither the State nor any political subdivision thereof is obligated to pay the principal thereof, premium or the interest thereon and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of, premium or the interest on such bonds.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the authority of this act and, except as provided in section 41 of P.L.2003, c.79 (C.27:23-44), nothing in this act contained shall be construed to authorize the Authority to incur indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

6. Section 3 of P.L.1948, c.454 (C.27:23-3) is amended to read as follows:

**C.27:23-3 New Jersey Turnpike Authority.**

3. New Jersey Turnpike Authority. (A) There is hereby established in the State Department of Transportation a body corporate and politic, with corporate succession, to be known as the "New Jersey Turnpike Authority." The authority is hereby constituted an instrumentality exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this act in the acquisition, construction, operation, improvement, management, repair and maintenance of transportation projects or any part thereof shall be deemed and held to be an essential governmental function of the State.

(B) The New Jersey Turnpike Authority shall consist of eight members, as follows: the Commissioner of Transportation, ex officio, or his designee; five members appointed by the Governor, with the advice and consent of the Senate, and two members appointed by the Governor, one upon recommendation of the President of the Senate and the other upon recommendation of the Speaker of the General Assembly, each of whom shall be a resident of the State and shall have been a qualified elector therein for a period of at least

one year next preceding his appointment. Each appointed member of the authority shall serve for a term of five years and until his successor is appointed and has qualified; except that of the first appointments hereunder, one shall be for a term of two years and one for a term of three years, and they shall serve until their respective successors are appointed and have qualified. The term of each of the first appointees hereunder shall be designated by the Governor. Each appointed member of the authority may be removed from office by the Governor, for cause, after a public hearing. Each member of the authority before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State. Any vacancies in the appointed membership of the authority occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

(C) The Governor shall designate one of the members of the authority as chairman thereof and another member as vice chairman thereof. The chairman and vice chairman of the authority so designated shall serve as such at the pleasure of the Governor and until their respective successors have been designated. The authority shall elect a secretary and a treasurer who need not be members. At the option of the authority the same person may be elected to serve both as secretary and treasurer. Five members of the authority shall constitute a quorum and the vote of five members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(D) Each member of the authority shall execute a surety bond in the penal sum of \$25,000.00 and the treasurer shall execute a surety bond in the penal sum of \$50,000.00, each such surety bond to be conditioned upon the faithful performance of the duties of the office of such member or treasurer, as the case may be, to be executed by a surety company authorized to transact business in the State of New Jersey as surety and to be approved by the Attorney General and filed in the office of the Secretary of State.

(E) The members of the authority shall not receive compensation for their services as members of the authority. Each member shall be reimbursed by the authority for his actual expenses necessarily incurred in the performance of his duties. Notwithstanding the provisions of any other law, no member shall be deemed to have forfeited, nor shall the member forfeit, the member's office or employment or any benefits or emoluments thereof by reason of the member's acceptance of the office of ex officio member of the authority or the member's services therein.

(F) No resolution or other action of the authority providing for the issuance of bonds, refunding bonds or other obligations or for the fixing, revising or

adjusting of tolls for the use of any transportation project or parts or sections thereof shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and at least one of the following: the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting such action shall be null and of no effect. The Governor may approve all or part of the action taken at such meeting prior to said 10-day period. The powers conferred in this subsection (F) upon the Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection (F) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

(G) The ex officio member of the authority may designate an employee of his department to represent him at meetings of the authority. A designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. The designations shall be in writing and delivered to the authority and shall be effective until revoked or amended by a writing delivered to the authority.

7. Section 1 of P.L.1970, c.184 (C.27:23-3.2) is amended to read as follows:

**C.27:23-3.2 Reports, Capital Project and Investment Plan.**

1. Notwithstanding any inconsistent provisions of the act hereby supplemented or any other law, the New Jersey Turnpike Authority shall submit to the Governor, the Chairs of the Appropriations Committees of the Senate and General Assembly, and the Director of the Division of Budget and Accounting of the Department of the Treasury, the following reports:

a. Within 90 days after the end of each of its fiscal years, a complete and detailed report of (1) its operations and accomplishments during said year; (2) its receipts and disbursements, or revenues and expenses, during said year

in accordance with the categories or classifications established by the authority for its own operating and capital outlay purposes and in accordance with such other categories and classifications as may be designated by any of the persons enumerated in section 1 of this act; (3) its assets and liabilities at the end of said year, including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; (4) a schedule of its bonds outstanding at the end of said year, together with a statement of the amounts redeemed, authorized, issued and defeased during that year; and (5) a listing of all contracts exceeding \$100,000.00 entered into during said year;

b. Before the close of each of its fiscal years, a complete and detailed report of its operating and capital construction budget, in the form and detail established by the authority for its own operating and capital outlay budget and in such form and detail as may be designated by any of the persons enumerated in section 1 of this act for the next succeeding fiscal year, including its receipts and disbursements or revenues and expenses, for the prior fiscal year and its estimated receipts and disbursements, or revenues and expenses, for said year and for the succeeding fiscal year;

c. Prior to December 1 of each year, the authority shall prepare and file with the commissioner a Capital Project and Investment Plan that details proposed transportation projects and proposed work on existing transportation projects that further the goals of attaining coordinated and integrated Statewide and regional transportation systems. The plan shall address, among other matters, the interconnection of the New Jersey Turnpike and the Garden State Parkway with other transportation systems. The plan should also consider the impact of an improved transportation system on the State's economy. The commissioner is authorized to appoint a five-member advisory committee composed of persons with experience in transportation planning, finance, or economics to review and make recommendations to the commissioner as to the plan.

The commissioner shall include as part of the Annual Transportation Capital Program, submitted pursuant to section 22 of P.L. 1984, c. 73 (C.27:1B-22), the Capital Project and Investment Plan for review by the Legislature, but no authorization or approval by the Legislature shall be required for the authority to undertake the projects proposed in the plan or to undertake work on existing transportation projects.

8. Section 4 of P.L. 1948, c. 454 (C.27:23-4) is amended to read as follows:

**C.27:23-4 Definitions.**

4. Definitions. As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

"Act" means P.L.1948, c.454 (C.27:23-1 et seq.), as amended and supplemented.

"Authority" means the New Jersey Turnpike Authority, created by section 3 of this act, or, if said authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the authority shall be given by law.

"Bonds" or "transportation revenue bonds" means any bonds, refunding bonds, notes or other obligations issued by the authority authorized under the provisions of this act or issued by or for the Highway Authority.

"Commissioner" means the Commissioner of Transportation.

"Construction" or "construct" means the planning, designing, construction, development, reconstruction, rehabilitation, redevelopment, replacement, repair, extension, enlargement, improvement and betterment of highway and transportation projects, and includes the demolition, clearance and removal of buildings or structures on land acquired, held, leased or used for those projects.

"Cost" means all or any part of the expenses incurred in connection with the acquisition, construction, operation, management and maintenance of any real property, lands, structures, real or personal property rights, rights-of-way, franchises, easements, and interests acquired or used for a project; any financing charges and reserves for the payment of principal, premium and interest on bonds; the expenses of engineering, appraisal, architectural, accounting, financial, legal and other consulting services; and other expenses as may be necessary, desirable, convenient, or incident to the financing, acquisition, construction, operation, improvement, management, repair and maintenance of a project.

"Credit Agreement" means loan agreement, lease agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement to purchase bonds, purchase or sale agreements, or commitments or other contracts or agreements authorized and approved by the authority in connection with the authorization, issuance, security, purchase, tender, redemption, or payment of bonds.

"Department" means the Department of Transportation.

"Feeder road" means any road or highway project that in the determination of the authority is necessary, desirable or convenient to create or facilitate access to a transportation project.

"Garden State Arts Center" means the Garden State Arts Center, sometimes referred to as the PNC Bank Arts Center, a highway project of the authority.

"Highway project" means the acquisition, operation, improvement, management, repair, construction, including express E-ZPass where determined by the authority, and maintenance of the New Jersey Turnpike and of the Garden State Parkway, including the demolition and removal of toll houses and toll

barriers, and of the Garden State Arts Center, as transferred to the authority pursuant to P.L.2003, c.79 (C.27:23-41 et al.), and of any other highway or feeder road at the locations and between the termini as may hereafter be established by the authority or by law and acquired or constructed under the provisions of this act by the authority, and shall include but not be limited to all bridges, parking facilities, public highways, feeder roads, tunnels, overpasses, underpasses, interchanges, traffic circles, grade separations, entrance and exit plazas, approaches, toll houses, service areas, stations and facilities, communications facilities, administration, storage and other buildings and facilities, and other structures directly or indirectly related to a transportation project, intersecting highways and bridges and feeder roads which the authority may deem necessary, desirable, or convenient in its discretion for the operation, maintenance or management, either directly or indirectly, of a transportation project, and includes any planning, design or other preparation work necessary for the execution of any highway project, and adjoining park or recreational areas and facilities, directly or indirectly related to the use of a transportation project as the authority shall find to be necessary and desirable, and the costs associated therewith.

"Land and improvements" means any area or lands, any interest, right or title in land, including but not limited to, any reversionary right, fee, license or leasehold interest and any real or personal property, structure, facility, building or equipment.

"Owner" means all individuals, copartnerships, associations, private or municipal corporations and all political subdivisions of the State having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

"Parking facility" means any area or place, garage, building, or other improvement or structure for the parking or storage of motor or other vehicles, including but not limited to all real property and personal property, driveways, roads and other structures or areas necessary, useful or convenient for access to a facility from a public street, road or highway, or from any project; meters, mechanical equipment necessary, useful or convenient for or in connection with that parking or storage; and any structures, buildings, space or accommodations, whether constructed by the authority or by the lessee, to be leased for any business, commercial or other use, including the sale of gasoline or accessories for, or the repair or other servicing of automobiles and other motor vehicles, or motorist services, if, in the opinion of the authority, the inclusion, provision and leasing is necessary, desirable or convenient to assist in defraying the expenses of the authority and make possible the operation of the parking facility at reasonable rates.

"Public highway" means all public highways, roads and streets in the State, whether maintained by the State or by any county, city, borough, town, township, village or other political subdivision.

"Real property" means lands within the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein.

"Transfer Date" means, with respect to the assumption by the authority of the powers, duties, assets and responsibilities of the New Jersey Highway Authority, the date on which the Chair of the authority and the commissioner certify to the Governor that: (i) all bonds issued by the New Jersey Highway Authority cease to be outstanding within the meaning of the resolutions pursuant to which those bonds were issued; and (ii) upon which the authority assumes all debts, and statutory responsibilities and obligations of the New Jersey Highway Authority.

"Transportation project" or "project" means, in addition to highway projects, any other transportation facilities or activities determined necessary or appropriate by the authority in its discretion to fulfill the purposes of the authority, and the costs associated therewith.

9. Section 5 of P.L.1948, c.454 (C.27:23-5) is amended to read as follows:

**C.27:23-5 General grant of powers.**

5. General grant of powers. The authority shall be a body corporate and politic and shall have perpetual succession and shall have the following powers:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To maintain an office at such place or places within the State as it may designate and to organize itself into such sub-departments, operating divisions or units as it deems appropriate;

(d) To sue and be sued in its own name;

(e) To acquire, improve, construct, maintain, repair, manage, and operate transportation projects or any part thereof at such locations as shall be established by law or by the authority;

(f) To borrow money and issue negotiable bonds for any of its corporate purposes, and to secure the same through the pledging of tolls and other revenues and proceeds of such bonds, or other available sources, and to refund its bonds, and to enter into any credit agreement, all as provided in this act;

(g) In the exercise of any of its powers, by resolution to fix and revise from time to time and charge and collect tolls, fees, licenses, rents, concession charges and other charges for each transportation project or any part thereof constructed or acquired by it. No toll revenues derived from the New Jersey



Turnpike or the Garden State Parkway shall be used or available for any transportation project other than a highway project and all transportation projects other than highway projects shall be self-sustaining; provided however that such toll revenues may be used to finance or support the costs of non-highway transportation projects on an interim basis according to such terms, with or without interest, as the authority shall establish;

(h) To establish rules and regulations for the use of any project including restrictions on the type, weight and size of vehicles utilizing transportation projects, and also including the power to exclude from any part of a highway project any traffic other than passenger automobiles if the authority finds that such part is not suitable or sufficient as a highway to carry mixed traffic;

(i) To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(j) To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, except as against the State of New Jersey, any land and other property, which it may determine is reasonably necessary for any transportation project or feeder road or for the relocation or reconstruction of any highway by the authority under the provisions of this act and any and all rights, title and interest in such land and other property, including public lands, parks, playgrounds, reservations, highways or parkways, owned by or in which the State of New Jersey or any county, city, borough, town, township, village, or other political subdivision of the State of New Jersey has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect transportation projects.

Upon the exercise of the power of eminent domain, the compensation to be paid thereunder shall be ascertained and paid in the manner provided in the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), insofar as the provisions thereof are applicable and not inconsistent with the provisions contained in this act. The authority may join in separate subdivisions in one petition or complaint the descriptions of any number of tracts or parcels of land or property to be condemned and the names of any number of owners and other parties who may have an interest therein and all such land or property included in said petition or complaint may be condemned in a single proceeding; provided, however, that separate awards be made for each tract or parcel of land or property; and provided, further, that each of said tracts or parcels of land or property lies wholly in or has a substantial part of its value lying wholly within the same county.

Upon the filing of such petition or complaint or at any time thereafter the authority may file with the clerk of the county in which such property is located

and also with the Clerk of the Superior Court a declaration of taking, signed by the authority, declaring that possession of one or more of the tracts or parcels of land or property described in the petition or complaint is thereby being taken by and for the use of the authority. The said declaration of taking shall be sufficient if it sets forth: (1) a description of each tract or parcel of land or property to be so taken sufficient for the identification thereof, to which there may or may not be attached a plan or map thereof; (2) a statement of the estate or interest in the said land or property being taken; and (3) a statement of the sum of money estimated by the authority by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration.

Upon the filing of the said declaration, the authority shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration.

Upon the filing of the said declaration as aforesaid and depositing with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration, the authority, without other process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in said declaration and may forthwith enter into and take possession of said land or property, it being the intent of this provision that the proceedings for compensation or any other proceedings relating to the taking of said land or interest therein or other property shall not delay the taking of possession thereof and the use thereof by the authority for the purpose or purposes for which the authority is authorized by law to acquire or condemn such land or other property or interest therein.

The authority shall cause notice of the filing of said declaration and the making of said deposit to be served upon each party in interest named in the petition residing in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each party in interest residing out of the State, by mailing a copy thereof to him at his residence, if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Upon the application of any party in interest and after notice to other parties in interest, including the authority, any judge of the Superior Court assigned to sit for said county may order that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said proceeding; provided, that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice as herein provided and hearing, may determine his liability, if

any, for the return of such difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the authority the difference between the amount of the deposit and the amount of the award, with interest at the rate of six per centum (6%) per annum thereon from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the authority, unless the amount of the deposit or any part thereof shall have theretofore been distributed, in which event the court, on petition of the authority and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the authority for such difference against the party or parties liable for the return thereof. The authority shall cause notice of the date fixed for such hearing to be served upon each party thereto residing in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each party residing out of the State, by mailing a copy to him at his residence, if known. In the event that the residence of any party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made at least 10 days before the date fixed for such hearing.

Whenever under the "Eminent Domain Act of 1971" the amount of the award may be paid into court, payment may be made into the Superior Court and may be distributed according to law;

(k) To designate the locations, and establish, limit and control such points of ingress to and egress from each highway or transportation project as may be necessary or desirable in the judgment of the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(l) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act and to enter into contracts with federal, State and local governments and private entities for the financing, administration, operation, management and construction of transportation projects;

(m) To appoint such additional officers, who need not be members of the authority, as the authority deems advisable, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other similarly situated employees and agents as may be necessary in its judgment; to fix their compensation; and to promote and discharge such officers, employees and agents, all without regard to the provisions of Title 11A of the New Jersey Statutes;

(n) To receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the acquisition or construction of any transportation project or any part thereof, and to receive and accept aid or contributions, from any source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(o) To do all acts and things necessary or convenient to carry out the powers expressly or impliedly granted in this act;

(p) Subject to any agreement with the bondholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such obligations, securities and other investments as the authority shall deem prudent;

(q) To apply for, receive and accept from any federal agency, any bistate agency, or the State and any subdivision thereof, grants for or in aid of the planning, acquisition, management, maintenance, operation or construction of any project, and to receive and accept aid or contributions from any other public or private source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which those grants and contributions may be made;

(r) To procure and enter into contracts for any type of insurance and to indemnify against loss or damage to property from any cause, including the loss of use and occupancy and business interruption, death or injury of any person, employee liability, any act of any member, officer, employee or servant of the authority, whether part-time, compensated or uncompensated, in the performance of the duties of office or employment or any other insurable risk or any other losses in connection with property, operations, assets or obligations in any amounts and from any insurers as are deemed desirable. In addition, the authority may carry its own liability insurance;

(s) To adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to provide open and competitive procedures for awarding contracts for towing and storage services. Towing and storage services on a highway project may be provided on a rotating basis, provided that the authority determines that there would be no additional cost to the authority, excepting administrative costs, as a result of those services being provided on a rotating basis. The regulations shall fix maximum towing and storage fees, and establish objective criteria to be considered in awarding a contract for towing and storage services which shall include, but shall not be limited to, reliability, experience, response time, acceptance of credit cards and prepaid towing contracts, adequate equipment to safely handle a sufficient volume of common vehicle types under a variety of traffic and weather conditions, location of storage and repair facilities, security of vehicles towed or stored, financial return to the authority, maintenance of adequate liability

insurance and appropriate safeguards to protect the personal safety of customers, including considerations related to the criminal background of employees. The Division of Consumer Affairs in the Department of Law and Public Safety shall provide, at the authority's request, a report to the authority on any prospective contractor for which the division has information relevant to the prospective contractor's service record, subject to the provisions of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). The Division of Insurance Fraud Prevention in the Department of Banking and Insurance also shall provide, at the authority's request, a report to the authority on any prospective contractor for which the division has information relevant to the prospective contractor's service record, subject to the "New Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.);

(t) To adopt, prior to the Transfer Date and notwithstanding any other provision of law to the contrary, a resolution authorizing the issuance of bonds, notes or other obligations on such terms as otherwise provided for in this act for the retirement by defeasance, redemption, secondary market purchase, tender payment at maturity or otherwise, of all of the New Jersey Highway Authority's outstanding bonds, notes or other obligations, as if the Transfer Date transferring to the authority the rights, duties and obligations to operate, maintain and manage the Garden State Parkway had already occurred; and

(u) To transfer, sell, dispose of, or otherwise relinquish all right, title, or interest in the Garden State Arts Center, and any related or auxiliary facilities, to the New Jersey Sports and Exposition Authority, established by P.L.1971, c.137 (C.5:10-1 et seq.), or to any other entity, according to such terms and process as the authority may establish in its discretion.

10. Section 2 of P.L.1949, c.40 (C.27:23-5.2) is amended to read as follows:

**C.27:23-5.2 Authorization relative to feeder road.**

2. The New Jersey Turnpike Authority is authorized to acquire, construct, reconstruct, repair and maintain any feeder road.

11. Section 4 of P.L.1949, c.40 (C.27:23-5.4) is amended to read as follows:

**C.27:23-5.4 Powers relative to feeder road constructed over new alignment.**

4. In any case where a feeder road is constructed over new alignment, the Turnpike Authority is granted the same powers concerning the construction thereof as is granted in connection with the construction of the highway project by the terms of the act to which this act is a supplement. Any feeder road, eighty per centum (80%) or more of which is built over new alignment, shall for the purposes of this act be deemed to be a "new feeder road."

**C.27:23-5.6a Projects turned over to DOT.**

12. The authority may in its discretion turn over to the Department of Transportation any highway project or part thereof and provide by agreement with the department for its continued maintenance and repair by the authority.

13. Section 6 of P.L.1949, c.40 (C.27:23-5.6) is amended to read as follows:

**C.27:23-5.6 Return of certain roads to local authorities.**

6. The Turnpike Authority is authorized to turn back to local authorities any road or portions of road taken over from such local authorities in connection with the establishing of a feeder road.

14. Section 1 of P.L.1966, c.8 (C.27:23-5.8) is amended to read as follows:

**C.27:23-5.8 Additional powers.**

1. The New Jersey Turnpike Authority shall have, in addition to the powers heretofore granted to it, power:

a. To pay or make any advance or contribution to the United States Government or the State of New Jersey or any agency thereof for the purpose of paying the State's share or any portion thereof under the federal aid highway laws of the cost of construction of any transportation improvement determined by the authority to be a major improvement necessary to restore or prevent physical damage to any transportation project or any feeder roads, for the safe or efficient operation of such project, or to prevent loss of revenues therefrom.

b. Subject to the rights and security interests of the holders from time to time of bonds or notes heretofore or hereafter issued by the New Jersey Turnpike Authority, to enter into contracts with the State or the New Jersey Transportation Trust Fund Authority established by section 4 of the "New Jersey Transportation Trust Fund Authority Act of 1984," P.L.1984, c.73 (C.27:1B-4), providing for the payment from the revenues of the New Jersey Turnpike Authority to the State or to the New Jersey Transportation Trust Fund Authority of the amount or amounts of revenues that may be set forth in or determined in accordance with the contracts. Any contracts authorized pursuant to this section may include conditions and covenants necessary and desirable to facilitate the issuance and sale of bonds, notes and other obligations of the New Jersey Transportation Trust Fund Authority. Any agreements entered into between the State and the Turnpike Authority pursuant to this subsection shall terminate upon the effective date of any agreement entered into between the Turnpike Authority and the New Jersey Transportation Trust Fund Authority providing for the payment of revenues of the Turnpike Authority directly from the Turnpike Authority to the New Jersey Transportation Trust Fund Authority.

c. To enter into agreements with the Department of Transportation with respect to the funding of the resurfacing, restoring, rehabilitation and reconstruction of the I-95 Extension of the New Jersey Turnpike through the allocation of monies apportioned by the United States Department of Transportation pursuant to 23 U.S.C. s.119 or a successor program. Any such agreement shall be subject to the continued eligibility of the I-95 Extension for federal aid, the availability of funds appropriated by Congress and the appropriation of funds by the Legislature for that purpose. No such agreement shall constitute or create a debt or liability of the State within the meaning of any constitutional or statutory limitation nor shall any such agreement constitute a pledge of either the faith and credit or the taxing power of the State. Funds payable or paid to the authority pursuant to any such agreement shall not be pledged as security for any indebtedness of the authority.

15. Section 2 of P.L.1969, c.197 (C.27:23-5.9) is amended to read as follows:

**C.27:23-5.9 Limitations relative to a transportation project.**

2. The authority shall not engage in the acquisition, construction or operation of any facility or activity not directly or indirectly related to the use of a transportation project except as may be specially authorized by law.

16. Section 1 of P.L.1977, c.230 (C.27:23-5.10) is amended to read as follows:

**C.27:23-5.10 Proposed tolls; hearing.**

1. The authority shall, whenever it desires to increase any existing toll or establish any new toll for the use of any highway project and the different parts or sections thereof, hold a public hearing on such proposed toll at least 45 days prior to the date on which such toll is proposed to become effective.

17. Section 6 of P.L.1948, c.454 (C.27:23-6) is amended to read as follows:

**C.27:23-6 Incidental powers.**

6. The authority shall have power to construct grade separations at intersections of any highway project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the authority as a part of the cost of such highway project.

If the authority shall find it necessary to change the location of any portion of any public highway, it shall cause the same to be reconstructed at such

location as the authority shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the authority as a part of the cost of such highway project.

Any public highway affected by the construction of any highway project may be vacated or relocated by the authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the authority as a part of the cost of such project.

In addition to the foregoing powers the authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, and such entry shall not be deemed an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities.

The authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility as defined in section 27:7-1 of the Revised Statutes, in, on, along, over or under any highway project. Whenever the authority shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be, located in, on, along, over or under any highway project, shall be relocated in such highway project, or should be removed from such highway project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the authority; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the authority as a part of the cost of such highway project. In case of any such relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenance, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

In case of any such relocation or removal of facilities, as aforesaid, the authority shall own and maintain, repair and renew structures within the rights



of way of railroad companies carrying highway projects or feeder roads over railroads, and the authority shall bear the cost of maintenance, repair and renewal of structures within the rights of way of railroad companies carrying railroads over highway projects or feeder roads, but this provision shall not relieve any railroad company from responsibility for damage caused to any authority or railroad structure by the operation of its railroad. Such approaches, curbing, sidewalk paving, guard rails on approaches and surface paving on turnpike projects or feeder roads as shall be within the rights of way of a railroad company or companies shall be owned and maintained, repaired and renewed by the authority; rails, pipes and lines shall be owned and maintained, repaired and renewed by the railroad company or companies.

18. Section 1 of P.L.1968, c.461 (C.27:23-6.1) is amended to read as follows:

**C.27:23-6.1 Standing operating rules, procedures for entering into contracts by Turnpike Authority.**

1. a. The New Jersey Turnpike Authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of \$25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required where the contract to be entered into is one for the furnishing or performing services of a professional or consultative nature, or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the New Jersey Meadowlands Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; the Delaware

River Port Authority established under R.S.32:3-2; the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3. Any purchase, contract or agreement may be made, negotiated or awarded by the authority without public bid or advertising when the authority has advertised for bids on two occasions and has received no bids on both occasions in response to its advertisements, or received no responsive bids. Any purchase, contract or agreement may then be negotiated and may then be awarded to any contractor or supplier determined to be responsible except that the terms, conditions, restrictions and specifications set forth in the negotiated contract agreement shall not be substantially different from those which were the subject of competitive bidding.

This subsection shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience require, or the exigency of the authority's service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section, or after the effective date of P.L.1999, c.440, the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise and fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest \$1,000. The Governor shall, no later than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

19. Section 7 of P.L.1948, c.454 (C.27:23-7) is amended as follows:

**C.27:23-7 Bonds.**

7. The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of the authority for any of its corporate purposes, including the refunding of its bonds. The principal of and the interest on any issue of such bonds shall be payable solely from and may be secured by a pledge of tolls and other revenues of all or any part of the transportation projects. The proceeds of any such bonds may be used or pledged for the payment or security of the principal of or interest on bonds and for the establishment of any or all reserves for such payment or security

or for other corporate purposes as the authority may authorize in the resolution authorizing the issuance of bonds or in the trust agreement securing the same. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The bonds shall be signed by the chairman of the authority or shall bear his facsimile signature and the official seal of the authority or a facsimile thereof shall be impressed, imprinted, engraved or otherwise reproduced thereon. The official seal or facsimile thereof shall be attested by the secretary and treasurer of the authority, or by such other officer or agent as the authority shall appoint and authorize and any coupons attached to such bonds shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner and for such price, as it may determine to be for the best interests of the authority. Neither the members of the authority nor any person executing the bonds shall be personally liable on the bonds or be accountable by reason of the issuance thereof in accordance with the provisions of this act.

The proceeds of the bonds of each issue shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the

replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act.

The State of New Jersey does pledge to and agree with the holders of the bonds issued pursuant to authority contained in this act, that the State will not limit or restrict the rights hereby vested in the authority to acquire, maintain, construct, improve, manage, repair, reconstruct, and operate any projects as defined in this act, or to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds authorized by this act or in any way impair the rights or remedies of the holders of such bonds until, the bonds, together with interest thereon, are fully paid and discharged.

20. Section 21 of P.L.1991, c.183 (C.27:23-7a) is amended to read as follows:

**C.27:23-7a New Jersey Turnpike Authority to protect bondholders.**

21. Nothing in or done pursuant to the powers and obligations set forth in this amendatory and supplementary act (P.L.1991, c.183) shall in any way limit or restrict the obligations or powers of the New Jersey Turnpike Authority to carry out and perform each and every covenant, agreement or contract heretofore made or entered into by the Authority or the New Jersey Highway Authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

21. Section 8 of P.L.1948, c.454 (C.27:23-8) is amended to read as follows:

**C.27:23-8 Trust agreement.**

8. Trust agreement. In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds (subject to the provisions of section 7 of this act) may pledge or assign tolls or other revenues to which the Authority's right then exists or may thereafter come into existence, and the moneys derived therefrom, and the proceeds of such bonds, but shall not convey or mortgage any transportation project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the

rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the acquisition, construction, improvement, maintenance, repair, operation and insurance of the transportation project or projects or any part thereof, the rates of tolls and revenues to be charged, the payment, security or redemption of bonds, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the acquisition, construction or operation of such transportation project or projects or any part thereof. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual rights of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the transportation project or projects.

Any pledge of tolls or other revenues or other moneys made by the Authority shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority.

22. Section 9 of P.L. 1948, c.454 (C.27:23-9) is amended to read as follows:

**C.27:23-9 Revenues.**

9. Revenues. (A) The authority is hereby authorized by resolution to fix, revise, charge and collect tolls, fees, licenses, rents, concession charges and other charges for the use of each project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, and restaurants, offices, entertainment facilities, or for any other purpose, and to fix the terms, conditions, rents and

rates of charges for such use; provided, that a sufficient number of gas stations may be authorized to be established in each service area along any such highway to permit reasonable competition by private business in the public interest. Such tolls shall be so fixed and adjusted as to carry out and perform the terms and provisions of any contract with or for the benefit of bondholders. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State. The use and disposition of tolls and revenues shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same.

(B) (Deleted by amendment, P.L.2003, c.79).

(C) All revenues and other funds of the authority not pledged or otherwise required to pay or secure the payment of principal and interest on any indebtedness of the authority existing from time to time under, and not otherwise required for the purpose of, this act and not pledged under a contract providing for payment of funds to the State or New Jersey Transportation Trust Fund Authority created pursuant to P.L.1984, c.73 (C.27:1B-1 et seq.) shall be applied to the authority's corporate purposes or as hereafter provided by law.

23. Section 12 of P.L.1948, c.454 (C.27:23-12) is amended to read as follows:

**C.27:23-12 Exemption from taxation.**

12. The exercise of the powers granted by this act will be in all respects for the benefit of the people of the State, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of transportation projects and other property by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any transportation project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom, and any transportation project and any property acquired or used by the Authority under the provisions of this act and the income therefrom, and the bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall be exempt from taxation. The Legislature reaffirms that all existing facilities and property, and their operations, and management, of the authority and of the New Jersey Highway Authority, as transferred to the authority, are deemed public and essential governmental functions and are exempt from local taxes or assessments.

24. Section 14 of P.L.1948, c.454 (C.27:23-14) is amended to read as follows:

**C.27:23-14 Miscellaneous.**

14. Miscellaneous. Each highway project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. Each such project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ, unless the Authority provides otherwise by agreement with any federal, state or local entity. The expenses for this maintenance and operation shall be paid by the authority from its own funds or from funds made available to the authority, unless the authority provides otherwise by agreement with any federal, state or local entity.

All counties, cities, boroughs, towns, townships, villages, and other political subdivisions and all public departments, agencies and commissions of the State of New Jersey, notwithstanding any contrary provision of law, are hereby authorized and empowered to sell, lease, lend, grant or otherwise convey to the Authority at its request upon such terms and conditions as the proper authorities of such counties, cities, boroughs, towns, townships, villages, and political subdivisions and departments, agencies or commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public roads and other real property already devoted to public use.

The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operation of the project.

Any member, agent or employee of the Authority who is interested, either directly or indirectly, in any contract of another with the Authority, or in the sale of any property, either real or personal, to the Authority shall be guilty of a crime of the fourth degree.

25. Section 15 of P.L.1948, c.454 (C.27:23-15) is amended to read as follows:

**C.27:23-15 Refunding bonds.**

15. The Authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of such bonds, and, if deemed advisable by the Authority, for the additional purpose

of constructing improvements, extensions, or enlargements of the transportation project or projects in connection with which the bonds to be refunded shall have been issued. The Authority is further authorized to provide by resolution for the issuance of its bonds for the combined purpose of (a) refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of any additional project or projects or feeder roads. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable.

26. Section 16 of P.L.1948, c.454 (C.27:23-16) is amended to read as follows:

**C.27:23-16 Projects part of State highway system.**

16. When all bonds issued under the provisions of this act to finance any highway project or projects and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, all such projects shall become part of the State highway system and shall thereafter be operated and maintained by the authority.

27. Section 17 of P.L.1948, c.454 (C.27:23-17) is amended to read as follows:

**C.27:23-17 Preliminary expenses.**

17. The Department of Transportation is hereby authorized in its discretion to expend out of any funds available for the purpose such moneys as may be necessary for the study of any transportation project or projects and to use its engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting such study and to pay for such additional engineering and traffic and other expert studies as it may deem expedient, and all such expenses incurred by the department shall be paid by the department and charged to the appropriate transportation project or projects, and the department shall keep proper records and accounts showing each amount so charged. Upon the sale of transportation revenue bonds for any project or projects, the funds so expended by the department in connection with such project or projects shall be reimbursed by the Authority to the department from the proceeds of such bonds.

Any obligation or expense hereafter incurred by the Department of Transportation with the approval of the Authority for traffic surveys, borings,



preparation of plans and specifications, and other engineering services in connection with the construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed to the State out of the proceeds of bonds herein authorized.

28. Section 18 of P.L.1948, c.454 (C.27:23-18) is amended to read as follows:

**C.27:23-18 Additional, alternative methods.**

18. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of transportation revenue bonds or refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds.

29. Section 1 of P.L.1951, c.264 (C.27:23-25) is amended to read as follows:

**C.27:23-25 Toll, payment required.**

1. No vehicle shall be permitted to make use of any highway project or part thereof operated by the New Jersey Turnpike Authority created pursuant to P.L.1948, c.454 (C.27:23-1 et seq.) (hereinafter called the "Authority") except upon the payment of such tolls, if any, as may from time to time be prescribed by the Authority. It is hereby declared to be unlawful for any person to refuse to pay, or to evade or to attempt to evade the payment of such tolls.

30. Section 2 of P.L.1951, c.264 (C.27:23-26) is amended to read as follows:

**C.27:23-26 Operation of vehicles on highway project.**

2. No vehicle shall be operated on any such highway project carelessly or recklessly, or in disregard of the rights or safety of others, or without due caution or prudence, or in a manner so as to endanger unreasonably or to be likely to endanger unreasonably persons or property, or while the operator thereof is under the influence of intoxicating liquors or any narcotic or habit-forming drug, nor shall any vehicle be so constructed, equipped, lacking in equipment, loaded or operated in such a condition of disrepair as to endanger unreasonably or to be likely to endanger unreasonably persons or property.

31. Section 3 of P.L.1951, c.264 (C.27:23-27) is amended to read as follows:

**C.27:23-27 Speed of vehicles on highway project.**

3. A person operating a vehicle on any such highway project shall operate it at a careful and prudent speed, having due regard to the rights and safety of others and to the traffic, surface and width of the highway, and any other conditions then existing; and no person shall operate a vehicle on any such highway project at such a speed as to endanger life, limb or property; provided, however, that it shall be prima facie lawful for a driver of a vehicle to operate it at a speed not exceeding a speed limit which is designated by the Authority as a reasonable and safe speed limit, when appropriate signs giving notice of such speed limit are erected at the roadside or otherwise posted for the information of operators of vehicles.

No person shall operate a vehicle on any such highway project at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation thereof.

No person shall operate a vehicle on any such highway project in violation of any speed limit designated by regulation adopted by the Authority as hereinafter provided.

32. Section 4 of P.L.1951, c.264 (C.27:23-28) is amended to read as follows:

**C.27:23-28 Traffic control; signal.**

4. All persons operating vehicles upon any such highway project must at all times comply with any lawful order, signal or direction by voice or hand of any police officer engaged in the direction of traffic upon such project. When traffic is controlled by traffic lights, signs or by mechanical or electrical signals, such lights, signs and signals shall be obeyed unless a police officer directs otherwise.

33. Section 5 of P.L.1951, c.264 (C.27:23-29) is amended to read as follows:

**C.27:23-29 Compliance with regulations.**

5. All persons operating vehicles upon any such highway project, or seeking to do so, must at all times comply with regulations, not inconsistent with the other sections of this act, adopted by the New Jersey Turnpike Authority concerning types, weights and sizes of vehicles permitted to use any such highway project, and with regulations adopted by the Authority for or prohibiting the parking of vehicles, concerning the making of turns and the use of particular traffic lanes, together with any and all other regulations adopted by the Authority to control traffic and prohibit acts hazardous in their nature or tending to impede or block the normal and reasonable flow of traffic upon any highway project; provided, however, that prior to the adoption of

any regulation for the control of traffic on any such highway project, including the designation of any speed limits, the Authority shall investigate and consider the need for and desirability of such regulation for the safety of persons and property, including the Authority's property, and the contribution which any such regulation would make toward the efficient and safe handling of traffic and use of such highway project, and shall determine that such regulation is necessary or desirable to accomplish such purposes or one or some of them, and that upon or prior to the effective date of any such regulation and during its continuance, notice thereof shall be given to the drivers of vehicles by appropriate signs erected at the roadside or otherwise posted.

The Authority is hereby authorized and empowered to make, adopt and promulgate regulations referred to in this section in accordance with the provisions hereof.

Regulations adopted by the Authority pursuant to the provisions of this section shall insofar as practicable, having due regard to the features of any such highway project and the characteristics of traffic thereon, be consistent with the provisions of Title 39 of the Revised Statutes applicable to similar subjects.

The Authority shall have power to amend, supplement or repeal any regulation adopted by it under the provisions of this section.

34. Section 7 of P.L.1951, c.264 (C.27:23-31) is amended to read as follows:

**C.27:23-31 Prohibitions relative to items transported.**

7. No person shall transport in or upon any such highway project, any dynamite, nitroglycerin, black powder, fireworks, blasting caps or other explosives, gasoline, alcohol, ether, liquid shellac, kerosene, turpentine, formaldehyde or other inflammable or combustible liquids, ammonium nitrate, sodium chlorate, wet hemp, powdered metallic magnesium, nitro-cellulose film, peroxides or other readily inflammable solids or oxidizing materials, hydrochloric acid, sulfuric acid or other corrosive liquids, prussic acid, phosgene, arsenic, carbolic acid, potassium cyanide, tear gas, lewisite or any other poisonous substances, liquids or gases, or any compressed gas, or any radioactive article, substance or material, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably persons or property.

35. Section 10 of P.L.1951, c.264 (C.27:23-34) is amended to read as follows:

**C.27:23-34 Penalties; enforcement.**

10. Except as provided in sections eight and nine of this act, any violation of any of the provisions hereof, including but not limited to those regarding the payment of tolls, and any violation of any regulation adopted by the Authority under the provisions of this act shall be punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment not exceeding thirty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court or any municipal court where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week.

When imposing any penalty under the provisions of this section the court having jurisdiction shall be guided by the appropriate provisions of any statute adopted at the current session of the Legislature, or hereafter, fixing uniform penalties for violation of certain provisions of the motor vehicle and traffic laws contained in Title 39 of the Revised Statutes.

36. Section 6 of P.L.1997, c.59 (C.27:23-34.1) is amended to read as follows:

**C.27:23-34.1 Definitions relative to toll collection monitoring.**

6. As used in sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5):

"Authority" means the New Jersey Turnpike Authority established by section 3 of P.L.1948, c.454 (C.27:23-3).

"Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined in R.S.39:1-1.

"Owner" means the term "owner" as defined in R.S.39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is

used or operated in a violation of the toll collection monitoring system regulations. The term shall also include any other process that identifies a vehicle by photographic, electronic or other method.

"Toll collection monitoring system regulations" means the regulations authorized and adopted pursuant to section 7 of P.L. 1997, c.59 (C.27:23-34.2) that prohibit a vehicle from making use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in this section.

"Vehicle" means the term "vehicle" as defined in R.S.39:1-1.

37. Section 7 of P.L. 1997, c.59 (C.27:23-34.2) is amended to read as follows:

**C.27:23-34.2 Toll collection monitoring system regulations; violations, penalties.**

7. a. The authority may, in accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), adopt toll collection monitoring system regulations. The regulations shall include a procedure for processing toll violations and for the treatment of inadvertent violations. A person who violates the regulations shall be liable to a civil penalty in an amount not to exceed \$500 to be established by the authority. The penalty shall be enforced pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.).

b. Except as provided in subsection b. of section 8 of P.L. 1997, c.59 (C.27:23-34.3), an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection monitoring system regulations. The owner of a vehicle shall be liable if such vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection monitoring system regulations was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of section 10 of P.L. 1951, c.264 (C.27:23-34) for the same incident.

c. A toll collection monitoring system acquired or operated by, or under contract to, the authority shall be so designed that it does not produce one or more photographs, microphotographs, a videotape or other recorded image or images of the face of the operator or any passenger in a motor vehicle.

38. Section 8 of P.L. 1997, c.59 (C.27:23-34.3) is amended to read as follows:

**C.27:23-34.3 Violations of toll collection monitoring system regulations; penalties.**

8. a. If a violation of the toll collection monitoring system regulations is committed as evidenced by a toll collection monitoring system, the authority or the agent of the authority may send an advisory and payment request within 60 days of the date of the violation to the owner of the vehicle by regular mail at the address of record for that owner with the Division of Motor Vehicles in the Department of Transportation or with any other motor vehicle licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of the toll collection monitoring system regulations. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. The authority or its agent may require as part of the advisory and payment request that the owner pay to the agent the proper toll and a reasonable administrative fee established by the authority and based upon the actual cost of processing and collecting the violation. If the owner fails to pay the required toll and fee within 30 days of the date the advisory and payment request was sent, the owner shall be subject to liability on the 31st day following the date the advisory and payment request was sent for the violation of the toll collection monitoring system regulations by the vehicle operator pursuant to the issuance of a complaint and summons.

b. An owner of a vehicle who is a lessor of the vehicle used in violation of the toll collection monitoring system regulations of the authority shall not be liable for the violation of the regulations if the lessor submits to the authority, in a timely manner, a copy of the rental agreement, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the authority and to the court having jurisdiction over the violation. If the lessor fails to provide the information in a timely manner, the lessor shall be held liable for the violation of the regulations. If the lessor provides the required information to the authority, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) and the toll collection monitoring system regulations and shall be subject to liability for the violation of the regulations.

c. A certified report of an employee or agent of the authority reporting a violation of the toll collection monitoring system regulations and any information obtained from a toll collection monitoring system shall be available for the exclusive use of the authority and any law enforcement official for the purposes of discharging their duties pursuant to sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) and the toll collection

monitoring system regulations. Any such report or information shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The certified reports and information shall not be discoverable as a public record by any person, entity or governmental agency, nor shall they be offered in evidence in any civil, criminal or administrative proceeding, not directly related to a violation of the toll collection monitoring system regulations. However, in the event that, notwithstanding the provisions of subsection c. of section 7 of this act, a recorded image of the face of the operator or any passenger in a motor vehicle is produced by the toll collection monitoring system, that image shall not be used by the authority for any purpose nor shall the image or any record or copy thereof be transmitted or communicated to any person, governmental, non-governmental, or judicial or administrative entity.

d. A complaint and summons charging a violation of the toll collection monitoring system regulations shall be on a form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey. The authority may authorize by regulation an employee or agent to be a complaining witness to make, sign, and initiate complaints and to issue summonses in the name of the authority on behalf of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey. The complaints and summonses may be made on information based upon evidence obtained by a toll collection monitoring system, the toll collection monitoring system record and the records of the Division of Motor Vehicles in the Department of Transportation or of any other state, province, or motor vehicle licensing authority.

Service may be made by means provided by the Rules Governing the Courts of the State of New Jersey.

Except as provided in subsection c. of this section, the recorded images produced by a toll collection monitoring system shall be considered an official record kept in the ordinary course of business and shall be admissible in a proceeding for a violation of any toll collection monitoring system regulations.

e. The municipal court of the municipality wherein a toll collection monitoring system record was made shall have jurisdiction to hear violations of the toll collection monitoring system regulations. Violations shall be enforced and penalties collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). A proceeding and a judgment arising therefrom shall be pursued and entered in accordance with the provisions of N.J.S.2B:12-1 et seq. and the Rules Governing the Courts of the State of New Jersey.

In addition to the civil penalty that may be assessed by a court having jurisdiction for a violation of the toll collection monitoring system regulations, a court shall require the defendant to pay the proper toll and shall require the

defendant to pay a reasonable administrative fee as determined by the authority. Following collection and distribution of the fees set forth in section 11 of P.L.1953, c.22 (C.22A:3-4), any tolls and administrative fees imposed and collected by the court for a violation of the toll collection monitoring system regulations shall be promptly remitted to the authority by the court. The civil penalty shall be distributed pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

39. Section 1 of P.L.1961, c.134 (C.27:23-40) is amended to read as follows:

**C.27:23-40 Tolls; exemptions.**

1. No toll shall be charged for the passage of any ambulance, first-aid or emergency-aid vehicle or of any vehicular fire-fighting apparatus or police vehicle operated for the benefit of the public by the State of New Jersey, or by any county or municipal corporation, or nonprofit corporation or organization, first-aid squad, emergency squad, or fire or police department, of New Jersey through or over the facilities of the New Jersey Turnpike Authority, or any part thereof, and any such vehicle or apparatus shall be entitled to pass through or over without the payment of any toll for such passage. The authority may in its discretion establish other categories of public safety related free passage with due consideration of the rights of bondholders.

40. The title of P.L.1948, c.454 is amended to read as follows:

**Title amended.**

An act to facilitate vehicular traffic in the State of New Jersey by providing for the acquisition, construction, maintenance, improvement, management, repair and operation of transportation projects; creating the New Jersey Turnpike Authority and defining its powers and duties; providing for financing such projects by the issuance of transportation revenue bonds or notes of the authority, payable from the tolls, other revenues and proceeds of bonds or notes and other available sources; and providing for the collection of tolls and other revenues to pay the cost of acquisition, construction, maintenance, improvement, management, repair and operation of such projects and to pay such bonds and notes and the interest thereon.

**C.27:23-44 Local funding for non-highway transportation projects.**

41. For the purpose of aiding and cooperating in the acquisition, construction, or operation of any non-highway transportation project of the authority, any county or municipality may, upon agreement with the authority and in the manner provided by law:



- a. Appropriate moneys for the purposes of the authority and loan or donate the money to the authority in the installments and upon the terms as may be agreed upon by the authority;
- b. Perform any act for the authority which it is empowered by law to perform;
- c. Incur indebtedness, borrow money and issue bonds or notes for the purpose of financing a project pursuant to the provisions of the "Local Bond Law," (N.J.S.40A:2-1 et seq.); and
- d. Unconditionally guarantee the punctual payment of the principal of and interest on any bonds or notes of the authority.

**C.27:23-45 Acquisition of certain roadside areas adjoining highway projects.**

42. Subject to the terms of any agreement by the authority with the holders of bonds, the authority is authorized to acquire in cooperation with the Department of Environmental Protection limited roadside areas adjoining highway projects and transfer any or all such areas to the Department of Environmental Protection for maintenance as roadside parks.

**C.27:23-46 Conveyance of certain park, recreational areas, facilities to DEP.**

43. Subject to the terms of any agreement by the authority with the holders of bonds, the authority shall have power to lend, lease, grant or convey to the Department of Environmental Protection at its request upon such terms and conditions and with such reservations as the authority shall deem reasonable and fair, any park or recreational areas or facilities owned by the authority, and after such loan, lease, grant or conveyance the park or recreational areas or facilities so loaned, leased, granted or conveyed shall no longer constitute part of a project.

**C.27:23-47 Maintenance of Vietnam Veterans' Memorial.**

44. The authority, as the successor to the Highway Authority, may provide for the perpetual maintenance of the Vietnam Veterans' Memorial in accordance with the agreement executed by the Highway Authority, pursuant to section 2 of P.L.1991, c.70 (C.27:12B-5.4), repealed by this act, and the Legislature shall appropriate to the Department of Military and Veterans' Affairs for payment to the authority such funds from the Vietnam Veterans' Memorial Fund, created under section 4 of P.L.1985, c.494 (C.52:18A-208), and any other source of available revenue, as may be necessary for the authority to carry out its responsibilities under this section.

45. Section 6 of P.L.1971, c.137 (C.5:10-6) is amended to read as follows:

**C.5:10-6 Authority projects.**

6. a. The authority, pursuant to the provisions of P.L.1971, c.137 (C.5:10-1 et seq.), is hereby authorized and empowered, either alone or in conjunction

with others, and provided that, in the case of an arrangement with respect to any of the projects set forth in this section which shall be in conjunction with others, the authority shall have sufficient right and power to carry out the public purposes set forth in P.L.1971, c.137 (C.5:10-1 et seq.):

(1) To establish, develop, construct, operate, acquire, own, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project to be located in the Hackensack meadowlands upon a site not to exceed 750 acres and upon a site or sites outside of that acreage, but either immediately contiguous thereto or immediately across any public road which borders that acreage, consisting of one or more stadiums, coliseums, arenas, pavilions, stands, field houses, playing fields, recreation centers, courts, gymnasiums, clubhouses, a racetrack for the holding of horse race meetings, and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for the holding of athletic contests or other sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including, but not limited to, driveways, roads, approaches, parking areas, parks, recreation areas, lodging facilities, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings, and all other structures and appurtenant facilities, related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof.

(2) To establish, develop, construct, acquire, lease or own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project, at a site within the State of New Jersey, consisting of a baseball stadium and other buildings, structures, facilities, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to a complex suitable for the holding of professional baseball games and other athletic contests or sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof.

(3) To establish, develop, construct, acquire, lease or own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects located within the State of New Jersey, but outside of the meadowlands complex, consisting of aquariums and the buildings, structures, facilities, properties and appurtenances related thereto, or incidental to, necessary for, or

complementary to those aquariums, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and facilities, and equipment, furnishings and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of that project or any facility thereof. To provide for a project authorized under this paragraph:

(a) (Deleted by amendment, P.L.1988, c.172.)

(b) The authority is authorized to enter into agreements with the State Treasurer providing for the acquisition and construction of an aquarium by the authority, including the land necessary for the aquarium, and the costs thereof, ownership of the aquarium and its land which shall be conveyed to the State upon completion, and the operation by the authority of the aquarium pursuant to a lease or other agreement with the State containing such terms and conditions as the State Treasurer may establish prior to the acquisition and construction by the authority of the aquarium and the disbursements of funds therefor. The State Treasurer is authorized to enter into a lease or other agreement to effectuate the provisions of this subparagraph.

(4) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, a project consisting of an exposition or entertainment center or hotel or office complex, including any buildings, structures, properties and appurtenances related thereto, incidental thereto, necessary therefor, or complementary thereto, such project to include driveways, roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems, and equipment, furnishings and all other structures and appurtenances related to, incidental to, necessary for, or complementary to, the purposes of that project. A project authorized under this paragraph may be located within, immediately contiguous to, or immediately across any public road which borders the site of any other project of the authority, except the site of a racetrack authorized by paragraph (5) of this subsection and acquired by the authority prior to 1986.

(5) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of (a) racetrack facilities located within the State of New Jersey, but outside of the meadowlands complex, (b) their contiguous properties, and (c) their auxiliary facilities, including, without limitation, pavilions, stands, field houses, clubhouses, training tracks for horses, racetracks for the holding of horse race meetings, fairgrounds, other exposition facilities, and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for

the holding of horse race meetings, other sporting events, or trade shows, exhibitions, spectacles, public meetings, entertainment events or other expositions, including, but not limited to, driveways, roads, approaches, parking areas, parks, recreation areas, lodging facilities, vending facilities, restaurants, transportation structures, systems and facilities, equipment, furnishings, and all other structures and appurtenant facilities related to, incidental to, necessary for, or complementary to the purposes of any of those projects or any facility thereof.

Notwithstanding any law to the contrary, the acquisition of any existing racetrack facility in and licensed by the State of New Jersey shall be permitted on the condition that payments equivalent to all municipal, school board and county taxes due to each entity shall be paid by the authority to the extent and in accordance with the same payment schedule as taxes would have been paid each year, as though the racetrack facility remained in private ownership. In the event the authority conveys lands or other parts of the racetrack facility to others, the authority shall receive a reduction of such payments commensurate with the amount required to be paid by the subsequent owner of the lands and improvements disposed of by the authority. In addition, the authority shall be responsible for paying all existing local franchise fees, license and parking tax fees in effect at the time of the acquisition.

(6) To establish, develop, acquire, own, operate, manage, promote and otherwise effectuate, in whole or in part, either directly or indirectly through lessees, licensees or agents, projects consisting of events, expositions, teams, team franchises or membership in professional sports leagues.

(7) To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of facilities, at a site or sites within the State of New Jersey and either within or without the meadowlands complex, that are related to, incidental to, necessary for, or complementary to the accomplishment or purpose of any project of the authority authorized by this section, including any buildings, structures, properties and appurtenances related thereto, incidental thereto, necessary therefor, or complementary thereto, such projects to include driveways, roads, approaches, parking areas, parks, recreation areas, off-track and account wagering systems and facilities or any interest therein, vending facilities, restaurants, transportation structures, systems, and equipment, furnishings and all other structures and appurtenances related to, incidental to, necessary for, or complementary to the purposes of those projects.

(8) To establish, develop, acquire, construct, reconstruct, improve and otherwise effectuate for transfer to, and for use and operation by, Rutgers, the State University, either directly or indirectly through lessees, licensees or agents, facilities located or to be located on property owned, leased, or

otherwise used by Rutgers, the State University, consisting of an upgraded and expanded football stadium and a new track and field, soccer and lacrosse facility and the buildings, structures, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to the football stadium and track and field, soccer and lacrosse facility, such facilities to include driveways, access roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and equipment, furnishings and all other structures and appurtenances related or incidental to, necessary for, or complementary to the purposes of those facilities; provided however that construction shall not begin on the expansion of the seating capacity of Rutgers Stadium until the Commissioner of Transportation certifies that all funding necessary to complete the Route 18 project in Piscataway Township has been appropriated and construction has begun on the Route 18 project in Piscataway Township under the Department of Transportation's capital program.

(9) To acquire by purchase, lease or otherwise, and to develop, construct, operate, own, lease, manage, repair, reconstruct, restore, improve, enlarge or otherwise effectuate, either directly or through lessees, licensees or agents, a convention center project in the city of Atlantic City, Atlantic County, consisting of the existing convention hall and a new convention hall or center, and associated parking areas and railroad terminal facilities and including the leasing of adjacent land for hotel facilities. In connection therewith, the authority is authorized to:

(a) Assume existing leasehold or other contractual obligations pertaining to any such facilities or properties or to make provision for the payment or retirement of any debts and obligations of the governmental entity operating any such convention hall or center or of any bonds or other obligations payable from and secured by a lien on or pledge of the luxury tax revenues;

(b) Make loans or payments in aid of construction with respect to infrastructure and site development for properties located in the area between the sites of the existing convention hall and a new convention center or located contiguous to or across any public road which borders the area;

(c) Convert the existing convention hall or any facilities, structures or properties thereof, or any part thereof, not disposed of by the authority, to any sports, exposition, exhibition, or entertainment use or to use as a forum for public events or meetings, or to any other use which the authority shall determine to be consistent with its operation of the Atlantic City convention center project.

(10) To provide a feasibility study for the use and development of the existing convention center in the city of Asbury Park, county of Monmouth and to provide a feasibility study for the construction, use and development of a convention center or recreational facility in any other municipality.

(11) To provide funding to public or private institutions of higher education in the State to establish, develop, acquire, construct, reconstruct or improve facilities located or to be located on property owned, leased, or otherwise used by an institution, consisting of sports facilities and the buildings, structures, properties and appurtenances related thereto, or incidental to, necessary for, or complementary to those sports facilities, such facilities to include driveways, access roads, approaches, parking areas, parks, recreation areas, vending facilities, restaurants, transportation structures, systems and equipment, furnishings and all other structures and appurtenances related or incidental to, necessary for, or complementary to the purposes of those facilities.

(12) To acquire by purchase, lease, or otherwise, including all right, title and interest of the Greater Wildwood Tourism Improvement Development Authority in any property, and to develop, construct, operate, own, lease, manage, repair, reconstruct, restore, improve, enlarge or otherwise effectuate, either directly or through lessees, licensees or agents, a convention center facility in the City of Wildwood, Cape May County, consisting of and including any existing and acquired buildings, structures, properties and appurtenances and including restaurants, retail businesses, access roads, approaches, parking areas, transportation structures and systems, recreation areas, equipment, furnishings, vending facilities, and all other structures and appurtenances incidental to, necessary for, or complementary to the purpose of such Wildwood convention center facility. In connection therewith, the authority is expressly authorized to:

(a) assume any existing mortgages, leaseholds or other contractual obligations or encumbrances with respect to the site of the Wildwood convention center facility and any other existing and acquired buildings, structures, properties, and appurtenances;

(b) enter into agreements with a local public body or bodies providing for any necessary financial support or other assistance for the operation and maintenance of such Wildwood convention center facility from taxes or other sources of the local public body or bodies as shall be made available for such purposes;

(c) to the extent permitted by law and by the terms of the bonds or notes issued to finance the Wildwood convention center facility, transfer its ownership interest or other rights with respect to the convention center facility to another State authority or agency;

(d) upon payment of all outstanding bonds and notes issued therefore, transfer its ownership interest and other rights with respect thereto to such other public body as shall be authorized to own and operate such a facility; and

(e) convert any existing convention hall or any facilities, structures or properties thereof, or any part thereof, not disposed of by the authority, to any

use which the authority shall determine to be consistent with the operation of the Wildwood convention center facility.

(13) To acquire by purchase, lease or otherwise, and to develop, construct, own, lease, manage, repair, reconstruct, restore, improve, enlarge or otherwise effectuate, either directly or through lessees, licenses, or agents, all right, title, or interest in the Garden State Arts Center in Holmdel, Monmouth County, and any related or auxiliary facilities and to transfer its interest in the Garden State Arts Center and any related or auxiliary facilities to such other public body that is authorized to own and operate such a facility, or other entity, according to such terms and process as the authority may establish in its discretion.

b. The authority, pursuant to the provisions of P.L.1971, c.137 (C.5:10-1 et seq.), is authorized (1) to make, as part of any of the projects, capital contributions to others for transportation and other facilities, and accommodations for the public's use of any of those projects, (2) to lease any part of any of those project sites not occupied or to be occupied by the facilities of any of those projects, for purposes determined by the authority to be consistent with or related to the purposes of those projects, including, but not limited to, hotels and other accommodations for transients and other facilities related to or incidental to any of those projects, and (3) to sell or dispose of any real or personal property, including, but not limited to, such portion of the site of any of those projects not occupied or to be occupied by the facilities of any of those projects, at not less than the fair market value of the property, except in the case of sale or disposition to the State, any political subdivision of the State or any agency or instrumentality of the State or any political subdivision of the State.

c. Revenues, moneys or other funds, if any, derived from the operation or ownership of the meadowlands complex, including the conduct of horse race meetings, shall be applied, in accordance with the resolution or resolutions authorizing or relating to the issuance of bonds or notes of the authority, to the following purposes and in the following order:

(1) The costs of operation and maintenance of the meadowlands complex and reserves therefor;

(2) Principal, sinking fund installments and redemption premiums of and interest on any bonds or notes of the authority payable from such revenues, moneys or other funds and issued for the purposes of the meadowlands complex or for the purposes of refunding the same, including reserves and payments with respect to credit agreements therefor;

(3) The costs of any major or extraordinary repairs, renewals or replacements with respect to the meadowlands complex or incidental improvements thereto, not paid pursuant to paragraph (1) above, including reserves therefor;

(4) Payments required to be made pursuant to section 18b.;

(5) Payments authorized to be made pursuant to section 18c.;

(6) Except to the extent payments with respect to bonds or notes are provided with priority in accordance with paragraph (2) of this subsection, payments required to be made in accordance with the resolution authorizing or relating to the issuance of bonds or notes of the authority, for the purposes of any project authorized by this act, including payments and reserves with respect to any bonds or notes of the authority with respect to the meadowlands complex which are not provided with priority in accordance with paragraph (2) of this subsection;

(7) Payments required to be made to repay any obligation incurred by the authority to the State;

(8) The balance remaining after application in accordance with the above shall be deposited in the General State Fund, provided that (a) there shall be appropriated for authorized State purposes from the amount so deposited that amount which shall be calculated by the State Treasurer to be the debt service savings realized with respect to the refinancing of the initial project as defined in section 1 of P.L. 1973, c.286 (C.5:10-14.1) at the meadowlands complex, by the issuance of bonds of the authority guaranteed by the State, and (b) after such appropriation, 40% of any balance remaining from the amounts so deposited shall be appropriated to the Meadowlands Commission for any of its purposes authorized by P.L. 1968, c.404, and any amendments or supplements thereto.

d. Revenues, moneys or other funds, if any, derived from the operation or ownership of any project other than the meadowlands complex, the Atlantic City convention center project, or the Wildwood convention center facility and other than a baseball stadium project or an office complex project located on the site of a baseball stadium shall be applied for such purposes, in such manner and subject to such conditions as shall be provided in the resolution authorizing or relating to the issuance of bonds or notes of the authority for the purposes of such project, and the balance, if any, remaining after such application may be applied, to the extent not contrary to or inconsistent with the resolution, in the following order (1) to the purposes of the meadowlands complex, unless otherwise agreed upon by the State Treasurer and the authority, (2) to the purposes of any other project of the authority; and, the balance remaining, if any, shall be deposited in the General Fund.

e. Revenues, moneys or other funds, if any, derived from the operation, ownership, or leasing of a baseball stadium project or an office complex project located on the site of a baseball stadium shall be applied for the purposes, in the manner and subject to the conditions as shall be provided in the resolution authorizing or relating to the issuance of bonds or notes of the authority for the purposes of a baseball stadium project or an office complex project located



on the site of a baseball stadium, if any, and the balance, if any, remaining after such application shall be applied, to the extent not contrary to or inconsistent with the resolution, to the following purposes and in the following order:

(1) The costs of operation and maintenance of a baseball stadium project and an office complex project located on the site of a baseball stadium and reserves therefor;

(2) Payments made to repay the bonded indebtedness incurred by the authority for the purposes of a baseball stadium project or an office complex project located on the site of a baseball stadium;

(3) Payments equivalent to an amount required to be made by the State for payments in lieu of taxes pursuant to P.L. 1977, c.272 (C.54:4-2.2a et seq.);

(4) The balance remaining after application in accordance with the above shall be deposited in the General Fund.

f. Revenues, moneys or other funds, if any, derived from the operation, ownership or leasing of the Atlantic City convention center project shall be applied to the costs of operating and maintaining the Atlantic City convention center project and to the other purposes set forth in this subsection as shall be provided by resolution of the authority.

Luxury tax revenues paid to the authority by the State Treasurer pursuant to section 14 of P.L. 1991, c.375 (C.5:10-14.4) shall be deposited by the authority in a separate fund or account and applied to the following purposes and in the following order:

(1) To pay the principal, sinking fund installments and redemption premiums of and interest on any bonds or notes of the authority, including bonds or notes of the authority issued for the purpose of refunding bonds or notes, issued for purposes of (i) the initial acquisition of the existing properties which will constitute part of the Atlantic City convention center project, if the bonds or notes shall be payable under the terms of the resolution of the authority relating thereto from luxury tax revenues, or (ii) providing improvements, additions or replacements to the Atlantic City convention center project, if the bonds or notes shall be payable under the terms of the resolution of the authority relating thereto from luxury tax revenues; and to pay any amounts due from the authority under any credit agreement entered into by the authority in connection with the bonds or notes.

(2) To pay the costs of operation and maintenance of the Atlantic City convention center project.

(3) To establish and maintain a working capital and maintenance reserve fund for the Atlantic City convention center project in an amount as shall be determined by the authority to be necessary.

(4) To repay to the State those amounts paid by the State with respect to bonds or notes of the authority issued for the purposes of the Atlantic City convention center project.

(5) The balance of any luxury tax revenues not required for any of the foregoing purposes and remaining at the end of any calendar year shall be paid to the State Treasurer for application to purposes in the city of Atlantic City pursuant to section 5 of P.L.1981, c.461 (C.40:48-8.30a).

The authority may pledge the luxury tax revenues paid to it as provided for in section 14 of P.L.1991, c.375 (C.5:10-14.4) as security for the payment of the principal of and interest or premium on its bonds or notes issued for the purposes set forth above in paragraph (1) of this subsection f. in the same manner, to the same extent and with the same effect as the pledge of any of its other revenues, receipts and funds authorized by P.L.1971, c.137 (C.5:10-1 et seq.).

g. Revenues, moneys or other funds, if any, derived from the ownership or operation of the Wildwood convention center facility shall be applied to the costs of operating and maintaining the Wildwood convention center facility and to the other purposes set forth in this subsection as shall be provided by resolution of the authority.

The tourism related tax revenues paid to the authority pursuant to subsection f. of section 14 of P.L.1992, c.165 (C.40:54D-14) shall be deposited by the authority in a separate fund or account and applied to any or all of the following purposes pursuant to an allocation of funds approved by the State Treasurer in writing and in advance of any application of such funds:

(1) to pay amounts due with respect to any obligations transferred to the authority pursuant to section 17 of P.L.1997, c.273 (C.40:54D-25.1) pertaining to the Wildwood convention center facility;

(2) to repay to the State those amounts paid with respect to bonds or notes of the authority issued for the purposes of the Wildwood convention center facility;

(3) to pay the cost of operation and maintenance reserve for the Wildwood convention center facility;

(4) to establish and maintain a working capital and maintenance of the Wildwood convention center facility.

The balance, if any, of any tourism related tax revenues not allocated to any of the purposes set forth in the previous paragraphs and remaining at the end of the calendar year shall be paid to the State Treasurer for deposit in the General Fund.

46. Section 11 of P.L.1997, c.59 (C.27:25A-21.1) is amended to read as follows:

**C.27:25A-21.1 Definitions relative to toll collection monitoring.**

11. As used in sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5):

"Authority" means the South Jersey Transportation Authority established by section 4 of P.L.1991, c.252 (C.27:25A-4).

"Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined in R.S.39:1-1.

"Owner" means the term "owner" as defined in R.S.39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in a violation of the toll collection monitoring system regulations. The term shall also include any other process that identifies a vehicle by photographic, electronic or other method.

"Toll collection monitoring system regulations" means the regulations authorized and adopted pursuant to section 12 of P.L.1997, c.59 (C.27:25A-21.2) that prohibit a vehicle from making use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in this section.

"Vehicle" means the term "vehicle" as defined in R.S.39:1-1.

47. Section 12 of P.L.1997, c.59 (C.27:25A-21.2) is amended to read as follows:

**C.27:25A-21.2 Toll collection monitoring system regulations.**

12. a. The authority may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt toll collection monitoring system regulations. The regulations shall include a procedure for processing toll violations and for the treatment of inadvertent violations. A person who violates the regulations shall be liable to a civil penalty in an amount not to exceed \$500 to be established by the authority. The penalty shall be enforced pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

b. Except as provided in subsection b. of section 13 of P.L.1997, c.59 (C.27:25A-21.3), an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection monitoring system regulations. The owner of a vehicle shall be liable if such vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection monitoring system regulations was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of section 21 of P.L.1991, c.252 (C.27:25A-21) for the same incident.

c. A toll collection monitoring system acquired or operated by, or under contract to, the authority shall be so designed that it does not produce one or more photographs, microphotographs, a videotape or other recorded image or images of the face of the operator or any passenger in a motor vehicle.

48. Section 13 of P.L.1997, c.59 (C.27:25A-21.3) is amended to read as follows:

**C.27:25A-21.3 Violations of toll collection monitoring system regulations; penalties.**

13. a. If a violation of the toll collection monitoring system regulations is committed as evidenced by a toll collection monitoring system, the authority or the agent of the authority may send an advisory and payment request within 60 days of the date of the violation to the owner of the vehicle by regular mail at the address of record for that owner with the Division of Motor Vehicles in the Department of Transportation or with any other motor vehicle licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of the toll collection monitoring system regulations. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. The authority or its agent may require as part of the advisory and payment request that the owner pay to the agent the proper toll and a reasonable administrative fee established by the authority and based upon the actual cost of processing and collecting the violation. If the owner fails to pay the required toll and fee within 30 days of the date the advisory and payment request was sent, the owner shall be subject to liability on the 31st day following the date the advisory and payment request was sent for the violation of the toll collection monitoring system regulations by the vehicle operator pursuant to the issuance of a complaint and summons.

b. An owner of a vehicle who is a lessor of the vehicle used in violation of the toll collection monitoring system regulations of the authority shall not be liable for the violation of the regulations if the lessor submits to the authority, in a timely manner, a copy of the rental agreement, lease or other contract

document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the authority and to the court having jurisdiction over the violation. If the lessor fails to provide the information in a timely manner, the lessor shall be held liable for the violation of the regulations. If the lessor provides the required information to the authority, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of sections 11 through 15 of P.L. 1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) and the toll collection monitoring system regulations and shall be subject to liability for the violation of the regulations.

c. A certified report of an employee or agent of the authority reporting a violation of the toll collection monitoring system regulations and any information obtained from a toll collection monitoring system shall be available for the exclusive use of the authority and any law enforcement official for the purposes of discharging their duties pursuant to sections 11 through 15 of P.L. 1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) and the toll collection monitoring system regulations. Any such report or information shall not be deemed a public record under P.L. 1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The certified reports and information shall not be discoverable as a public record by any person, entity or governmental agency, nor shall they be offered in evidence in any civil, criminal or administrative proceeding, not directly related to a violation of the toll collection monitoring system regulations. However, in the event that, notwithstanding the provisions of subsection c. of section 12 of this act, a recorded image of the face of the operator or any passenger in a motor vehicle is produced by the toll collection monitoring system, that image shall not be used by the authority for any purpose nor shall the image or any record or copy thereof be transmitted or communicated to any person, governmental, non-governmental or judicial or administrative entity.

d. A complaint and summons charging a violation of the toll collection monitoring system regulations shall be on a form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey. The authority may authorize by regulation an employee or agent to be a complaining witness to make, sign, and initiate complaints and to issue summonses in the name of the authority on behalf of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey. The complaints and summonses may be made on information based upon evidence obtained by a toll collection monitoring system, the toll collection monitoring system record and the records of the Division of Motor Vehicles in the Department of Transportation or of any other state, province, or motor vehicle licensing authority.

Service may be made by means provided by the Rules Governing the Courts of the State of New Jersey.

Except as provided in subsection c. of this section, the recorded images produced by a toll collection monitoring system shall be considered an official record kept in the ordinary course of business and shall be admissible in a proceeding for a violation of any toll collection monitoring system regulations.

e. The municipal court of the municipality wherein a toll collection monitoring system record was made shall have jurisdiction to hear violations of the toll collection monitoring system regulations. Violations shall be enforced and penalties collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). A proceeding and a judgment arising therefrom shall be pursued and entered in accordance with the provisions of N.J.S.2B:12-1 et seq. and the Rules Governing the Courts of the State of New Jersey.

In addition to the civil penalty that may be assessed by a court having jurisdiction for a violation of the toll collection monitoring system regulations, a court shall require the defendant to pay the proper toll and shall require the defendant to pay a reasonable administrative fee as established by the authority. Following collection and distribution of the fees set forth in section 11 of P.L.1953, c.22 (C.22A:3-4), any tolls and administrative fees imposed and collected by the court for a violation of the toll collection monitoring system regulations shall be promptly remitted to the authority by the court. The civil penalty shall be distributed pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

**Repealer.**

49. The following are repealed: Section 1 of P.L.1949, c.40 (C.27:23-5.1), section 5 of P.L.1949, c.40 (C.27:23-5.5), section 7 of P.L.1949, c.40 (C.27:23-5.7), P.L.1952, c.16 (C.27:12B-1 et seq.), section 2 of P.L.1970, c.28 (C.27:12B-4.2), section 2 of P.L.1968, c.348 (C.27:12B-5.1), P.L.1985, c.312 (C.27:12B-5.1a), P.L.1968, c.459 (C.27:12B-5.2), section 1 of P.L.2002, c.77 (C.27:12B-5.2a), P.L.1991, c.70 (C.27:12B-5.3 et seq.), P.L.1977, c.361 (C.27:12B-14.1 et seq.), section 2 of P.L.2002, c.114 (C.27:12B-17.1), P.L.1956, c.206 (C.27:12B-18.1), sections 1 through 5 (inclusive) of P.L.1997, c.59 (C.27:12B-18.2 through 18.6), P.L.1970, c.185 (C.27:12B-19.1), P.L.1981, c.463 (C.27:12B-20a), section 1 of P.L.1965, c.211 (C.27:12B-20.2), section 2 of P.L.1966, c.284 (C.27:12B-21.1), P.L.1953, c.164 (C.27:12B-27 et seq.), P.L.1957, c.89 (C.27:12B-31 et seq.).

The repeal of any statute herein shall not be deemed to revive any act previously repealed by any such statute.

50. This act shall take effect on the Transfer Date, except that section 3, section 8 and the amendment of section 5 of P.L.1948, c.454 (C.27:23-5) adding

a new subsection (t), as provided in section 9 of this act, shall take effect immediately, provided that the authority shall be granted such powers as are contained herein which shall be necessary or appropriate for it to issue bonds and to take such other actions to effectuate the transfer of the Highway Authority and its projects and functions to the authority as soon as practicable after the date of enactment. The authority may take such anticipatory action in advance as shall be necessary for the implementation of this act.

Approved May 27, 2003.

## CHAPTER 80

AN ACT appropriating \$28,820,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$16,920,000 for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements, for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$19,075,000 shall not exceed \$16,920,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Project (Farm)	County	Municipality	Acres (+/-)	Amount of Grant Not to Exceed
Twin Brook Nursery	Bergen	Franklin Lakes Boro	6	\$ 650,000
Bogatz, B. & Tabuena-Bogatz, L.	Mercer	East Windsor Twp	25	125,000
Mercer County (Costantino)	Mercer	East Windsor Twp	9	50,000
Zygmunt, M. & C.	Mercer	Hamilton Twp	99	450,000
West Windsor Twp #21	Mercer	West Windsor Twp	26	425,000
West Windsor Twp #15 & #17	Mercer	West Windsor Twp	76	1,025,000

West Windsor Twp #18 & #19	Mercer	West Windsor Twp	113	1,525,000
West Windsor Twp #20	Mercer	West Windsor Twp	26	375,000
West Windsor Twp #23	Mercer	West Windsor Twp	32	450,000
E. Barclay Family & Trust	Middlesex	Cranbury Twp	87	950,000
Simonson Family Assoc., LP	Middlesex	Cranbury Twp	130	1,425,000
Barnes, W.	Middlesex	Monroe Twp	29	900,000
Kovacs Estate	Middlesex	Monroe Twp	44	275,000
Ippoliti (Farrington Farms, Inc.)	Middlesex	South Brunswick Twp	10	125,000
Seven Kay Associates	Middlesex	South Brunswick Twp	53	900,000
Von Thun, R. Sr. & R. Jr.	Middlesex	South Brunswick Twp	72	2,375,000
Victory Stables (Sessa)	Monmouth	Colts Neck Twp	31	425,000
Holland Farm	Monmouth	Manalapan Twp	22	200,000
Smith Farm	Monmouth	Manalapan Twp	111	1,525,000
Morris County (Jacobson Farm)	Morris	Chester Twp	22	625,000
Morris County (Cyrier, L. & E.)	Morris	Randolph Twp	89	1,650,000
Fellman, N. & R.	Somerset	Bedminster Twp	25	175,000
Mayfair Farm (Marki, D.)	Somerset	Bedminster Twp	31	300,000
Hillsborough Twp (Wengryn)	Somerset	Hillsborough Twp	70	525,000
Boheim, H. & H.	Sussex	Frankford Twp	98	225,000
Gaffney, E.	Sussex	Hampton Twp	35	100,000
Landauer, S. & T., G.	Sussex	Hampton Twp	87	150,000
Beetle, J. & S.	Sussex	Lafayette Twp	93	250,000
Alpert/Tsuno Farm	Sussex	Wantage Twp	32	100,000
Kuperus, J. & S.	Sussex	Wantage Twp	36	125,000
Nowicki, E.	Sussex	Wantage Twp	175	375,000
Russell, J.	Sussex	Wantage Twp	50	150,000
Steele, B.	Sussex	Wantage Twp	51	150,000

2. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c. 152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$11,900,000 for the purpose of providing for the cost of acquisition by the committee of development easements on farmland for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects



in subsection b. of this section totaling \$15,400,000 shall not exceed \$11,900,000.

b. The following projects are eligible for funding with the moneys appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount Not to Exceed</b>
Barclay Farm	Monmouth	Colts Neck Twp	98	\$1,950,000
Baldachino, G.	Monmouth	Freehold Twp	151	1,250,000
Baldachino, G.	Monmouth	Manalapan Twp	69	1,150,000
Buffalo Country LLC (A)	Somerset	Bedminster Twp	105	1,850,000
Buffalo Country LLC (B)	Somerset	Bedminster Twp	102	1,800,000
Buffalo Country LLC (C)	Somerset	Bedminster Twp	149	1,750,000
Piancone #1	Somerset	Bedminster Twp	70	1,225,000
Piancone #2	Somerset	Bedminster Twp	42	750,000
Piancone #3	Somerset	Bedminster Twp	30	550,000
Format Corporation	Sussex	Andover Twp	355	1,450,000
Mazuy Farm	Sussex	Fredon Twp	176	800,000
Pond Ridge	Sussex	Hampton Twp	228	875,000

3. The following project is eligible for funding with the monies appropriated pursuant to subsection a. of section 2 of P.L.2003, c.82, which funding shall be in the form of a grant for up to 50% of the cost of acquisition of development easements on farmland or for up to 50% of the cost of acquisition of fee simple titles to farmland for resale or lease with agricultural deed restrictions approved by the State Agriculture Development Committee:

<b>Applicant (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount of Grant Not to Exceed</b>
The Nature Conservancy (St. Paul's Abbey)	Sussex	Andover Twp	365	\$1,350,000

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

5. This act shall take effect immediately.

Approved June 2, 2003.

# CHAPTER 81

AN ACT appropriating \$18,725,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c. 152 (C. 13:8C-20), to the State Agriculture Development Committee the sum of \$12,825,000 for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements, for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$14,825,000 shall not exceed \$12,825,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Project (Farm)	County	Municipality	Acres (+/-)	Amount of Grant Not to Exceed
Burlington County (Hoeffling)	Burlington	Mansfield Twp	106	\$ 375,000
Burlington County (Puglia, Sr. & Jr.)	Burlington	Mansfield Twp	60	600,000
Burlington County (Winzinger)	Burlington	Mansfield Twp	79	275,000
Burlington County (Johnson Farm)	Burlington	Medford Twp	98	1,300,000
Burlington County (Dyott, II)	Burlington	North Hanover Twp	24	100,000
Burlington County (Geibel, Jr.)	Burlington	North Hanover Twp	30	75,000
Burlington County (Giacchino)	Burlington	Southampton Twp	72	400,000
Burlington County (Hansen)	Burlington	Southampton Twp	35	100,000
Burlington County (Phillips)	Burlington	Springfield Twp	72	250,000

Burlington County (Shinn/Branin)	Burlington	Springfield Twp	80	200,000
Burlington County (Walder North)	Burlington	Springfield Twp	33	150,000
Cape May County (Laubengeyer)	Cape May	Dennis Twp	20	75,000
Cape May County (Howell)	Cape May	Lower Twp	16	100,000
Cape May County (Rietheimer)	Cape May	Lower Twp	14	75,000
Cape May County (Eckstein)	Cape May	Middle Twp	12	75,000
Cape May County (Schmitke/Gulite)	Cape May	Woodbine Boro	11	50,000
Alvino, R.	Gloucester	Franklin Twp	48	100,000
Placendo, L.	Gloucester	Franklin Twp	29	75,000
Totoro/Machulsky	Gloucester	Franklin Twp	28	25,000
Alexandria Twp (Lauber)	Hunterdon	Alexandria Twp	113	450,000
Alexandria Twp (Tucker)	Hunterdon	Alexandria Twp	61	125,000
Bogad, F.	Hunterdon	Alexandria Twp	54	250,000
Kappus, K.	Hunterdon	Alexandria Twp	131	525,000
Aron, R. & C.	Hunterdon	Delaware Twp	37	200,000
Fisher, R. & N.	Hunterdon	Delaware Twp	43	175,000
Rigney & Teeter	Hunterdon	Delaware Twp	96	500,000
Franklin Twp (Lawson)	Hunterdon	Franklin Twp	40	225,000
Krebs Farm	Hunterdon	Franklin Twp	106	350,000
Muehlbauer, H. & F.	Hunterdon	Franklin Twp	123	875,000
Kuhl Kadezabek Properties	Hunterdon	Raritan Twp	74	625,000
Kuhl Makarick Properties	Hunterdon	Raritan Twp	46	475,000
Kuhl Rubin Properties	Hunterdon	Raritan Twp	60	550,000
Washington Twp (Hall Farm)	Mercer	Washington Twp	109	425,000
Miller, A.	Middlesex	Old Bridge Twp	12	200,000
Von Frankenberg, M.	Ocean	Plumsted Twp	19	150,000
Braun, R. & A.	Warren	Blairstown Twp	41	125,000
Dukes, P.	Warren	Blairstown Twp	70	200,000
Mowbray, T. & M.	Warren	Blairstown Twp	71	175,000
Dischler, R.	Warren	Franklin Twp	28	125,000
Falk, N.	Warren	Franklin Twp	45	200,000
Warren County (Schuster)	Warren	Franklin Twp	196	800,000

Warren Rod & Gun Club	Warren	Franklin Twp	91	350,000
Staufenberger, M.J.	Warren	Frelinghuysen Twp	131	400,000
Warren County (Arson Lolas Farm)	Warren	Frelinghuysen Twp	52	150,000
Warren County (Feldman Farm)	Warren	Frelinghuysen Twp	103	250,000
Warren County (Smolha)	Warren	Frelinghuysen Twp	80	225,000
Buck Hill Farm (Vosper)	Warren	Hardwick Twp	116	350,000
Young, K. W.	Warren	Hardwick Twp	78	225,000
Warren County (S. Santini Farm)	Warren	Pohatcong Twp	73	375,000
Warren County (Kingsbury Farm)	Warren	Washington Twp	135	375,000

2. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c. 152 (C. 13:8C-20), to the State Agriculture Development Committee the sum of \$5,900,000 for the purpose of providing for the cost of acquisition by the committee of development easements on farmland for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$8,425,000 shall not exceed \$5,900,000.

b. The following projects are eligible for funding with the moneys appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount Not to Exceed</b>
LoSasso, W. & L.	Atlantic	Mullica Twp	22	\$ 125,000
Morris April Bros.	Cape May	Upper Twp	204	300,000
Weiner, R. & V.	Hunterdon	Bethlehem Twp	45	350,000
Back Acres	Hunterdon	Clinton Twp	51	800,000
Alexauken Creek Farm	Hunterdon	Delaware Twp	84	750,000
Cooper F. & T.	Hunterdon	Delaware Twp	49	500,000
Cooper F. & T.	Hunterdon	Delaware Twp	45	450,000
Cooper F. & T.	Hunterdon	Delaware Twp	37	375,000
Johnson, L. & Rosa, M.S.	Hunterdon	Delaware Twp	40	350,000
New Jersey Conservation Foundation (Baron)	Hunterdon	East Amwell Twp	170	1,400,000

Twin Brook Farm	Hunterdon	East Amwell Twp	68	725,000
Hodulik Farm	Hunterdon	Franklin Twp	85	800,000
Rey, H. & M.	Hunterdon	Kingwood Twp	72	475,000
Rigoletti, M.	Warren	Washington Twp	36	225,000
Caruso, A.	Warren	White Twp	113	800,000

3. The following project is eligible for funding with the monies appropriated pursuant to subsection a. of section 2 of P.L.2003, c.82, which funding shall be in the form of a grant for up to 50% of the cost of acquisition of development easements on farmland or for up to 50% of the cost of acquisition of fee simple titles to farmland for resale or lease with agricultural deed restrictions approved by the State Agriculture Development Committee:

<b>Applicant (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount of Grant Not to Exceed</b>
Ridge and Valley Conservancy Inc. (Round Hill Farm)	Warren	Blairstown Twp	60	\$ 225,000

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

5. This act shall take effect immediately.

Approved June 2, 2003.

## CHAPTER 82

AN ACT appropriating \$11,118,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$2,400,000 for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be

dedicated to the future purchase of development easements, for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$2,750,000 shall not exceed \$2,400,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount of Grant Not to Exceed</b>
Ferrette, J. & A.	Mercer	Hopewell Twp	41	\$ 375,000
Gallo	Mercer	Hopewell Twp	49	500,000
(L. Sciarrotta)				
Mercer County	Mercer	Lawrence Twp	27	500,000
(Chmiel #1)				
Mercer County	Mercer	Lawrence Twp	13	250,000
(Chmiel #2)				
Warren, W. III	Middlesex	East Brunswick Twp	48	1,125,000

2. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c. 152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$1,725,000 for the purpose of providing grants to qualifying tax exempt nonprofit organizations listed in subsection b. of this section, section 3 of P.L. 2003, c. 80, and section 3 of P.L. 2003, c. 81, for up to 50% of the cost of acquisition of development easements on farmland or for up to 50% of the cost of acquisition of fee simple titles to farmland for resale or lease with agricultural deed restrictions approved by the committee.

The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section, section 3 of P.L. 2003, c. 80, and section 3 of P.L. 2003, c. 81 totaling \$1,800,000 shall not exceed \$1,725,000.

b. The following project is eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Applicant (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount of Grant Not to Exceed</b>
Friends of Hopewell Valley Open Space (Ferrara)	Mercer	Hopewell Twp	30	\$ 225,000

3. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c. 152 (C.13:8C-20),

to the State Agriculture Development Committee the sum of \$6,993,000 for the purpose of providing for the cost of acquisition by the committee of fee simple titles to farmland for farmland preservation purposes. Any such farmland acquired in fee simple with moneys appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L. 1999, c.152 (C.13:8C-1 et seq.), and P.L. 1983, c.32 (C.4:1C-11 et seq.), as appropriate.

5. This act shall take effect immediately.

Approved June 2, 2003.

### CHAPTER 83

AN ACT appropriating \$14,548,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$2,455,000 for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements, for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$2,925,000 shall not exceed \$2,455,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Project (Farm)	County	Municipality	Acres (+/-)	Amount of Grant Not to Exceed
Sparacio Farm Renne, K. & L	Cumberland	Deerfield Twp	50	\$ 125,000
	Cumberland	Greenwich Twp	31	75,000
Fralinger (R. Jr., M., & R. III)	Cumberland	Hopewell Twp	46	75,000
Baker Farm	Cumberland	Lawrence Twp	22	75,000

Ruggieri C.	Gloucester	East Greenwich Twp	45	175,000
DeClement-Hogan	Gloucester	Elk Twp	40	150,000
Gant, T. & M.	Gloucester	Elk Twp	218	625,000
Groff, R. & S.	Gloucester	Elk Twp	60	225,000
Lewis, G. & K.	Gloucester	Elk Twp	34	150,000
McCann, E. Jr. & S.	Gloucester	Elk Twp	41	125,000
Damminger, D.	Gloucester	Mantua Twp	79	450,000
HFM Properties, Inc.- Sunny Brook	Gloucester	South Harrison Twp	50	225,000
Sorbello, S. & C.	Gloucester	South Harrison Twp	32	100,000
DiBella, J. & J.	Gloucester	Woolwich Twp	50	250,000
Licciardello, R.	Gloucester	Woolwich Twp	18	100,000

2. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$5,100,000 for the purpose of providing for the cost of acquisition by the committee of development easements on farmland for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$7,625,000 shall not exceed \$5,100,000.

b. The following projects are eligible for funding with the moneys appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount Not to Exceed</b>
Pace Farm	Cumberland	Deerfield Twp	35	\$ 100,000
Circle "D" Farm	Cumberland	Upper Deerfield Twp	32	75,000
Marich, L. & E.	Salem	Alloway Twp	78	200,000
Graeff, E. & K.	Salem	Elsinboro Twp	29	75,000
Jaqua, C.	Salem	Elsinboro Twp	121	150,000
Bradway, W. & D.	Salem	Lower Alloways Creek Twp	78	175,000
Carll, G.	Salem	Lower Alloways Creek Twp	122	175,000
Cocking, W. & H.	Salem	Lower Alloways Creek Twp	56	150,000
Henderson, H.	Salem	Lower Alloways Creek Twp	107	150,000



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Massey, J.	Salem	Lower Alloways Creek Twp	103	200,000
Rhubart, D. & L.	Salem	Lower Alloways Creek Twp	115	225,000
Smith, D. & L.	Salem	Lower Alloways Creek Twp	33	75,000
Smith, J. & T.	Salem	Lower Alloways Creek Twp	70	100,000
Paruszewski, J. L.	Salem	Mannington Twp	56	125,000
Sickler, R., F., & J.	Salem	Pilesgrove Twp	209	625,000
DuBois, H., Jr. & S.	Salem	Pittsgrove Twp	160	500,000
DuBois, H., Jr. & S.	Salem	Pittsgrove Twp	77	250,000
Parvin Farm	Salem	Pittsgrove Twp	171	575,000
Bell, A.	Salem	Quinton Twp	242	450,000
Gibson, P. & A.	Salem	Quinton Twp	146	300,000
Hitchner, H.	Salem	Quinton Twp	41	75,000
Major, G.	Salem	Quinton Twp	121	175,000
Schultz, T. & H.	Salem	Quinton Twp	103	200,000
Bishop Brothers Farm	Salem	Upper Pittsgrove Twp	195	600,000
Cassaday, G., Jr.	Salem	Upper Pittsgrove Twp	48	150,000
Coles, E. & E.	Salem	Upper Pittsgrove Twp	48	175,000
DeAngelis, B. & E.	Salem	Upper Pittsgrove Twp	59	225,000
Downer, E. & D.	Salem	Upper Pittsgrove Twp	11	75,000
Garrison, S.	Salem	Upper Pittsgrove Twp	215	650,000
Myers, H. & E.	Salem	Upper Pittsgrove Twp	16	100,000
Sickler, F., J. & R.	Salem	Upper Pittsgrove Twp	189	525,000

3. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L. 1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$6,993,000 for the purpose of providing for the cost of acquisition by the committee of fee simple titles to farmland for farmland preservation purposes. Any such farmland acquired in fee simple with moneys appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L. 1999, c. 152 (C.13:8C-1 et seq.), and P.L. 1983, c. 32 (C.4:1C-11 et seq.), as appropriate.

5. This act shall take effect immediately.

Approved June 2, 2003.

#### CHAPTER 84

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund," and appropriating and reappropriating certain other moneys, to assist local government units to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L. 1999, c. 152 (C.13:8C-19), the sum of \$7,400,000, and there is appropriated to the department the sum of \$4,000,000 in federal funds received or to be received by the State from the federal Land and Water Conservation Fund or a similar fund, to provide grants or loans, or both, to assist local government units to develop lands for recreation and conservation purposes. The following projects to develop lands for recreation and conservation purposes located in municipalities eligible to receive State aid pursuant to P.L. 1978, c. 14 (C.52:27D-178 et seq.) are eligible for funding with the moneys appropriated pursuant to this subsection:

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Gloucester City	Camden	Gloucester Point Riverfront Dev	\$400,000
Essex County	Essex	Multi-Parks Improvements Dev	1,000,000
Irvington Twp	Essex	Playground Improvements Dev	500,000
Montclair Twp	Essex	Project Youth Sports Phase II Dev	500,000
Newark City	Essex	Broad St. Station Plaza/ Gateway Enhancement Dev	500,000
Orange City Twp	Essex	Multi Park Improvements Dev	500,000

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Glassboro Boro	Gloucester	Multi Park Improvements Dev	500,000
Woodbury City	Gloucester	Multi Parks Dev	500,000
Hudson County	Hudson	Multi Park Sports Areas Dev	1,000,000
Bayonne City	Hudson	Eastside Park Dev	250,000
Bayonne City	Hudson	Waterfront Park Dev	250,000
North Bergen Twp	Hudson	Bruin Stadium Improvements Dev	500,000
Union City	Hudson	47th Street Pool Improvements Dev	500,000
Trenton City	Mercer	Cadwalader Park Dev	500,000
Middlesex County	Middlesex	Old Bridge Waterfront Park Phase II Dev	1,000,000
Carteret Boro	Middlesex	Arthur Kill Waterfront Rec Facility II Dev	500,000
Passaic County	Passaic	Lambert Castle Observatory Tower Rehab. Dev	1,000,000
Paterson City	Passaic	ATP Site/ Haynes Park Riverwalk Ext Dev	36,700
Paterson City	Passaic	Eastside Park Rehabilitation Dev	463,300
Penns Grove Boro	Salem	Riverwalk Dev	500,000
Plainfield City	Union	Multi Park Improvements Dev	500,000
<b>TOTAL</b>			<b>\$11,400,000</b>

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2003, c.85, P.L.2003, c.86, P.L.2003, c.90, or sections 2 or 3 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$2,000,000 to provide grants or loans, or both, to assist local government units to acquire lands for recreation and conservation purposes. The following projects to acquire lands for recreation and conservation purposes located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) are eligible for funding with the moneys appropriated pursuant to this subsection:

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Jersey City	Hudson	Berry Lane Acq	\$1,000,000
Old Bridge Twp	Middlesex	Cedar Ridge II Acq	1,000,000
<b>TOTAL</b>			<b>\$2,000,000</b>

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2003, c.85, P.L.2003, c.86, P.L.2003, c.90, or sections 1 or 3 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

3. a. There is appropriated to the Department of Environmental Protection from the "State Land Acquisition and Development Fund," established pursuant to section 15 of the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, the sum of \$308,385, which constitutes the State's share under the Federal Urban Parks and Recreation Recovery Program, to provide grants or loans, or both, to assist local government units to develop lands for recreation and conservation purposes. The following projects to develop lands for recreation

and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Vineland City	Cumberland	Multi Parks Dev II	\$49,560
Newark City	Essex	Mildred Helms Park Dev	176,470
Bayonne City	Hudson	28th Street Park Dev	24,000
Hoboken City	Hudson	Church Street Square Park Dev	8,930
Perth Amboy City	Middlesex	Washington Park Dev	49,425
<b>TOTAL</b>			<b>\$308,385</b>

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2003, c.85, P.L.2003, c.86, P.L.2003, c.90, or sections 1 or 2 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

4. a. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project withdrawals, cancellations, or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund to assist local government units to acquire or develop lands for recreation and conservation purposes, for the purposes of providing:

(1) grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes, for projects approved

as eligible for such funding pursuant to P.L.2003, c.85, P.L.2003, c.86, P.L.2003, c.90, or sections 1 through 3 of this act; and

(2) additional funding, as determined by the Department of Environmental Protection, to any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to P.L.2003, c.85, P.L.2003, c.86, P.L.2003, c.90, or sections 1 through 3 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

b. There is appropriated to the Department of Environmental Protection such sums as may be, or may become available, on or before June 30, 2003, due to interest earnings or loan repayments in any "Green Trust Fund" established pursuant to a Green Acres bond act, for the purpose of providing:

(1) grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes, for projects approved as eligible for such funding pursuant to P.L.2003, c.85, P.L.2003, c.86, P.L.2003, c.90, or sections 1 through 3 of this act; and

(2) additional funding, as determined by the Department of Environmental Protection, to any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to P.L.2003, c.85, P.L.2003, c.86, P.L.2003, c.90, or sections 1 through 3 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

c. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

5. This act shall take effect immediately.

Approved June 6, 2003.

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## CHAPTER 85

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to assist local government units in northern New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$11,050,000 to provide grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Chester Twp	Morris	Chester Twp Open Space Acq	\$400,000
Denville Twp	Morris	Denville Open Space Acq	100,000
East Hanover Twp	Morris	East Hanover Twp Acq	400,000
Hanover Twp	Morris	Open Space Acq	400,000
Jefferson Twp	Morris	Jefferson Acq Plan	350,000
Mendham Twp	Morris	Open Space Acq	400,000
Mine Hill Twp	Morris	Open Space Acq	400,000
Montville Twp	Morris	Montville Open Space Acq	400,000
Morris Twp	Morris	Morris Twp Open Space Acq	400,000
Parsippany-Troy Hills Twp	Morris	Open Space Acq	400,000
Randolph Twp	Morris	Randolph Acq Program	400,000
Roxbury Twp	Morris	Roxbury Open Space Plan Acq	400,000
Passaic County	Passaic	Open Space Plan Acq	750,000
Bloomingtondale Boro	Passaic	Open Space Master Plan Acq	400,000
Byram Twp	Sussex	Byram Open Space Plan Acq	400,000
Frankford Twp	Sussex	Open Space Acq	350,000
Union County	Union	Open Space & Recreation Plan Acq	750,000
Warren County	Warren	Warren County Open Space Plan Acq	750,000

**New Jersey State Library**

Allamuchy Twp	Warren	Allamuchy Twp Open Space Acq	400,000
Greenwich Twp	Warren	Planning Incentive Acq	400,000

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<b>SUBTOTAL</b>			<b>\$8,650,000</b>
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*(2) Site Specific Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Edgewater Boro	Bergen	Grand Cove Marina Acq	\$400,000
Woodcliff Lake Boro	Bergen	Woodcliff Lake Historic Park Acq	100,000

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<b>SUBTOTAL</b>			<b>\$500,000</b>
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*(3) Standard Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
East Rutherford Boro	Bergen	Veterans Park Extension Acq	\$400,000
Franklin Lakes Boro	Bergen	Woodside Ave Acq	400,000
Kinnelon Boro	Morris	Pyramid Mountain Park Extension Acq	300,000
Linden City	Union	Land Acq	400,000

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<b>SUBTOTAL</b>			<b>\$1,500,000</b>
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*(4) Non Urban Development Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Hackettstown Town	Warren	Riverfront Park Dev	\$400,000

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<b>SUBTOTAL</b>			<b>\$400,000</b>
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<b>GRAND TOTAL ALL CATEGORIES</b>			<b>\$11,050,000</b>
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b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2003, c.84, P.L.2003, c.86, or P.L.2003, c.90, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect immediately.

Approved June 6, 2003.

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## CHAPTER 86

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to assist local government units in central New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$11,295,000 to provide grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Hunterdon County	Hunterdon	County Open Space Plan Acq	\$750,000
Delaware Twp	Hunterdon	Open Space Acq	400,000
Readington Twp	Hunterdon	Greenway Incentive Plan Acq	400,000
Tewksbury Twp	Hunterdon	Recreation & Open Space Plan Acq	400,000
West Amwell Twp	Hunterdon	Sourlands/ Open Space Acq	400,000
Mercer County	Mercer	Planning Incentive Acq	750,000
East Windsor Twp	Mercer	East Windsor Open Space Acq	400,000
Hopewell Twp	Mercer	Hopewell Open Space Acq	400,000
Lawrence Twp	Mercer	Open Space Plan Acq	400,000
Pennington Boro	Mercer	Pennington Greenbelt Planning Incentive Acq	400,000
Princeton Twp	Mercer	Princeton Open Space Acq	400,000
West Windsor Twp	Mercer	West Windsor Planning Incentive Acq	400,000
Middlesex County	Middlesex	Open Space Acq	750,000
Cranbury Twp	Middlesex	Cranbury Twp Acq	400,000
East Brunswick Twp	Middlesex	Open Space Plan Acq	400,000
Edison Twp	Middlesex	Edison Acquisition Plan	400,000
North Brunswick Twp	Middlesex	North Brunswick Plan Acq	400,000
Plainsboro Twp	Middlesex	Plainsboro Preservation Acq	400,000
Somerset County	Somerset	County Open Space Acq	750,000
Bridgewater Twp	Somerset	Bridgewater Open Space Plan Acq	400,000
Franklin Twp	Somerset	Open Space Plan Acq	400,000
Montgomery Twp	Somerset	Open Space Acq	400,000
<b>SUBTOTAL</b>			<b>\$10,200,000</b>

*(2) Standard Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Glen Gardner Boro	Hunterdon	Bell Avenue Preserve Acq	\$370,000
Monroe Twp	Middlesex	Thompson Park III Acq	400,000
<b>SUBTOTAL</b>			<b>\$770,000</b>

*(3) Non Urban Development Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Milltown Boro	Middlesex	Mill Pond Park	\$325,000
<b>SUBTOTAL</b>			<b>\$325,000</b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b>\$11,295,000</b>

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2003, c.84, P.L.2003, c.85, or P.L.2003, c.90, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect immediately.

Approved June 6, 2003.

## CHAPTER 87

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to provide grants to assist qualifying tax exempt nonprofit organizations to acquire or develop lands for recreation and conservation purposes.

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

1. a. (1) There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$9,435,000 for the purpose of providing grants to assist qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes. The following projects are eligible for funding with the moneys appropriated pursuant to this paragraph:

Nonprofit Organization	Project	County	Municipality	Approved Amount
(a) American Littoral Society	Hudson-Raritan Estuary Acq	Essex	Bloomfield Twp	\$1,000,000
		Middlesex	Carteret Boro Old Bridge Twp Sayreville Boro Woodbridge Twp	
		Monmouth Union	Aberdeen Twp Linden City	
(b) Delaware and Raritan Greenway, Inc.	Central Stony Brook Greenway	Hunterdon	East Amwell Twp	1,300,000
		Mercer	Hopewell Twp Lawrence Twp Pennington Boro Princeton Twp Cranbury Twp	
	Delaware River Tributaries Acq	Middlesex	Hamilton Twp	
		Mercer	Hopewell Twp Lawrence Twp West Windsor Twp	
		Somerset	Franklin Twp Rocky Hill Boro	
	Griggstown Canal Acq Sourlands Mountain Acq	Hunterdon	East Amwell Twp West Amwell Twp	
		Mercer	Hopewell Twp	
		Somerset	Hillsborough Twp Montgomery Twp	
	Upper Millstone Greenway	Middlesex	Cranbury Twp Highland Park Boro	
			Plainsboro Twp	

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(c) Friends of Princeton Open Space	Rosedale Road Woods	Mercer	Princeton Twp	500,000
(d) Happiness Is Camping	Camp Additions	Warren	Hardwick Twp	200,000
(e) Hunterdon County Education Foundation	Kingwood Equestrian Facility	Hunterdon	Kingwood Twp	430,000
(f) Lamington Conservancy	Central Lamington Project	Hunterdon	Tewksbury Twp	500,000
		Morris	Chester Twp	
		Somerset	Washington Twp	
			Bedminster Twp	
			Peapack-Gladstone Boro	
(g) Lawrence Twp Conservation Foundation	Carson Woods-Cooperative	Mercer	Lawrence Twp	500,000
(h) Morris Land Conservancy	Morris Conservation Area	Morris	Hanover Twp	500,000
			Montville Twp	
(i) Natural Lands Trust	Delaware Estuaries Acq	Cumberland	Mount Olive Twp	500,000
			Millville City	
(j) Nature Preservation Council, Inc.	Avian Rehabilitation Center	Salem Atlantic	Quinton Twp	75,000
(k) Passaic River Coalition	Passaic River Preservation	Essex	Somers Point City	
			Livingston Twp	500,000
		Passaic Somerset Burlington	Ringwood Boro	
(l) Pinelands Preservation Alliance	Bishop-Irick Farmhouse Acq		Bernards Twp	250,000
			Southampton Twp	
(m) Stony Brook Millstone Connectors Watershed Assoc.	Watershed	Mercer	Hopewell Twp	500,000
(n) The Nature Conservancy				1,300,000
	Cape May Project Area	Cape May	Cape May City	
			Cape May Point Boro	
			Dennis Twp	
			Lower Twp	
			Middle Twp	
			West Cape May Boro	
		Cumberland	Maurice River Twp	
	Delaware Bay Greenway	Cumberland	Commercial Twp	
			Downe Twp	
			Fairfield Twp	
			Lawrence Twp	
			Maurice River Twp	
			Millville City	
	High Mt. Project Area	Passaic	Wayne Twp	
	Limestone Forest Acq	Sussex	Andover Boro	
			Andover Twp	
			Fredon Twp	
			Green Twp	
			Hampton Twp	
			Lafayette Twp	

		Warren	Newton Town Stillwater Twp Allamuchy Twp Blairstown Twp Frelinghuysen Twp Hardwick Twp Hope Twp Maurice River Twp Millville City	
	Maurice River Project Area	Cumberland		
(o) Trust For Public Land	Harbor Estuary Acq	Bergen	East Rutherford Boro	1,300,000
		Hudson	Jersey City	
		Middlesex	Secaucus Town Carteret Boro Woodbridge Twp	
		Union	Linden City	
(p) Unexpected Wildlife Refuge	Refuge Expansion	Gloucester	Rahway City Franklin Twp	80,000
<b>TOTAL</b>				<b><u>\$9,435,000</u></b>

(2) There is appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection the sum of \$1,670,000 to provide grants to assist qualifying tax exempt nonprofit organizations to develop lands for recreation and conservation purposes. The following projects are eligible for funding with the moneys appropriated pursuant to this paragraph:

Nonprofit Organization	Project	County	Municipality	Approved Amount
Passaic River Coalition	Goffle Brook/ Weasel Brook Enhancements	Passaic	Paterson City	\$ 170,000
The Green Fields Foundation, Inc.	Brookdale Athletic Fields Improvements	Essex	Bloomfield Twp Montclair Twp	500,000
Trust for Public Land	Multi Park Improvements	Essex	Newark City	500,000
Weequahic Park Assoc.	Weequahic Lake Restoration	Essex	Newark City	500,000
<b>TOTAL</b>				<b><u>\$1,670,000</u></b>

(3) Any transfer of any funds, or change in project sponsor, site, or type, listed in this subsection shall require the approval of the Joint Budget Oversight Committee or its successor.

b. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project

of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

c. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project withdrawals, cancellations, or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund to assist qualifying tax exempt nonprofit organizations to acquire or develop lands for recreation and conservation purposes, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any project of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. This act shall take effect immediately.

Approved June 6, 2003.

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## CHAPTER 88

AN ACT concerning electric personal assistive mobility devices and amending P.L.2001, c.430.

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

1. Section 1 of P.L.2001, c.430 (C.39:4-14.10) is amended to read as follows:

**C.39:4-14.10 Electric personal assistive mobility device defined; regulations concerning.**

1. a. As used in this act, "electric personal assistive mobility device" means a self-balancing non-tandem two wheeled device designed to transport one

person which uses an electric propulsion system with average power of 750 watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while operated by a person weighing 170 pounds is less than 20 miles per hour. The device shall not be considered a motorized wheelchair, motorized bicycle, motorcycle, motorized scooter, motorized skateboard, vehicle or motor vehicle.

b. An electric personal assistive mobility device may be operated on the public highways, sidewalks and bicycle paths of the State. Every person operating such a device shall be granted all of the rights and be subject to all of the duties applicable to the driver of a bicycle by chapter four of Title 39 of the Revised Statutes except as to those provisions thereof which by their nature can have no application. An electric personal assistive mobility device shall be subject to the safety and equipment requirements applicable to the bicycle provisions of chapter 4 of Title 39 of the Revised Statutes, except as to those provisions thereof which by their nature can have no application.

c. The operator of an electric personal assistive mobility device shall not be required to obtain a driver's license therefor or to register the device. The operator shall not be required to furnish proof of having liability insurance for the device or other proof of financial responsibility.

d. The governing body of any municipality may, by ordinance, regulate the operation of electric personal assistive mobility devices upon the roadways and public properties under municipal jurisdiction. The State or the governing body of any county or municipality may prohibit or regulate their operation on any public highway under its jurisdiction.

e. Notwithstanding the other provisions of this section, an operator of an electric personal assistive mobility device shall:

- (1) wear a helmet while operating that device; and
- (2) be 16 years of age or older, except for an operator with a mobility-related disability.

2. This act shall take effect immediately.

Approved June 8, 2003.

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## CHAPTER 89

AN ACT concerning automobile insurance and revising parts of the statutory law.

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



**C.17:30A-2.1 Findings, declarations relative to automobile insurance and consolidation of operations.**

1. With respect to sections 2 through 34 of this act, the Legislature finds and declares that:

a. The Unsatisfied Claim and Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.) currently serves a dual purpose: its original intent to pay the claims of victims of hit and run or uninsured motor vehicle accidents in certain circumstances, and a subsequent objective to reimburse private passenger automobile insurers when medical expense benefits payments exceed \$75,000 per person per accident.

b. When the Unsatisfied Claim and Judgment Fund was charged with reimbursing an insurer for medical expense benefits in excess of \$75,000 per person per accident, the amount of medical expense benefits provided on a per person, per accident basis was unlimited. However, insurers are required at present to provide medical expense benefits only up to \$250,000 per person per accident. Prospective elimination of the reimbursement function of the Unsatisfied Claim and Judgment Fund for medical expense benefits in excess of \$75,000 per person for an injury suffered in an accident covered by a policy issued or renewed on or after January 1, 2004 is deemed appropriate. Insurers would continue to be reimbursed for medical benefits in excess of \$75,000 per person per accident for injuries suffered in accidents covered by policies issued or renewed prior to January 1, 2004.

c. Since all motor vehicle liability policies issued in this State, except basic automobile insurance policies, include coverage for the payment of all or part of the sums which a person insured thereunder shall be legally entitled to recover as compensatory damages from owners or operators of uninsured motor vehicles (other than hit and run motor vehicles), the number of third party claims made against the Unsatisfied Claim and Judgment Fund is not substantial. It would be more efficient to have these claims administered by the New Jersey Property-Liability Insurance Guaranty Association, established pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

d. The New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.) and the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11) have both ceased issuing private passenger automobile insurance policies and are currently in run off, operating only to process the remaining claims against them. Currently, the funding for the claims payment and other operational activities of the New Jersey Automobile Full Insurance Underwriting Association and the Market Transition Facility is primarily provided by the New Jersey Automobile Insurance Guaranty Fund, created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5). However, existing statutes do not state how the consolidation or runoff operations of these entities will be handled.

Administrative and operational efficiencies would result from consolidating these entities and transferring the claims handling and other administrative duties of these entities to the New Jersey Property-Liability Insurance Guaranty Association.

e. Based upon recent financial and actuarial analysis, it is anticipated that the value of all residual New Jersey Automobile Full Insurance Underwriting Association and Market Transition Facility assets, including the balances in the New Jersey Automobile Insurance Guaranty Fund, to be transferred to the New Jersey Property-Liability Insurance Guaranty Association will be adequate to allow the association to discharge all remaining obligations of the New Jersey Automobile Full Insurance Underwriting Association and Market Transition Facility which are now to be administered by the association. Since no asset shortfall is projected, no additional assessment or other revenue generating powers are being conferred upon the association at this time with respect to such remaining obligations.

f. It is in the public interest to authorize the transfer and consolidation of compatible operations of the Unsatisfied Claim and Judgment Fund, the New Jersey Automobile Full Insurance Underwriting Association, and the Market Transition Facility to the New Jersey Property-Liability Insurance Guaranty Association.

g. Following transfer to the New Jersey Property-Liability Insurance Guaranty Association by the Unsatisfied Claim and Judgment Fund of all its management, administrative and claim functions, the Unsatisfied Claim and Judgment Fund shall continue to exist as a separate legal entity subject to the provisions of P.L.2003, c.89 (C.17:30A-2.1 et al.).

h. The New Jersey Property-Liability Insurance Guaranty Association will run off the remaining policyholder claim obligations of the New Jersey Automobile Full Insurance Underwriting Association and Market Transition Facility. The New Jersey Property-Liability Insurance Guaranty Association will also run off the obligations of the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1) and take over all governance, administrative and financial functions of the Unsatisfied Claim and Judgment Fund, including the claim payment function.

i. As part of the consolidation being accomplished by P.L.2003, c.89 (C.17:30A-2.1 et al.), the New Jersey Property-Liability Insurance Guaranty Association is formally designated as a servicing facility for several statutory entities for which it currently provides administrative services and also for the Unsatisfied Claim and Judgment Fund which, pursuant to P.L.2003, c.89 (C.17:30A-2.1 et al.), is transferring specified functions to the New Jersey Property-Liability Insurance Guaranty Association. The association is also authorized to serve, either by designation or by contract, as a servicing facility

for other entities which may be recommended by the association's board of directors and approved by the commissioner.

j. This act is not intended to abrogate in any way the settlement agreement entered into by the State and member insurers of the Market Transition Facility in June, 1994.

2. Section 2 of P.L.1974, c.17 (C.17:30A-2) is amended to read as follows:

**C.17:30A-2 Payment of covered claims.**

2. a. The purpose of this act is to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay in payment, to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, to provide an association to assess the cost of such protection among insurers, and to provide a mechanism to run off, manage, administer and pay claims asserted against the Unsatisfied Claim and Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.), the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), and the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11).

b. This act shall apply to all kinds of direct insurance, except life insurance, accident and health insurance, workers' compensation insurance, title insurance, annuities, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance, ocean marine insurance and pet health insurance.

3. Section 6 of P.L.1974, c.17 (C.17:30A-6) is amended to read as follows:

**C.17:30A-6 New Jersey Property-Liability Insurance Guaranty Association.**

6. There is created a private, nonprofit, unincorporated, legal entity to be known as the New Jersey Property-Liability Insurance Guaranty Association. All insurers defined as member insurers in subsection 5 f. shall be and remain members of the association as a condition of their authority to transact insurance in this State. The association shall perform its functions under a plan of operation established and approved under section 9 and shall exercise its powers through a board of directors established under section 7.

The association is also authorized and shall have all of the powers necessary and appropriate for the management and administration of the affairs of the New Jersey Surplus Lines Insurance Guaranty Fund, in accordance with the provisions of the "New Jersey Surplus Lines Insurance Guaranty Fund Act," P.L.1984, c.101 (C.17:22-6.70 et seq.).

The association is also authorized and shall have all of the powers necessary and appropriate for the management and administration of the affairs of, and

the payment of valid claims asserted against: the Unsatisfied Claim and Judgment Fund, created pursuant to the provisions of P.L.1952, c.174 (C.39:6-61 et seq.); the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to the provisions of P.L.1983, c.65 (C.17:30E-1 et seq.); and the Market Transition Facility created pursuant to the provisions of section 88 of P.L.1990, c.8 (C.17:33B-11).

4. Section 8 of P.L.1974, c.17 (C.17:30A-8) is amended to read as follows:

**C.17:30A-8 Association's obligations, powers and duties.**

8. a. The association shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred, in the case of private passenger automobile insurance, prior to or after the determination of insolvency, but before the policy expiration date or the date upon which the insured replaces the policy or causes its cancellation, or in the case of insurance other than private passenger automobile insurance, covered claims against such insolvent insurer incurred prior to or 90 days after the determination of insolvency, or before the policy expiration date if less than 90 days after said determination, or before the insured replaces the policy or causes its cancellation, if he does so within 90 days of the determination, but such obligation shall include only that amount of each covered claim which is less than \$300,000.00 and subject to any applicable deductible contained in the policy, except that the \$300,000.00 limitation shall not apply to a covered claim arising out of insurance coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4). In the case of benefits payable under subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4), the association shall be liable for payment of benefits in an amount not to exceed the amount set forth in section 4 of P.L.1972, c.70 (C.39:6A-4). In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the limits of liability stated in the policy of the insolvent insurer from which the claim arises;

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Assess member insurers in amounts necessary to pay:

(a) The obligations of the association under paragraphs (1) and (11) of this subsection;

(b) The expenses of handling covered claims;

(c) The cost of examinations under section 13; and

(d) Other expenses authorized by this act, excluding expenses incurred by the association pursuant to paragraphs (9) and (10) of this subsection.

The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment.

Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer of the association may be assessed pursuant to this paragraph (3) in any year in an amount greater than 2% of that member insurer's net direct written premiums for the calendar year preceding the assessment with regard to the association's obligation to pay covered claims and related expenses arising under coverages issued by insolvent insurers pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

The association may, subject to the approval of the commissioner, exempt, abate or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. In the event an assessment against a member insurer is exempted, abated, or deferred, in whole or in part, because of the limitations set forth in this section, the amount by which such assessment is exempted, abated, or deferred shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as it is permitted by this act. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;

(4) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

(5) Notify such persons as the commissioner directs under paragraph (1) of subsection b. of section 10 of P.L.1974, c.17 (C.17:30A-10);

(6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer. The association is designated as a servicing facility for the administration of claim obligations of: (a) the New Jersey Surplus Lines Insurance Guaranty Fund; (b) the New Jersey Medical

Malpractice Reinsurance Association; and (c) the Unsatisfied Claim and Judgment Fund. The association may also be designated or may contract as a servicing facility for any other entity which may be recommended by the association's board of directors and approved by the commissioner;

(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act;

(8) Make loans to the New Jersey Surplus Lines Insurance Guaranty Fund and the Unsatisfied Claim and Judgment Fund in such amounts and on such terms as the board of directors may determine are necessary or appropriate to effectuate the purposes of P.L.2003, c.89 (C.17:30A-2.1 et al.) in accordance with the plan of operation; provided, however, no such loan transaction shall be authorized to the extent the federal tax exemption of the association would be withdrawn or the association would otherwise incur any federal tax or penalty as a result of such transaction;

(9) Assess member insurers in amounts necessary to make loans pursuant to paragraph (10) of this subsection. The estimated assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment with actual assessments adjusted in the succeeding year based on the proportion that the assessed member insurer's net direct written premiums in the year of assessment bears to the net direct written premiums of all member insurers for that year.

(a) For the purposes of this paragraph, "net direct written premiums" shall not include medical malpractice liability insurance premiums paid to member insurers to which an additional charge has been applied for deposit in the New Jersey Medical Malpractice Reinsurance Recovery Fund as provided in the "Medical Malpractice Liability Insurance Act," P.L.1975, c.301 (C.17:30D-1 et seq.) and the regulations promulgated pursuant thereto.

(b) In the event that the commissioner certifies that loans in amounts less than \$160 million per calendar year as provided in paragraph (10) of this subsection will satisfy the current and anticipated financial obligations of the Market Transition Facility, without reference to the amount of funds remaining from the sale of the Market Transition Facility Senior Lien Revenue Bonds, a member insurer, and all of its affiliates as defined in subsection a. of section 1 of P.L.1970, c.22 (C.17:27A-1), shall be subject to a reduced assessment pursuant to this paragraph if the member insurer and all such affiliates: (i) did not issue or renew a policy of private passenger automobile insurance in this State on or after January 1, 1973; (ii) were not assessed as members of the Market Transition Facility as established by section 88 of P.L.1990,

c.8 (C.17:33B-11); and (iii) had not relinquished voluntarily any expectation they may have had for the repayment of loans made pursuant to paragraph (10) of this subsection, as provided by paragraph (2) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35), pursuant to any court order or settlement agreement approved by any court of competent jurisdiction, on or before the effective date of this 1995 amendatory act. The reduced assessment of such members shall be equal to their proportionate share of the difference between the amount certified by the commissioner and the total of the assessment of all other insurers subject to such assessment. If the amount of such difference is zero or less, the reduced assessment shall be zero;

(10) Make loans in the amount of \$160 million per calendar year, beginning in calendar year 1990, or upon certification by the commissioner, as provided by paragraph (b) of subsection (9) of this section, that lesser amounts will satisfy the current and anticipated financial obligations of the Market Transition Facility, such lesser amounts as may be collected pursuant to paragraph (9) of this subsection, to the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5), except that no loan shall be made pursuant to this paragraph after December 31, 1997. In no event shall member insurers subject to assessments have their financial obligation increased due to reductions granted pursuant to paragraph (9) of this subsection;

(11) Reimburse an insurer for medical expense benefits in excess of \$75,000 per person per accident as provided in section 2 of P.L.1977, c.310 (C.39:6-73.1) for injuries covered under an automobile insurance policy issued prior to January 1, 2004;

(12) Undertake all of the management, administrative, and claims activities of the Unsatisfied Claim and Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.), the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), and the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11).

b. The association may:

(1) Employ or retain such persons as are necessary to handle claims and perform such other duties of the association;

(2) Borrow and separately account for funds from any source, including, but not limited to, the New Jersey Surplus Lines Insurance Guaranty Fund and the Unsatisfied Claim and Judgment Fund, in such amounts and on such terms, as the board of directors may determine are necessary or appropriate to effectuate the purpose of this act in accordance with the plan of operation; provided, however, no such borrowing transaction shall be authorized to the extent the federal tax exemption of the association would be withdrawn or

the association would otherwise incur any federal tax or penalty as a result of such transaction;

- (3) Sue or be sued;
- (4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this act;
- (5) Perform such other acts as are necessary or proper to effectuate the purpose of this act;
- (6) Refund to the member insurers in proportion of the contribution of each member insurer that amount by which the assets exceed the liabilities if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities, as estimated by the board of directors for the coming year.

5. Section 9 of P.L.1974, c.17 (C.17:30A-9) is amended to read as follows:

**C.17:30A-9 Plan of operation.**

9. a. (1) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner;

(2) If the association fails to submit a plan of operation acceptable to the commissioner within 90 days following the effective date of this act, or if at any time thereafter the association fails to submit an acceptable amendment to the plan, the commissioner shall, after notice and hearing adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

b. All member insurers shall comply with the plan of operation.

c. The plan of operation shall:

(1) Establish the procedures whereby all the powers and duties of the association under section 8 of this act will be performed;

(2) Establish procedures for handling assets of the association;

(3) Establish the amount and method of reimbursing members of the board of directors under section 7 of this act;

(4) Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the association or its agent and a list of such claims shall be periodically submitted to the association by the receiver or liquidator;

(5) Establish regular places and times for meetings of the board of directors;



(6) Establish procedures for records to be kept in all financial transactions of the association, its agents, and the board of directors;

(7) Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the commissioner within 30 days after the action or decision;

(8) Establish the procedures whereby selections for the board of directors will be submitted to the commissioner;

(9) Contain additional provisions necessary or proper for the execution of the powers and duties of the association;

(10) Establish procedures for the transition and consolidation of compatible functions of the Unsatisfied Claim and Judgment Fund, the New Jersey Automobile Full Insurance Underwriting Association and the Market Transition Facility in order to eliminate redundant operational activities and promote greater efficiencies in claims handling and other operations;

(11) Establish procedures as necessary or proper to finance the operation of and account for receipts and disbursements as well as other financial transactions involving the Unsatisfied Claim and Judgment Fund, the New Jersey Automobile Full Insurance Underwriting Association and the Market Transition Facility;

(12) Create such advisory boards as necessary or proper to assist in the administration and management of the operations of the Unsatisfied Claim and Judgment Fund.

d. The plan of operation may provide that any or all powers and duties of the association except those under sections 8a.(3) and 8b.(2), are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent. Such a corporation, association or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of the functions of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this act.

**C.17:30A-6.1 Transfer of functions, powers, duties to PLIGA.**

6. a. Notwithstanding the provisions of any other law to the contrary, all of the functions, powers and duties of the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), and the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11), shall be transferred to the New Jersey Property-Liability Insurance Guaranty Association, established pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

b. Notwithstanding the provisions of any other law to the contrary, the commissioner shall provide for the liquidation of the policyholder liabilities and an orderly transfer and transition of the operations, functions, powers and duties, including all the remaining assets and policyholder liabilities of the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), and the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11), to the New Jersey Property-Liability Insurance Guaranty Association.

c. Notwithstanding the provisions of any other law to the contrary, all balances in the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5) are hereby transferred to the New Jersey Property-Liability Insurance Guaranty Association.

d. Notwithstanding any other law to the contrary, the commissioner may in his discretion provide for the liquidation of the liabilities and an orderly transition of the operations, functions, powers and duties of the Unsatisfied Claim and Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.) regarding its obligations pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1) to the New Jersey Property-Liability Insurance Guaranty Association.

e. Notwithstanding any other law to the contrary, the commissioner may in his discretion by order determine when the status as separate legal entities of the New Jersey Automobile Full Insurance Underwriting Association and the Market Transition Facility may be terminated.

**C.39:6-64c Unsatisfied Claim and Judgment Fund abolished, transfer to PLIGA.**

7. The Unsatisfied Claim and Judgment Fund Board in the Department of Banking and Insurance, established pursuant to P.L.1952, c.174 (C.39:6-61 et seq.), is hereby abolished and all its functions, powers and duties, along with the Unsatisfied Claim and Judgment Fund, including all its assets, liabilities and balances, are transferred from the Department of Banking and Insurance to the New Jersey Property-Liability Insurance Guaranty Association, established pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.). Wherever in any law, rule or regulation, reference is made to the Unsatisfied Claim and Judgment Fund Board, the same shall mean and refer to the New Jersey Property-Liability Insurance Guaranty Association.

8. Section 2 of P.L.1954, c.174 (C.39:6-62) is amended to read as follows:

**C.39:6-62 Definitions relative to New Jersey Property-Liability Insurance Guaranty Association.**

2. Definitions. As used in this act:

"Association" means the New Jersey Property-Liability Insurance Guaranty Association created pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

"Commissioner" means the Commissioner of Banking and Insurance.

"Unsatisfied Claim and Judgment Fund" or "Fund" means the fund derived from the sources specified in this act.

"Qualified person" means a resident of this State or the owner of a motor vehicle registered in this State or a resident of another state, territory, or federal district of the United States or province of Canada or of a foreign country, in which recourse is afforded, to residents of this State, of substantially similar character to that provided for by this act; provided, however, that no person shall be a qualified person where such person is an insured under a policy provision providing coverage for damages sustained by the insured as a result of the operation of an uninsured motor vehicle in a form authorized to be included in automobile liability policies of insurance delivered or issued for delivery in this State, pursuant to the provisions of, or any supplement to, chapter 28 of Title 17 of the Revised Statutes or in a form substantially similar thereto.

"Uninsured motor vehicle" means a motor vehicle as to which there is not in force a liability policy meeting the requirements of section 3 or 26 of the "Motor Vehicle Security-Responsibility Law," P.L. 1952, c. 173 (C.39:6-25 or C.39:6-48), and which is not owned by a holder of a certificate of self-insurance under said law, but shall not include a motor vehicle with a policy in force which is insured pursuant to section 4 of P.L. 1998, c. 21 (C.39:6A-3.1).

"Person" includes natural persons, firms, copartnerships, associations and corporations.

"Insurer" means any insurer authorized in this State to write the kinds of insurance specified in paragraphs d. and e. of R.S. 17:17-1.

"Net direct written premiums" means direct gross premiums written on policies, insuring against legal liability for bodily injury or death and for damage to property arising out of the ownership, operation or maintenance of motor vehicles, which are principally garaged in this State, less return premiums thereon and dividends paid to policyholders on such direct business.

9. Section 3 of P.L. 1952, c. 174 (C.39:6-63) is amended to read as follows:

**C.39:6-63 Creation, maintenance of fund.**

3. For the purpose of creating and maintaining the fund:

(a) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

(b) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

(c) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

(d) Commencing on or before December 30, 2003, and on or before December 30 in each year thereafter, the association shall calculate the probable amount which will be needed to carry out its responsibilities under section 35 of P.L. 2003, c. 89 (C.39:6-86.7), section 9 of P.L. 1952, c. 174 (C.39:6-69) and section 7 of P.L. 1972, c. 198 (C.39:6-86.1) during the ensuing year. In

that calculation, the association shall take into consideration the amount presently reserved for pending claims, anticipated payments from the fund during that year and during the two years after that year, anticipated amounts to be reserved for claims pending during that year, and the desirability of maintaining a surplus over and above those anticipated payments and present and anticipated reserves, which surplus shall not exceed the amount actually paid from the fund during the 12 full calendar months immediately preceding the date of calculation. The probable amount needed to carry out the provisions of this section shall be assessed against insurers for that year's contribution to the fund.

(e) Whenever any of the provisions concerning the method and sources of assessments on insurers, the maximum amounts payable from the fund, eligibility or qualifications of claimants, or amounts to be deducted from payments made from the fund are amended by law, the association may, if the association deems it necessary, rescind any assessment on insurers. The association shall then, within 30 days of the adoption of such amendment, recalculate the probable amount which will be needed to carry out the provisions of P.L.2003, c.89 (C.17:30A-2.1 et al.) during the ensuing fiscal year, in accordance with the provisions of subsection (d) of this section. If, in the judgment of the association, the estimated balance of the fund at the beginning of the next year will be sufficient to meet those needs, the association shall determine the contributions of insurers, if any, in accordance with the provisions of subsection (d) of this section.

10. Section 18 of P.L.1955, c.1 (C.39:6-64.1) is amended to read as follows:

**C.39:6-64.1 Plan of operation.**

18. a. The association may from time to time, adopt and amend a plan of operation, subject to the approval of the commissioner, necessary or desirable in connection with its functions, duties and responsibilities in administering this act.

The plan of operation shall provide that the Unsatisfied Claim and Judgment Fund may (1) borrow and separately account for moneys from any source, including, but not limited to, the New Jersey Property-Liability Insurance Guaranty Association and the New Jersey Surplus Lines Insurance Guaranty Fund, in such amounts and on such terms as the board of directors may determine, are necessary or appropriate and (2) make loans, in such amounts and on such terms as the board of directors may determine are necessary or appropriate, to the New Jersey Property-Liability Insurance Guaranty Association and the New Jersey Surplus Lines Insurance Guaranty Fund.

b. There shall be no liability on the part of and no cause of action of any nature shall arise against the association, its agents, employees, or the

commissioner or his designees for any action taken by them in the performance of their powers and duties under P.L.2003, c.89 (C.17:30A-2.1 et al.).

11. Section 5 of P.L.1952, c.174 (C.39:6-65) is amended to read as follows:

**C.39:6-65 Notice of intention to make claim.**

5. Any qualified person, or the personal representative of such person, who suffers damages resulting from bodily injury or death or damage to property arising out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, and whose damages may be satisfied in whole or in part from the fund, shall, except in cases in which the claim is asserted by actions brought under section 18 of this act pursuant to section 19 of this act, within 180 days after the accident, as a condition precedent to the right thereafter to apply for payment from the fund, give notice to the association, the form and contents of which shall be prescribed by the association, of his intention to make a claim thereon for such damages if otherwise uncollectible; provided, any such qualified person may, in lieu of giving said notice within said time, make proof to the court on the hearing of the application for the payment of a judgment (a) that he was physically incapable of giving said notice within said period and that he gave said notice within 180 days after he became physically capable to do so or in the event he did not become so capable, that a notice was given on his behalf within a reasonable period, or (b) that he gave notice to the association within 15 days of receiving notice that an insurer had disclaimed on a policy of insurance so as to remove or withdraw liability insurance coverage for his claim against a person or persons who allegedly caused him to suffer damages. A copy of the complaint shall be furnished to the association if an action has theretofore been brought for the enforcement of such claim. Such person shall also notify the association of any action thereafter instituted for the enforcement of such claim within 15 days after the institution thereof and such notice shall be accompanied by a copy of the complaint.

The New Jersey Motor Vehicle Commission is hereby authorized and empowered, the provisions of any other law relating to the confidential nature of any reports or information furnished to or filed with the division notwithstanding, to furnish to the association upon its request, for such use, utilization and purposes as the association may deem reasonably appropriate to administer this act and discharge its functions hereunder, any reports or information filed by any person or persons claiming benefits under the provisions of this act, that the director has with regard to any accident, and any operator or owner of a motor vehicle involved in any accident, and as to any automobile or motor vehicle liability insurance or bond carried by an operator or owner of any motor vehicle.

12. Section 7 of P.L. 1952, c. 174 (C.39:6-67) is amended to read as follows:

**C.39:6-67 Defense of actions against motorists.**

7. The association may through counsel enter an appearance on behalf of the defendant, file a defense, appear at the trial or take such other steps as it may deem appropriate on the behalf and in the name of the defendant, and may thereupon, on the behalf and in the name of the defendant, conduct his defense, take recourse to any appropriate method of review on behalf of, and in the name of, the defendant, and all such acts shall be deemed to be the acts of such defendant; provided, however, that nothing contained herein shall deprive the defendant of the right to also employ his own counsel and defend the action. All expense incurred by the association in connection with any review prosecuted or defended by it from a judgment rendered in such action, including its attorneys' fees in connection therewith, shall be borne by the fund.

13. Section 8 of P.L. 1952, c. 174 (C.39:6-68) is amended to read as follows:

**C.39:6-68 Cooperation of defendant.**

8. In any case in which the association has assumed under this act, the defense of any action, the defendant shall co-operate with the association in the defense of such action. In the event of his failure to do so, the association may apply to the court for an order directing such co-operation.

14. Section 9 of P.L. 1952, c. 174 (C.39:6-69) is amended to read as follows:

**C.39:6-69 Unpaid judgments.**

9. When any qualified person recovers a valid judgment in any court of competent jurisdiction in this State against any other person, who was the operator or owner of a motor vehicle, for injury to, death of, any person or persons, or a similar valid judgment in such court against such a defendant for an amount in excess of \$500.00, exclusive of interest and costs, for damage to property, except property of others in charge of such operator or owner or such operator's or owner's employees, arising out of the ownership, maintenance or use of the motor vehicle in this State on or after April 1, 1955, and any amount remains unpaid thereon in the case of a judgment for bodily injury or death, or any amount in excess of \$500.00 remains unpaid thereon in case of a judgment for damage to property, such judgment creditor may, upon the termination of all proceedings, including reviews and appeals in connection with such judgment, file a verified claim in the court in which the judgment was entered, and upon 10 days' written notice to the association may apply to the court for an order directing payment out of the fund, of the amount unpaid upon such judgment for bodily injury or death, which does

not exceed, or upon such judgment for damage to property, which exceeds the sum of \$500.00 and does not exceed--

(a) The maximum amount or limit of \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident, and

(b) The maximum amount or limit, subject to such limit for any one person so injured or killed, of \$30,000.00, exclusive of interest and costs, on account of injury to, or death of, more than one person, in any one accident, and

(c) The maximum amount or limit of \$5,000.00, exclusive of interest and costs, for damage to property in any one accident.

15. Section 10 of P.L. 1952, c. 174 (C.39:6-70) is amended to read as follows:

**C.39:6-70 Hearing on application for payment of judgment.**

10. Hearing on application for payment of judgment. The court shall proceed upon such application, in a summary manner, and, upon the hearing thereof, the applicant shall be required to show:

(a) He is not a person covered with respect to such injury or death by any workers' compensation law, or the personal representative of such a person,

(b) He is not a spouse, parent or child of the judgment debtor, or the personal representative of such spouse, parent or child,

(c) He was not at the time of the accident a person (1) operating or riding in a motor vehicle which he had stolen or participated in stealing or (2) operating or riding in a motor vehicle without the permission of the owner, and is not the personal representative of such a person,

(d) He was not at the time of the accident, the owner or registrant of an uninsured motor vehicle, or was not operating a motor vehicle in violation of an order of suspension or revocation,

(e) He has complied with all of the requirements of section 5,

(f) The judgment debtor at the time of the accident was not insured under a policy of automobile liability insurance under the terms of which the insurer is liable to pay in whole or in part the amount of the judgment,

(g) He has obtained a judgment as set out in section 9 of this act, stating the amount thereof and the amount owing thereon at the date of the application,

(h) He has caused to be issued a writ of execution upon said judgment and the sheriff or officer executing the same has made a return showing that no personal or real property of the judgment debtor, liable to be levied upon in satisfaction of the judgment, could be found or that the amount realized on the sale of them or of such of them as were found, under said execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized,

(i) He has caused the judgment debtor to make discovery under oath, pursuant to law, concerning his personal property and as to whether such judgment debtor was at the time of the accident insured under any policy or policies of insurance described in subsection (f) of this section,

(j) He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of personal or real property or other assets, liable to be sold or applied in satisfaction of the judgment,

(k) By such search he has discovered no personal or real property or other assets, liable to be sold or applied or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so sold and applied and that he has taken all necessary action and proceedings for the realization thereof and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized,

(l) The application is not made by or on behalf of any insurer by reason of the existence of a policy of insurance, whereby the insurer is liable to pay, in whole or in part, the amount of the judgment and that no part of the amount to be paid out of the fund is sought in lieu of making a claim or receiving a payment which is payable by reason of the existence of such a policy of insurance and that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of such a policy of insurance,

(m) Whether or not he has recovered a judgment in an action against any other person against whom he has a cause of action in respect of his damages for bodily injury or death or damage to property arising out of the accident and what amounts, if any, he has received by way of payments upon the judgment, or by way of settlement of such cause of action, in whole or in part, from or on behalf of such other person,

(n) In order to recover for noneconomic loss, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2) for accidents to which the benefits of sections 7 and 10 of P.L.1972, c.198 (C.39:6-86.1 and C.39:6-86.4) apply, the injured person shall have sustained an injury described in subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8).

Whenever the applicant satisfies the court that it is not possible to comply with one or more of the requirements enumerated in subsections (h) and (i) of this section and that the applicant has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the court may dispense with the necessity for complying with such requirements.

The association may appear and be heard on application and show cause why the order should not be made.



16. Section 11 of P.L. 1952, c. 174 (C.39:6-71) is amended to read as follows:

**C.39:6-71 Order for payment of judgment.**

11. The court shall make an order directed to the association requiring the association to make payment from the fund of such sum, if any, as it shall find to be payable upon said claim, pursuant to the provisions of and in accordance with the limitations contained in this act, if the court is satisfied, upon the hearing:

(a) Of the truth of all matters required to be shown by the applicant by section 10,

(b) That the applicant has fully pursued and exhausted all remedies available to him for recovering damages against all persons mentioned in subparagraph (m) of section 10 by

(1) Commencing action against all such persons against whom the applicant might reasonably be considered as having a cause of action in respect of such damages and prosecuting every such action in good faith to judgment and

(2) Taking all reasonable steps available to him to collect on every judgment so obtained and by applying the proceeds of any judgment or recovery so obtained towards satisfaction of the amount due upon the judgment for payment of which the claim is made.

Any amount which the plaintiff has received or can collect by way of payments upon the judgment or by way of settlement of the cause of action, in whole or in part, from or on behalf of any person other than the judgment debtor, described in subparagraph (m) of section 10, shall be deducted from the amount due upon the judgment for payment of which claim is made.

17. Section 12 of P.L. 1952, c. 174 (C.39:6-72) is amended to read as follows:

**C.39:6-72 Contents of petition; settlement of claim.**

12. (a) In any action against an operator or owner of a motor vehicle for injury to or death of any person or for damage to property arising out of the ownership, maintenance or use of said vehicle in this State on or after April 1, 1955, pending in any court of competent jurisdiction in this State, the plaintiff may upon notice to the association file a verified petition with the court alleging:

(1) the matters set forth in subparagraphs (a), (b), (c), (d), (e) and (f) of section 10;

(2) that the petition is not presented on behalf of an insurer under circumstances set forth in subparagraph (1) of section 10;

(3) that he has entered into an agreement with the defendant to settle all claims set forth in the complaint in said action and the amount proposed to be paid to him pursuant thereto;

(4) that the said proposed settlement has been entered into with and by the consent of the Superior Court and approved by the association;

(5) that the defendant has executed and delivered to the association a verified statement of his financial condition;

(6) that a judgment against the defendant would be uncollectible;

(7) that the defendant has undertaken in writing to repay to the association the sum that he would be required to pay under such settlement, and has executed a confession of judgment in connection therewith.

If the court be satisfied of the truth of the allegations in said petition and of the fairness of such proposed settlement, it may enter an order approving the same and directing the association, upon receipt of the undertaking and confession of judgment mentioned in subparagraph (7) of this section, to make payment to the plaintiff of the amount agreed to be accepted.

(b) The association may settle any claim, without court approval, if satisfied:

(1) that the claimant is not a person of the character described in subparagraphs (a), (b), (c), (d), (e) and (f) of section 10;

(2) that the settlement is not made on behalf of an insurer under circumstances set forth in subparagraph (e) of section 10; and

(3) that a judgment against the owner or operator of the motor vehicle involved in the accident would be uncollectible, and that such owner or operator has consented to such settlement, executed and delivered to the association a verified statement of his financial condition and undertaken in writing to repay to the association the sum to be paid under the settlement, and executed a confession of judgment in connection therewith.

18. Section 13 of P.L. 1952, c. 174 (C.39:6-73) is amended to read as follows:

**C.39:6-73 \$500 exclusion.**

13. Except with respect to medical expense benefits paid pursuant to section 2 of P.L. 1977, c. 310 (C.39:6-73.1), no order shall be made for the payment and the association shall make no payment, out of the fund, of

(a) Any claim for damage to property for less than \$500.00,

(b) The first \$500.00 of any judgment for damage to property or of the unsatisfied portion thereof, or

(c) The unsatisfied portion of any judgment which, after deducting \$500.00 therefrom if the judgment is for damage to property, exceeds

(1) the maximum or limit of \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person in any one accident, and

(2) the maximum amount or limit, subject to such limit for any one person so injured or killed, of \$30,000.00, exclusive of interest and costs, on account of injury to, or death of, more than one person, in any one accident, and

(3) the maximum amount or limit of \$5,000.00, exclusive of interest and costs, for damage to property in any one accident; provided, that such maximum

amounts shall be reduced by any amount received or recovered as specified in subsection (m) of section 10.

(d) Any claim for damage to property which includes any sum greater than the difference between said maximum amounts and the sum of \$500.00, and any amount paid out of the fund in excess of the amount so authorized may be recovered by the association in an action brought to it against the person receiving the same.

19. Section 2 of P.L.1977, c.310 (C.39:6-73.1) is amended to read as follows:

**C.39:6-73.1 Assumption of excess payment by fund; exceptions.**

2. In the event medical expense benefits paid by an insurer, in accordance with subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4) or section 4 of P.L.1998, c.21 (C.39:6A-3.1), are in excess of \$75,000.00 on account of personal injury to any one person in any one accident covered under a policy issued prior to January 1, 2004, the Unsatisfied Claim and Judgment Fund shall assume the following: a. the entire excess for a medical expense benefits claim covered under a policy issued before January 1, 1991; and b. such excess up to \$250,000 for a medical expense benefits claim covered under a policy issued on or after January 1, 1991 and the Unsatisfied Claim and Judgment Fund shall reimburse the insurer therefor in accordance with rules and regulations promulgated by the commissioner; provided, however, that this provision is not intended to broaden the coverage available to accidents involving uninsured or hit-and-run automobiles, to provide extraterritorial coverage, or to pay excess medical expenses.

The Unsatisfied Claim and Judgment Fund shall cease to reimburse an insurer for medical expense benefits under this section for injuries covered under a policy issued on or after January 1, 2004.

20. Section 14 of P.L.1952, c.174 (C.39:6-74) is amended to read as follows:

**C.39:6-74 Default and consent judgments.**

14. No claim shall be allowed and ordered to be paid out of the fund if the court shall find, upon the hearing for the allowance of the claim, that it is founded upon a judgment which was entered by default unless (1) the claimant shall have complied with the requirements of section 5, and (2) prior to the entry of such judgment the association shall have been given notice of intention to enter the judgment and file a claim thereon against the fund and shall have been afforded an opportunity to take such action as it shall deem advisable.

If the court, upon a hearing for the allowance of any claim against the fund, finds that it was a claim which was not assigned by the association for defense, or that the action upon such claim was not fully and fairly defended,

or that the judgment thereon was entered upon the consent or with the agreement of the defendant, the court shall allow such claim but shall order it to be paid only in such sum as the court shall determine to be justly due and payable out of the fund, on the basis of the actual amount of damages for which the defendant was liable to the plaintiff under the cause of action, upon which the judgment was rendered and reduced by any amount received from any person mentioned in subparagraph (m) of section 10, notwithstanding that the judgment is for a greater amount.

21. Section 17 of P.L.1952, c.174 (C.39:6-77) is amended to read as follows:

**C.39:6-77 Assignment of judgments to association.**

17. Assignment of judgments to association. The association shall not pay any sum from the fund, in compliance with an order made for that purpose, in any case in which the claim is founded upon a judgment, except a judgment obtained against the association under this act, until the applicant assigns the judgment to the association and, thereupon, the association shall be deemed to have all the rights of the judgment creditor under the judgment and shall enforce and collect the same for the full amount thereof with interest and costs and if more money is collected upon any such judgment than the amount paid out of the fund, the association shall pay the balance, after reimbursing the fund, to the judgment creditor. Upon assignment of a judgment to the association the association may enter into agreement with the defendant for reimbursement of the fund by lump sum or installment payments, including waiver of interest and subordination of the lien of the judgment where the same is determined to be advantageous in obtaining reimbursement of payments made by the fund. Any such agreement may be annexed to an application for a court order made pursuant to section 27(b).

22. Section 18 of P.L.1952, c.174 (C.39:6-78) is amended to read as follows:

**C.39:6-78 Identity of vehicle, operator, owner unascertainable.**

18. When the death of, or personal injury to, any person arises out of ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, but the identity of the motor vehicle and of the operator and owner thereof cannot be ascertained or it is established that the motor vehicle was, at the time said accident occurred, in the possession of some person other than the owner without the owner's consent and that the identity of such person cannot be ascertained, any qualified person who would have a cause of action against the operator or owner or both in respect to such death or personal injury may bring an action therefor against the association in any court of competent jurisdiction, but no judgment against the association shall be entered in such an action unless the court is satisfied, upon the hearing of the action, that--

- (a) The claimant has complied with the requirements of section 5,
- (b) The claimant is not a person covered with respect to such injury or death by any workers' compensation law, or the personal representative of such a person,
- (c) The claimant was not at the time of the accident the owner or registrant of an uninsured motor vehicle, or was not operating a motor vehicle in violation of an order of suspension or revocation,
- (d) The claimant has a cause of action against the operator or owner of such motor vehicle or against the operator who was operating the motor vehicle without the consent of the owner of the motor vehicle,
- (e) All reasonable efforts have been made to ascertain the identity of the motor vehicle and of the owner and operator thereof and either that the identity of the motor vehicle and the owner and operator thereof cannot be established, or that the identity of the operator, who was operating the motor vehicle without the owner's consent, cannot be established,
- (f) The action is not brought by or on behalf of an insurer under circumstances set forth in paragraph (1) of section 10.

23. Section 19 of P.L.1952, c.174 (C.39:6-79) is amended to read as follows:

**C.39:6-79 Action within 180 days of entry of judgment.**

19. When in an action in respect to the death of, or personal injury to, any person, arising out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, judgment is rendered for the defendant on the sole ground that such death or personal injury was occasioned by a motor vehicle--

- (a) The identity of which, and of the owner and operator of which, has not been established, or
- (b) Which was in the possession of some person other than the owner or his agent without the consent of the owner and the identity of the operator has not been established, such cause shall be stated in the judgment and the plaintiff in such action may within 180 days from the date of the entry of such judgment bring an action upon said cause of action against the association in the manner provided in section 18.

24. Section 20 of P.L.1952, c.174 (C.39:6-80) is amended to read as follows:

**C.39:6-80 Impleading association in "hit-and-run" cases.**

20. Impleading association in "hit-and-run" cases. When an action has been commenced in respect of the death or injury of any person arising out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, the plaintiff shall be entitled to make the association a party thereto if the provisions of section 18 or 19 shall apply in any such case,

and the plaintiff has made the application and the court has entered the order provided for in section 18.

25. Section 21 of P.L. 1952, c. 174 (C.39:6-81) is amended to read as follows:

**C.39:6-81 Defense of such actions by association.**

21. Defense of such actions by association. In any action brought under sections 18 and 19 of this act, the association may appear. The association shall for all purposes of the action be deemed to be the defendant. The association shall have available to it any and all defenses which would have been available to said operator or owner or both if the action had been brought against them or either of them and process upon them or either of them had been duly served within this State, but the association shall be entitled to defend in all cases without asserting any specific facts.

26. Section 22 of P.L. 1952, c. 174 (C.39:6-82) is amended to read as follows:

**C.39:6-82 Settlement of actions against the association.**

22. Settlement of actions against the association. In any action brought against the association pursuant to an order by the court entered in accordance with the provisions of section 18, the plaintiff may file a verified petition alleging that he has entered into an agreement with the association to settle all claims set forth in the complaint in said action and the amount proposed to be paid to him pursuant thereto. If the court be satisfied of the fairness of such proposed settlement, it may enter an order approving such settlement and enter a judgment against the association for the amount so agreed to be paid thereunder.

27. Section 23 of P.L. 1952, c. 174 (C.39:6-83) is amended to read as follows:

**C.39:6-83 Credits against judgment.**

23. Credits against judgment. A judgment against the association shall be reduced by any amounts which such plaintiff has received from any person mentioned in subparagraph (m) of section 10.

28. Section 24 of P.L. 1952, c. 174 (C.39:6-84) is amended to read as follows:

**C.39:6-84 Limitation on amount of judgment.**

24. When a judgment is obtained against the association, in an action brought under this act, upon the determination of all proceedings including appeals and reviews, the court shall make an order directed to the association directing it to pay out of the fund to the plaintiff in the action the amount thereof which does not exceed \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person and, subject to such limits for the death

of, or injury to, any one person, does not exceed \$30,000.00, exclusive of interest and costs, on account of the injury to, or death of, more than one person, in any one accident, provided that such maximum amount shall be reduced by any amount received or recovered by the plaintiff as specified in subparagraph (m) of section 10.

29. Section 25 of P.L.1952, c.174 (C.39:6-85) is amended to read as follows:

**C.39:6-85 Subrogation.**

25. Subrogation. When judgment has been obtained against the association in an action brought under this act, the association shall, upon payment from the fund of the amount of the judgment to the extent provided in this act, be subrogated to the cause of action of the judgment creditor against the operator and owner of the motor vehicle by which the accident was occasioned and shall bring an action against either or both of such persons for the amount of the damage sustained by the judgment creditor when and in the event that the identity of either or both of such persons shall be established, and shall recover the same out of any funds which would be payable in respect to the death or injury under any policy of insurance, which was in force at the time of the accident and in event that more is recovered and collected in any such action than the amount paid out of the fund by reason of the judgment, the association shall pay the balance, after reimbursing the fund, to the judgment creditor.

30. Section 7 of P.L.1972, c.198 (C.39:6-86.1) is amended to read as follows:

**C.39:6-86.1 UCJF benefits.**

7. When any person qualified to receive payments under the provisions of the "Unsatisfied Claim and Judgment Fund Law" suffers bodily injury or death as a pedestrian, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), caused by a motor vehicle, including an automobile as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), and a motorcycle, or by an object propelled therefrom, or arising out of an accident while occupying, entering into, alighting from, or using an automobile, registered or principally garaged in this State for which personal injury protection benefits under the "New Jersey Automobile Reparation Reform Act," P.L.1972, c.70 (C.39:6A-1 et seq.), or section 19 of P.L.1983, c.362 (C.17:28-1.3), would be payable to such person if personal injury protection coverage were in force and the damages resulting from such accident or death are not satisfied due to the personal injury protection coverage not being in effect with respect to such accident, or when a pedestrian suffers bodily injury as provided by section 35 of P.L.2003, c.89 (C.39:6-86.7) then

in such event the Unsatisfied Claim and Judgment Fund shall provide, under the following conditions, the following benefits:

a. Medical expenses benefits. Payment of all medical expense benefits in accordance with a benefits plan, subject to the approval of the commissioner, for reasonable, necessary and appropriate treatment and provision of services in an amount not exceeding \$250,000 per person per accident. In the event of death, payment shall be made to the estate of the decedent. The benefits plan shall set forth the benefits provided by the Unsatisfied Claim and Judgment Fund, including eligible medical treatments, diagnostic tests and services as well as such other benefits as the Unsatisfied Claim and Judgment Fund may provide.

Medical expense benefit payments shall be subject to a deductible of \$250.00 on account of injury in any one accident and a copayment of 20% of any benefits payable between \$250.00 and \$5,000.00.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100.00. Such sums shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200.00, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380.00, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under this section, the maximum amount of benefits which could have been paid to the income producer, but for his death, under subsection b. of this section shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under subsection c. of this section, the maximum amount of benefits which could have been paid such person, under subsection c., shall be paid to the person incurring the expense of providing such essential services.



e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.

Provided, however, that no benefits shall be paid under this section unless the person applying for benefits has demonstrated that he is not disqualified by reason of the provisions of subsection (a), (c), (d) or (l) of section 10 of P.L.1952, c.174 (C.39:6-70), or any other provision of law.

31. Section 12 of P.L.1972, c.198 (C.39:6-86.6) is amended to read as follows:

**C.39:6-86.6 Recovery from uninsured motorist.**

12. The association shall be entitled to recover on behalf of the Unsatisfied Claim and Judgment Fund for all payments made by it pursuant to sections 7 and 10 of this act, regardless of fault, from any person who owned or operated the automobile involved in the accident and whose failure to have the required insurance coverage in effect at the time of the accident resulted in the payment of personal injury protection benefits. If the identity of the owner and operator is not ascertained until after personal injury protection benefits have been paid then the association shall be entitled to recover for such payments, regardless of fault, from the operator if he was driving without the owner's permission or from the operator and the owner if he was driving with the owner's permission or, in either case, from the insurer if there is an insurance policy providing personal injury protection benefits that was in effect at the time of the accident with respect to such automobile.

The association is authorized to bring an action, which shall be a summary proceeding, in the Superior Court to reduce the right provided by this section to judgment.

32. Section 27 of P.L.1952, c.174 (C.39:6-87) is amended to read as follows:

**C.39:6-87 Registration, etc. not restored until fund is reimbursed.**

27. Registration, etc. not restored until fund is reimbursed. Where the license or privileges of any person, or the registration of a motor vehicle registered in his name, has been suspended or cancelled under the Motor Vehicle Security-Responsibility Law of this State, and the association has paid from the fund any amount in settlement of a claim or towards satisfaction of a judgment against that person, or for the payment of personal injury protection benefits as provided in section 7 and section 10 of this act, the cancellation or suspension shall not be removed, nor the license, privileges, or registration restored, nor shall any new license or privilege be issued or granted to, or registration be permitted to be made by, that person until he has

(a) Repaid in full to the association the amount so paid by him together with interest thereon at 8% per annum from the date of such payment; and

(b) Satisfied all requirements of said Motor Vehicle Security-Responsibility Law in respect of giving proof of ability to respond in damages for future accidents, provided, that the court in which such judgment was rendered may, upon 10 days' notice to the association, make an order permitting payment of the amount of such person's indebtedness to the fund, to be made in installments, or in the event the fund makes personal injury protection benefit payments, such person and the fund by agreement may provide for repayment to the fund to be made in installments, and in such case, such person's driver's license, or his driving privileges, or registration certificate, if the same have been suspended or revoked, or have expired, may be restored or renewed and shall remain in effect unless and until such person defaults in making any installment payment specified in such order. In the event of any such default, the New Jersey Motor Vehicle Commission shall upon notice of such default suspend such person's driver's license, or driving privileges or registration certificate until the amount of his indebtedness to the fund has been paid in full.

33. Section 28 of P.L.1952, c.174 (C.39:6-88) is amended to read as follows:

**C.39:6-88 Fund to be held in trust.**

28. Fund to be held in trust. All sums received by the association pursuant to any of the provisions of this act shall become part of the fund, and shall be held by the association in trust for the carrying out of the purposes of this act and for the payment of the cost of administering this act.

34. Section 30 of P.L.1952, c.174 (C.39:6-90) is amended to read as follows:

**C.39:6-90 Penalty for false statements.**

30. Any person and any agent or servant of such person, who knowingly files with the fund or the association or either of them, any notice, statement or other document required under this act, which is false or untrue or contains any material misstatement of fact shall be subject to a penalty as provided in section 5 of P.L.1983, c.320 (C.17:33A-5) and damages as provided in section 7 of P.L.1983, c.320 (C.17:33A-7).

**C.39:6-86.7 Provision of personal injury protection benefits, certain pedestrians.**

35. The Unsatisfied Claim and Judgment Fund created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.) shall provide personal injury protection benefits pursuant to section 7 of P.L.1972, c.198 (C.39:6-86.1) to a pedestrian sustaining bodily injury in this State caused by an automobile, other than to a named insured or a member of the named insured's family residing in his household,

if that pedestrian is entitled to personal injury protection coverage under an automobile insurance policy.

36. Section 4 of P.L. 1998, c.21 (C.39:6A-3.1) is amended to read as follows:

**C.39:6A-3.1 Election of basic automobile insurance policy; coverage provided.**

4. As an alternative to the mandatory coverages provided in sections 3 and 4 of P.L. 1972, c.70 (C.39:6A-3 and 39:6A-4), any owner or registered owner of an automobile registered or principally garaged in this State may elect a basic automobile insurance policy providing the following coverage:

a. Personal injury protection coverage, for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household, who sustained bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile, and to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with the permission of the named insured. "Personal injury protection coverage" issued pursuant to this section means and includes payment of medical expense benefits, as provided in the policy and approved by the commissioner, for the reasonable and necessary treatment of bodily injury in an amount not to exceed \$15,000 per person per accident; except that, medical expense benefits shall be paid in an amount not to exceed \$250,000: (1) for all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement or (2) for medically necessary treatment of other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the patient is stable, no longer requires critical care and can be safely discharged or transferred to another facility in the judgment of the attending physician. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000 on account of personal injury to any one person in any one accident covered by a policy issued or renewed prior to January 1, 2004, such excess shall be paid by the insurer and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L. 1977, c.310 (C.39:6-73.1). Benefits provided under basic coverage shall be in accordance with a benefit plan provided in the policy and approved by the commissioner. The policy form, which shall be subject to the approval of the commissioner, shall set forth the benefits provided under the policy, including eligible medical treatments, diagnostic tests and services as well as such other benefits as the policy may provide. The commissioner shall set forth by regulation a statement of the basic benefits which shall be included in the policy. Medical treatments, diagnostic tests, and services provided by the policy shall be rendered in

accordance with commonly accepted protocols and professional standards and practices which are commonly accepted as being beneficial for the treatment of the covered injury. Protocols and professional standards and practices which are deemed to be commonly accepted pursuant to this section shall be those recognized by national standard setting organizations, national or state professional organizations of the same discipline as the treating provider, or those designated or approved by the commissioner in consultation with the professional licensing boards in the Division of Consumer Affairs in the Department of Law and Public Safety. The commissioner, in consultation with the Commissioner of the Department of Health and Senior Services and the applicable licensing boards, may reject the use of protocols, standards and practices or lists of diagnostic tests set by any organization deemed not to have standing or general recognition by the provider community or the applicable licensing boards. Protocols shall be deemed to establish guidelines as to standard appropriate treatment and diagnostic tests for injuries sustained in automobile accidents, but the establishment of standard treatment protocols or protocols for the administration of diagnostic tests shall not be interpreted in such a manner as to preclude variance from the standard when warranted by reason of medical necessity. The policy form may provide for the precertification of certain procedures, treatments, diagnostic tests, or other services or for the purchase of durable medical goods, as approved by the commissioner, provided that the requirement for precertification shall not be unreasonable, and no precertification requirement shall apply within ten days of the insured event. The policy may provide that certain benefits provided by the policy which are in excess of the basic benefits required by the commissioner to be included in the policy may be subject to reasonable copayments in addition to the copayments provided for herein, provided that the copayments shall not be unreasonable and shall be established in such a manner as not to serve to encourage underutilization of benefits subject to the copayments, nor encourage overutilization of benefits. The policy form shall clearly set forth any limitations on benefits or exclusions, which may include, but need not be limited to, benefits which are otherwise compensable under workers' compensation, or benefits for treatments deemed to be experimental or investigational, or benefits deducted pursuant to section 6 of P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the services of a benefit consultant in establishing the basic benefits level provided in this subsection, which shall be set forth by regulation no later than 120 days following the enactment date of this amendatory and supplementary act. The commissioner shall not advertise for the consultant as provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

Medical expense benefits payable under this subsection shall not be assignable, except to a provider of service benefits, in accordance with policy

terms approved by the commissioner, nor shall they be subject to levy, execution, attachment or other process for satisfaction of debts. Medical expense benefits payable in accordance with this subsection may be subject to a deductible and copayments as provided for in the policy, if any. No insurer or provider providing service benefits to an insured shall have a right of subrogation for the amount of benefits paid pursuant to any deductible or copayment under this section.

Notwithstanding the provisions of P.L.2003, c.18, physical therapy treatment shall not be reimbursable as medical expense benefits pursuant to this subsection unless rendered by a licensed physical therapist pursuant to a referral from a licensed physician, dentist, podiatrist or chiropractor within the scope of their respective practices.

b. Liability insurance coverage insuring against loss resulting from liability imposed by law for property damage sustained by any person arising out of the ownership, maintenance, operation or use of an automobile in an amount or limit of \$5,000, exclusive of interest and costs, for damage to property in any one accident.

c. In addition to the aforesaid coverages required to be provided in a basic automobile insurance policy, optional liability insurance coverage insuring against loss resulting from liability imposed by law for bodily injury or death in an amount or limit of \$10,000, exclusive of interests and costs, on account of injury to, or death of, one or more persons in any one accident.

If a named insured has elected the basic automobile insurance policy option and an immediate family member or members or relatives resident in his household have one or more policies with the coverages provided for in sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), the provisions of section 12 of P.L.1983, c.362 (C.39:6A-4.2) shall apply.

Every named insured and any other person to whom the basic automobile insurance policy, with or without the optional \$10,000 liability coverage insuring against loss resulting from liability imposed by law for bodily injury or death provided for in subsection c. of this section, applies shall be subject to the tort option provided in subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8).

No licensed insurance carrier shall refuse to renew the coverage stipulated by this section of an eligible person as defined in section 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance with the provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1) or with the consent of the Commissioner of Banking and Insurance.

37. Section 4 of P.L.1972, c.70 (C.39:6A-4) is amended to read as follows:

**C.39:6A-4 Personal injury protection coverage, regardless of fault.**

4. Personal injury protection coverage, regardless of fault.

Except as provided by section 45 of P.L.2003, c.89 (C.39:6A-3.3) and section 4 of P.L.1998, c.21 (C.39:6A-3.1), every standard automobile liability insurance policy issued or renewed on or after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) shall contain personal injury protection benefits for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household who sustain bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile, and to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with permission of the named insured.

"Personal injury protection coverage" means and includes:

a. Payment of medical expense benefits in accordance with a benefit plan provided in the policy and approved by the commissioner, for reasonable, necessary, and appropriate treatment and provision of services to persons sustaining bodily injury, in an amount not to exceed \$250,000 per person per accident. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000 on account of bodily injury to any one person in any one accident, that excess shall be paid by the insurer and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1). The policy form, which shall be subject to the approval of the commissioner, shall set forth the benefits provided under the policy, including eligible medical treatments, diagnostic tests and services as well as such other benefits as the policy may provide. The commissioner shall set forth by regulation a statement of the basic benefits which shall be included in the policy. Medical treatments, diagnostic tests, and services provided by the policy shall be rendered in accordance with commonly accepted protocols and professional standards and practices which are commonly accepted as being beneficial for the treatment of the covered injury. Protocols and professional standards and practices and lists of valid diagnostic tests which are deemed to be commonly accepted pursuant to this section shall be those recognized by national standard setting organizations, national or state professional organizations of the same discipline as the treating provider, or those designated or approved by the commissioner in consultation with the professional licensing boards in the Division of Consumer Affairs in the Department of Law and Public Safety. The commissioner, in consultation with the Commissioner of the Department of Health and Senior Services and the applicable licensing boards, may reject the use of protocols, standards and practices or lists of diagnostic tests set by any organization deemed not to have standing or general recognition by the provider community or the applicable licensing boards. Protocols shall be deemed to establish guidelines as to standard appropriate treatment and

diagnostic tests for injuries sustained in automobile accidents, but the establishment of standard treatment protocols or protocols for the administration of diagnostic tests shall not be interpreted in such a manner as to preclude variance from the standard when warranted by reason of medical necessity. The policy form may provide for the precertification of certain procedures, treatments, diagnostic tests, or other services or for the purchase of durable medical goods, as approved by the commissioner, provided that the requirement for precertification shall not be unreasonable, and no precertification requirement shall apply within ten days of the insured event. The policy may provide that certain benefits provided by the policy which are in excess of the basic benefits required by the commissioner to be included in the policy may be subject to reasonable copayments in addition to the copayments provided for pursuant to subsection e. of this section, provided that the copayments shall not be unreasonable and shall be established in such a manner as not to serve to encourage underutilization of benefits subject to the copayments, nor encourage overutilization of benefits. The policy form shall clearly set forth any limitations on benefits or exclusions, which may include, but need not be limited to, benefits which are otherwise compensable under workers' compensation, or benefits for treatments deemed to be experimental or investigational, or benefits deducted pursuant to section 6 of P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the services of a benefit consultant in establishing the basic benefits level provided in this subsection, which shall be set forth by regulation no later than 120 days following the enactment date of P.L.1998, c.21 (C.39:6A-1.1 et al.). The commissioner shall not advertise for bids for the consultant as provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

Notwithstanding the provisions of P.L.2003, c.18, physical therapy treatment shall not be reimbursable as medical expense benefits pursuant to this subsection unless rendered by a licensed physical therapist pursuant to a referral from a licensed physician, dentist, podiatrist or chiropractor within the scope of their respective practices.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100. Such sum shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12 per day. Such benefits

shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under this section, the maximum amount of benefits which could have been paid to the income producer, but for his death, under subsection b. of this section shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under subsection c. of this section, the maximum amount of benefits which could have been paid to such person, under subsection c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000, on account of the death of any one person in any one accident shall be payable to the decedent's estate.

Benefits payable under this section shall:

(1) Be subject to any option elected by the policyholder pursuant to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

(2) Not be assignable, except to a provider of service benefits under this section in accordance with policy terms approved by the commissioner, nor subject to levy, execution, attachment or other process for satisfaction of debts.

Medical expense benefit payments shall be subject to any deductible and any copayment which may be established as provided in the policy. Upon the request of the commissioner or any party to a claim for benefits or payment for services rendered, a provider shall present adequate proof that any deductible or copayment related to that claim has not been waived or discharged by the provider.

No insurer or health provider providing benefits to an insured shall have a right of subrogation for the amount of benefits paid pursuant to any deductible or copayment under this section.

38. Section 27 of P.L.1990, c.8 (C.17:33B-15) is amended to read as follows:

**C.17:33B-15 Provision of automobile insurance coverage by insurers.**

27. a. On or after April 1, 1992, every insurer, either by one or more separate rating plans filed in accordance with the provisions of section 6 of P.L.1988, c.156 (C.17:29A-45) prior to March 1, 1998, or section 14 of P.L.1997, c.151 (C.17:29A-46.1) on or after March 1, 1998, or through one or more affiliated



insurers, shall provide automobile insurance coverage for eligible persons. This subsection shall become inoperative on January 1, 2009.

b. No insurer shall refuse to insure, refuse to renew, or limit coverage available for automobile insurance to an eligible person who meets its underwriting rules as filed with and approved by the commissioner in accordance with the provisions of section 7 of P.L.1988, c.156 (C.17:29A-46) prior to March 1, 1998 or section 15 of P.L.1997, c.151 (C.17:29A-46.2) on or after March 1, 1998. This subsection shall become inoperative on January 1, 2009.

c. Notwithstanding the provisions of subsections a. and b. of this section to the contrary, any qualified insurer engaged in writing automobile insurance in an automobile insurance urban enterprise zone pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4) may limit the number of exposures written through its UEZ agent or agents, or in the case of a qualified insurer doing business on a direct writing basis, the qualified insurer may limit the number of exposures written in an automobile insurance urban enterprise zone consistent with its marketing plans and goals as provided in subsection a. of section 21 of P.L.1997, c.151 (C.17:33C-3). Nothing in this subsection shall be construed to relieve a qualified insurer from its obligation under subsections a. and b. of this section to write all eligible persons residing within an automobile insurance urban enterprise zone through its non-UEZ agent points of access.

d. (1) Notwithstanding the provisions of subsections a. and b. of this section to the contrary, an insurer may file underwriting rules by which it may refuse to issue or limit coverage available for automobile insurance in any rating territory to an eligible person if the insurer has increased its aggregate number of private passenger automobile non-fleet exposures in the rating territory during the previous year: by 5% during the one-year period beginning January 1, 2004; by 4% during the one-year period beginning January 1, 2005; by 3% during the one-year period beginning January 1, 2006; by 2% during the one-year period beginning January 1, 2007; and by 1% during the one-year period beginning January 1, 2008, provided further that an insurer may file with the commissioner for a lower percentage growth standard than that listed in this subsection and the commissioner shall approve such a filing if he finds that the insurer does not have the financial and business resources to accommodate growth statewide at a higher percentage than that proposed in the filing.

(2) Underwriting rules filed pursuant to this subsection shall provide that the rules are activated only upon the filing with the commissioner of a proper certification. The certification shall be by an officer of the insurer attesting to the aggregate number of private passenger automobile non-fleet exposures in each rating territory on June 30 and December 31 of the preceding year and clearly identify any rating territory in which the insurer has met the percentage growth standard established by this subsection. Such underwriting

rules shall be operational in the identified territory on the first day of the second calendar month after the end of the calendar six-month period in which the percentage growth standard has been met. Such underwriting rules shall be operational in an identified territory for a period of six months, unless prior to their expiration, an officer of the insurer files a certification with the commissioner attesting that the percentage growth standard in an identified territory continues to be met.

(3) Notwithstanding any provision of this section to the contrary, the commissioner may make operative the provisions of subsections a. and b. of this section only by order finding one of the following circumstances:

(a) The commissioner determines, after a hearing, that a competitive market does not exist among insurers authorized to write private passenger automobile insurance in this State, which determination shall only be made pursuant to subsection f. of this section, provided, however, that there shall be a rebuttable presumption that a competitive market exists among insurers authorized to write private passenger automobile insurance in this State if the plan established pursuant to P.L.1970, c.215 (C.17:29D-1) is insuring less than 10% of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State.

(b) The commissioner certifies that the plan established pursuant to P.L.1970, c.215 (C.17:29D-1) is insuring 10% or more of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State.

(4) Any order issued by the commissioner that makes operative the provisions of subsections a. and b. of this section may limit the form of policies to which the order applies and shall establish a maximum increase in an insurer's aggregate number of private passenger automobile non-fleet exposures to which the order applies, which increase shall not exceed the maximum limit set forth in paragraph (1) of this subsection d.

(5) An eligible person denied or refused renewal of automobile insurance in a rating territory by an insurer granted relief pursuant to this subsection shall be advised by the insurer that coverage may be available from another insurer or that coverage is available from the plan established pursuant to P.L.1970, c.215 (C.17:29D-1). The commissioner shall establish by regulation the form and content of the notice to be provided to such an eligible person.

(6) The provisions of this subsection d. shall not reduce an insurer's obligation to renew policies pursuant to section 26 of P.L.1988, c.119 (C.17:29C-7.1).

e. The commissioner may suspend, revoke or otherwise terminate the certificate of authority to transact automobile insurance business in this State of any insurer who violates the provisions of this section.

f. (1) A determination that a competitive market for private passenger automobile insurance does not exist may be made by the commissioner, after notice and hearing, based on two or more of the factors set forth in paragraph (2) of this subsection. A hearing under this subsection shall be held consistent with the rulemaking provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52.14B-1 et seq.), except that an order by the commissioner pursuant to this subsection shall include specific finding of fact and be supported by clear and convincing evidence. Any ruling that finds that competition does not exist within the market for automobile insurance shall include specific findings regarding: (a) the actions the State and the commissioner have taken to return the market to a competitive market; and (b) an explanation regarding why those actions have failed to return the market to a competitive market. A ruling pursuant to this subsection shall expire one year after issued unless rescinded earlier by the commissioner or unless the commissioner renews the ruling after a hearing and a finding as to continued lack of a reasonable degree of competition.

(2) The following factors shall be considered by the commissioner for purposes of determining if a reasonable degree of competition does not exist in a particular line of private passenger automobile insurance:

(a) The number of insurers or groups of affiliated insurers actively engaged in providing coverage in the market, taking into account the specialization traditionally associated with the line of insurance;

(b) Measures of market concentration and changes of market concentration over time, including, but not limited to, the Herfindahl-Hirschman Index (HHI) and the United States Department of Justice merger guidelines for an unconcentrated market;

(c) Ease of entry and exit and the existence of financial or economic barriers that could prevent new insurers from entering the market;

(d) The extent to which any insurer or group of affiliated insurers controls all or a dominant portion of the market and has actively sought to prevent competition;

(e) Whether the total number of insurers writing the line of insurance in this State is sufficient to provide multiple options;

(f) The availability of insurance coverage to consumers in the voluntary market; and

(g) The opportunities available to consumers in the market to acquire pricing and other consumer information.

(3) The commissioner shall monitor, and take all reasonable actions to maintain, the degree and continued existence of competition in this State on an on-going basis. In doing so, the commissioner may utilize existing relevant information, analytical systems and other sources, or rely on any combination thereof. Monitoring activities may be conducted internally within the

department, in cooperation with other state insurance departments, through outside contractors and in any other manner determined appropriate by the commissioner.

39. Section 1 of P.L.1970, c.215 (C.17:29D-1) is amended to read as follows:

**C.17:29D-1 Rules, regulations for insurance plans; administration; requirements for automobile plan.**

1. The Commissioner of Banking and Insurance may adopt, issue and promulgate rules and regulations establishing a plan for the providing and apportionment of insurance coverage for applicants therefor who are in good faith entitled to, but are unable to procure the same, through ordinary methods. Every insurer admitted to transact and transacting any line, or lines, of insurance in the State of New Jersey shall participate in such plan and provide insurance coverage to the extent required in such rules and regulations.

The governing board of any plan established pursuant to the commissioner's rules and regulations shall continue to exercise such administrative authority, subject to the commissioner's oversight and as provided in any rules and regulations promulgated pursuant to this section, as is necessary to ensure the plan's efficient operation, including, but not limited to, the authority to investigate complaints and hear appeals from applicants, insureds, producers, servicing carriers or participants about any matter pertaining to the plan's proper administration, as well as the authority to appoint subcommittees to hear such appeals. Any determination of an appeal by a plan's governing board shall be subject to review by the commissioner on the record below, and shall not be considered a contested case under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The commissioner's determination shall be a final order and shall be subject to review by the Superior Court.

Any plan established pursuant to this section to provide insurance for automobiles, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), shall provide:

a. For a rating system which shall produce rates for each coverage which are adequate for the safeness and soundness of the plan, and are not excessive nor unfairly discriminatory with regard to risks in the plan involving essentially the same hazards and expense elements, which rates may be changed from time to time by a filing with the commissioner in a manner and form approved by the commissioner;

b. For rates charged to plan insureds which shall be sufficient to meet the plan's expenses and the plan's losses on an incurred basis, including the establishment and maintenance of actuarially sound loss reserves to cover all future costs associated with the exposure;

c. For a limited assignment distribution system permitting insurers to enter into agreements with other mutually agreeable insurers or other qualified entities to transfer their applicants and insureds under such plan to such insurers or other entities, including applicants and insureds who may be covered by special automobile insurance policies issued pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3);

d. That it shall not provide insurance coverage for more than 10 percent of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State. The plan shall provide for the cessation of the acceptance of applications or the issuance of new policies to eligible persons at any time it reaches 10 percent of marketshare, as certified by the commissioner, until such time that the commissioner certifies that the plan is insuring less than 10 percent of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State;

e. Except for risks written in automobile insurance urban enterprise zones pursuant to subsection i., or risks written pursuant to subsection j. of this section, that it shall not provide coverage to an eligible person as defined pursuant to section 25 of P.L.1990, c.8 (C.17:33B-13);

f. (Deleted by amendment, P.L.1997, c.151.)

g. That the plan shall not be subsidized by any source external to the plan;

h. That a qualified insurer who writes automobile insurance risks in those automobile insurance urban enterprise zones designated by the commissioner pursuant to section 20 of P.L.1997, c.151 (C.17:33C-2) shall receive assigned risk credits for voluntary risks written in those designated automobile insurance urban enterprise zones as a direct writer or through a UEZ agent or agents or through any agent with whom the insurer has an in-force contract as of the effective date of P.L.1997, c.151 (C.17:33B-64 et al.). The commissioner shall establish by regulation the manner in which any qualified automobile insurer may utilize the provisions of this subsection. In no event shall that credit apply to reduce an insurer's obligations under subsection i. of this section;

i. (1) For a voluntary rating tier to accommodate eligible persons, as defined in section 25 of P.L.1990, c.8 (C.17:33B-13), residing in automobile insurance urban enterprise zones, designated by the commissioner pursuant to section 20 of P.L.1997, c.151 (C.17:33C-2), to provide increased availability and encourage the voluntary writing of eligible persons residing in those zones;

(2) The rates utilized in this voluntary rating tier shall be the voluntary market rates in use by the insurer to whom the risk is assigned in that territory;

(3) The voluntary rating tier shall not provide insurance coverage for more than five percent of the aggregate number of private passenger automobile

non-fleet exposures being written in the total private passenger automobile insurance market in this State, and the number of exposures written in the voluntary rating tier shall be included for computing the maximum number of exposures permitted to be written in the plan;

(4) The plan shall distribute risks submitted by qualified producers to insurers authorized to write automobile insurance in this State pursuant to a fair and nondiscriminatory formula established by the commissioner. The formula shall provide that insurers which have, and maintain, an aggregate voluntary automobile insurance marketshare in automobile insurance urban enterprise zones, which is reasonably equal to the insurer's voluntary Statewide marketshare excluding risks written in automobile insurance urban enterprise zones, shall be exempt from these distributions;

(5) Qualified producers may submit eligible person risks from automobile insurance urban enterprise zones to the plan for coverage in the voluntary rating tier. As used in this subsection i.: a "qualified producer" means a UEZ agent, as defined in section 19 of P.L.1997, c.151 (C.17:33C-1), who has met any limit on exposures that may be written in accordance with the UEZ agent's agreement with the appointing insurer pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4); and a producer who: is duly licensed with property/casualty authority for the three years immediately preceding the effective date of P.L.1997, c.151 (C.17:33B-64 et al.); has no affiliation with a voluntary market insurer for the placement of automobile insurance; had an affiliation with a voluntary market insurer for the placement of automobile insurance that was terminated by the insurer in the last three years; demonstrates to the plan his competency, efficiency and effectiveness in the solicitation, negotiation and effectuation of automobile insurance as evidenced by any history of disciplinary actions or complaints against the producer, and other relevant factors; conducts his business in an office in an automobile insurance urban enterprise zone; and meets such other requirements as may be established by the commissioner by regulation. For purposes of this subsection i., "insurer" means an insurer or group of affiliated insurers admitted or authorized to transact the business of automobile insurance in this State;

(6) This subsection shall expire on the first day of the 97th month after the first policy using the voluntary rating tier required by this subsection was issued to a risk, as certified by the commissioner;

j. For a voluntary rating tier to accommodate eligible persons, as defined in section 25 of P.L.1990, c.8 (C.17:33B-13), denied or refused renewal of automobile insurance in a rating territory by an insurer granted relief pursuant to subsection d. of section 27 of P.L.1990, c.8 (C.17:33B-15);

k. That an insurer granted relief pursuant to subsection d. of section 27 of P.L.1990, c.8 (C.17:33B-15) shall receive assigned risk credits for voluntary risks written in excess of the percentage growth standard established by that

subsection d. The commissioner shall establish by regulation the manner in which such an insurer may utilize the provisions of this subsection. In no event shall that credit apply to reduce an insurer's obligations under subsection i. of this section; and

1. That an insurer granted relief pursuant to subsection d. of section 27 of P.L.1990, c.8 (C.17:33B-15) shall also receive assigned risk credits for the voluntary first renewal of an eligible person written pursuant to subsection j. of this section.

Prior to the adoption or amendment of such rules and regulations, the commissioner shall consult with such members of the insurance industry as he deems appropriate. Such consultation shall be in addition to any otherwise required public hearing or notice with regard to the adoption or amendment of rules and regulations.

The governing body administering the plan shall report annually to the Legislature and the Governor on the activities of the plan. The report shall contain an actuarial analysis regarding the adequacy of the rates for each coverage for the safeness and soundness of the plan.

40. Section 15 of P.L.1997, c.151 (C.17:29A-46.2) is amended to read as follows:

**C.17:29A-46.2 Underwriting rules; factors.**

15. a. Insurers shall put in writing all underwriting rules applicable to each rate level utilized pursuant to section 14 of P.L.1997, c.151 (C.17:29A-46.1). An insurer may take into account factors, including, but not limited to, driving record characteristics appropriate for underwriting and classification in formulating its underwriting rules; provided that no underwriting rule based on motor vehicle violations shall be formulated in such a manner as to assign any named insured to a rating tier other than the standard rating tier applicable to the insured's territory solely on the basis of accumulating four motor vehicle points or less. No underwriting rule shall operate in such a manner as to assign a risk to a rating plan on the basis of the territory in which the insured resides or any other factor which the commissioner finds is a surrogate for territory. An insurer which knowingly fails to transact automobile insurance consistently with its underwriting rules shall be subject to a fine of not less than \$1,000 for each violation.

b. All underwriting rules applicable to each rate level as provided for in section 14 of P.L.1997, c.151 (C.17:29A-46.1) shall be filed with the commissioner and shall be subject to his prior approval. All underwriting rules shall be subject to public inspection. Except as provided in subsection d. of section 27 of P.L.1990, c.8 (C.17:33B-15), insurers shall apply their underwriting rules uniformly and without exception throughout the State, so that every applicant or insured conforming with the underwriting rules will

be insured or renewed, and so that every applicant not conforming with the underwriting rules will be refused insurance.

c. An insurer with more than one rating plan for private passenger automobile insurance policies providing identical coverages shall not adopt underwriting rules which would permit a person to be insured for private passenger automobile insurance under more than one of the rating plans.

d. An insurer that revises its underwriting rules with respect to the assignment of insureds to rating tiers based on the number of accumulated motor vehicle points, as provided by subsection a. of this section, as amended by P.L.2003, c.89, shall certify to the commissioner that the revised rule will produce rates that are revenue neutral based upon the insurer's current coverages and book of business.

41. Section 14 of P.L.1944, c.27 (C.17:29A-14) is amended to read as follows:

**C.17:29A-14 Filing of rate changes; hearing.**

14. a. With regard to all property and casualty lines, a filer may, from time to time, alter, supplement, or amend its rates, rating systems, or any part thereof, by filing with the commissioner copies of such alterations, supplements, or amendments, together with a statement of the reason or reasons for such alteration, supplement, or amendment, in a manner and with such information as may be required by the commissioner. If such alteration, supplement, or amendment shall have the effect of increasing or decreasing rates, the commissioner shall determine whether the rates as altered thereby are reasonable, adequate, and not unfairly discriminatory. If the commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate, or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate, or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment.

b. (Deleted by amendment, P.L.1984, c.1.)

c. If an insurer or rating organization files a proposed alteration, supplement or amendment to its private passenger automobile insurance rating system, or any part thereof, the commissioner shall transmit the filing to the appropriate office in the Division of Insurance, which office shall issue a preliminary determination within 90 days of receipt of a rate filing, except that the commissioner may, for good cause, extend the time for a preliminary determination by not more than 30 days. The preliminary determination shall set forth the basis for accepting, rejecting or modifying the rates as filed. A copy of the preliminary determination shall be provided to the filer and other interested parties. Unless the filer or other interested party requests a hearing,



the commissioner may adopt the preliminary determination as final within 30 days of the preliminary determination. If a hearing is requested, it shall proceed on an expedited basis in accordance with the provisions of this section. If a preliminary determination is not made within the time provided, a filing shall be transmitted to the Office of Administrative Law for a hearing and the commissioner shall adopt the determination of the administrative law judge as a final decision on the filing.

For filings other than private passenger automobile, if an insurer or rating organization files a proposed alteration, supplement or amendment to its rating system, or any part thereof, which would result in a change in rates, the commissioner may, or upon the request of the filer or the appropriate office in the Division of Insurance shall, certify the matter for a hearing. The hearing shall, at the commissioner's discretion, be conducted by himself, by a person appointed by the commissioner pursuant to section 26 of P.L.1944, c.27 (C.17:29A-26), or by the Office of Administrative Law, created by P.L.1978, c.67 (C.52:14F-1 et seq.), as a contested case. The following requirements shall apply to the hearing:

(1) The hearing shall commence within 30 days of the date of the request or decision that a hearing is to be held. The hearing shall be held on consecutive working days, except that the commissioner may, for good cause, waive the consecutive working day requirement. If the hearing is conducted by an administrative law judge, the administrative law judge shall submit his findings and recommendations to the commissioner within 30 days of the close of the hearing. The commissioner may, for good cause, extend the time within which the administrative law judge shall submit his findings and recommendations by not more than 30 days. A decision shall be rendered by the commissioner not later than 60 days, or, if he has granted a 30-day extension, not later than 90 days, from the close of the hearing. A filing shall be deemed to be approved unless rejected or modified by the commissioner within the time period provided herein.

(2) The commissioner, or the Director of the Office of Administrative Law, as appropriate, shall notify all interested parties, including the appropriate office in the Division of Insurance on behalf of insurance consumers, of the date set for commencement of the hearing, on the date of the filing of the request for a hearing, or within 10 days of the decision that a hearing is to be held.

(3) The insurer or rating organization making a filing on which a hearing is held shall bear the costs of the hearing.

(4) The commissioner may promulgate rules and regulations (a) to establish standards for the submission of proposed filings, amendments, additions, deletions and alterations to the rating system of filers, which may include forms to be submitted by each filer; and (b) making such other provisions as he deems necessary for effective implementation of this act.

- d. (Deleted by amendment, P.L.1984, c.1.)
- e. (Deleted by amendment, P.L.2003, c.89.)

42. Section 34 of P.L.1997, c.151 (C.17:29A-46.6) is amended to read as follows:

**C.17:29A-46.6 Proposed alteration to rating system, expedited.**

34. a. Notwithstanding section 14 of P.L.1944, c.27 (C.17:29A-14), an insurer, affiliated group of insurers or rating organization may elect to file a proposed alteration to its rating system pursuant to the expedited process set forth in this section when the filer requests either an increase of no more than 7% or any decrease in its Statewide average base rate for private passenger automobile insurance.

b. A filer electing to use this expedited process shall file with the commissioner that reasonable information and calculations necessary to support the rate change which the commissioner prescribes by regulation. The prescribed filing requirements shall recognize the intent of this section to provide an expedited process that will not produce rates that are excessive, inadequate for the safety and soundness of the insurer, or unfairly discriminatory between risks in the State involving substantially the same hazards and expense elements.

c. If the commissioner determines that the filing includes all the information and calculations required to support the rate change, the commissioner shall approve the filing.

d. A decision on a filing requesting an increase of up to 3% shall be rendered not later than 30 days after receipt of the filing, unless the commissioner grants an extension, in which case a decision shall be rendered not later than 45 days after receipt of the filing. A decision on a filing requesting an increase of more than 3%, but not more than 7%, shall be rendered not less than 45 days after receipt of the filing, unless the commissioner grants an extension, in which case a decision shall be rendered not later than 60 days after receipt of the filing. A filing shall be complete and received when the filing is accompanied by a certification by a qualified actuary which states that the material, data and documentation, which is part of the filing, includes the documents set forth in regulations, supports the requested rate change and is consistent with generally accepted ratemaking principles of the actuarial profession. A filing shall be deemed to be approved unless rejected or modified by the commissioner within the time provided.

e. The commissioner shall not approve any rate change pursuant to this expedited process that results in an overall increase of more than 7% or an increase in any single coverage of more than 10%.

f. An insurer shall not file more than one request for an increase in rates pursuant to this section in any 12-month period, provided that this limitation

shall not apply to a filing for an overall reduction in rates or prohibit a filing to recover an overall reduction in rates, or to a filing reflecting a statutory change in coverage.

g. An insurer not using this expedited process in a 12-month period may elect to file a proposed alteration to its rating system that will result in a rate change of not more than double the increase permitted pursuant to subsection e. of this section if the filing complies with subsections b. and c. of this section and is made not more than once within a twenty-four month period.

**C.17:29A-52 Automobile Insurance Consumer Bill of Rights.**

43. a. Every insurer writing private passenger automobile insurance in this State shall provide each insured at least annually and each applicant upon receipt of initial application with an Automobile Insurance Consumer Bill of Rights. The Automobile Insurance Consumer Bill of Rights shall contain information that the Commissioner of Banking and Insurance establishes by regulation as necessary, relevant or appropriate to improve the understanding of the rights and responsibilities of consumers and insurers regarding automobile insurance.

b. To further assist consumers in evaluating an automobile insurer, the commissioner shall develop and disseminate an Automobile Insurance Report Card. Those insurers with more than 50,000 insured private passenger automobiles writing private passenger automobile insurance in this State shall maintain and submit annually to the commissioner customer satisfaction data. The commissioner shall establish by regulation the methodology and criteria to be used in collecting the customer satisfaction data, including, but not limited to, the use of a survey. This data, including consumer complaint ratios and other relevant consumer information designated by the commissioner, shall be included in the Automobile Insurance Report Card. The Automobile Insurance Report Card shall be available on the official website of the Department of Banking and Insurance, and shall be updated annually.

c. Every insurer writing private passenger automobile insurance in this State shall also provide each new applicant seeking automobile insurance and each insured upon request, with three premium scenarios demonstrating the effect of different coverage choices. The commissioner shall establish by regulation the types of coverage examples for which insurers shall provide premium scenarios and the time in which such scenarios shall be provided.

d. If the commissioner finds, after notice and hearing, that an insurer has a pattern and practice of failing to provide any of the information required by this section, the commissioner may, after notice and hearing, order the payment of a penalty not to exceed \$1,000 for each offense. Each instance of a failure to provide information to an insured, an applicant or the commissioner, as the case may be, shall be a separate offense and subject to

assessment of a separate penalty. Penalties assessed pursuant to this section shall be collected by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

**C.17:29A-53 Insurance rate increases, notices published on website.**

44. a. The Department of Banking and Insurance shall publish on its official website, to the extent practicable, as the case may be: (1) notice of all filings for consumer insurance rate increases; (2) all requests for hearing dates for such increases; and (3) the date or dates a hearing is to be held. Publication on the website shall take place within three business days of the applicable notice of filing, request for hearing, and date or dates of hearings.

b. If an insurer or rating organization files for a consumer insurance overall rate increase, the insurer or rating organization shall, in conjunction with such filing, notify the public of the proposed rate change; except, however, the filer is not required to notify the public of the proposed rate change if the rate increase pertains to: (1) an expedited prior approval rate filing made pursuant to either section 34 of P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409 (C.17:36-5.35); (2) rating system changes made pursuant to sections 14 through 18 and section 34 of P.L.1997, c.151 (C.17:29A-46.1 et seq.), or (3) a rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance.

c. (1) For insurers, that notice shall be communicated through regular or electronic mail to the named policy holders who use the products and services subject to the overall rate increase, within 10 business days after the applicable filing and shall conform to a form prescribed by the Department of Banking and Insurance pursuant to regulations.

(2) For rating organizations, the notice shall be communicated in a form and manner prescribed by the commissioner by regulation.

d. For purposes of this section, "consumer insurance rate increases" means prior approval rate increases for: personal lines property casualty coverages; or Medicare supplemental coverages.

**C.39:6A-3.3 Establishment of special automobile insurance policy.**

45. a. In order to assist certain low income individuals in this State and encourage their greater compliance in satisfying the mandatory private passenger automobile insurance requirements, the Legislature intends to establish a special automobile insurance policy. The special automobile insurance policy shall be offered only to individuals who qualify for and are actively covered by designated government subsidized programs in the State. For the purpose of this section, "eligible low income individual" means an individual who meets the income criteria established by the commissioner by regulation. In setting the low income criteria, the commissioner shall limit availability to those persons eligible and enrolled in the federal Medicaid program.

b. As an additional option to the mandatory coverage provided in sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4) or the alternative covered provided in section 4 of P.L.1998, c.21 (C.39:6A-3.1), an owner or registered owner of an automobile registered or principally garaged in this State, who is an eligible low income individual, may elect a special automobile insurance policy providing the following coverage:

(1) Emergency personal injury protection coverage, for the payment of benefits without regard to negligence, liability or fault of any kind, only to the named insured and dependent members of his family, as defined by the federal Medicaid program, residing in his household, who sustain bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile, and to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with the permission of the named insured. "Emergency personal injury protection coverage" issued pursuant to this section means and includes only payment of treatment for emergency care in an amount not to exceed \$250,000 per person per accident. "Emergency care" means all medically necessary treatment of a traumatic injury or a medical condition manifesting itself by acute symptoms of sufficient severity such that absence of immediate attention could reasonably be expected to result in: death; serious impairment to bodily functions; or serious dysfunction of a bodily organ or part. Such emergency care shall include all medically necessary care immediately following an automobile accident, including, but not limited to, immediate pre-hospitalization care, transportation to a hospital or trauma center, emergency room care, surgery, critical and acute care. Emergency care extends during the period of initial hospitalization until the patient is discharged from acute care by the attending physician. Emergency care shall be presumed when medical care is initiated at a hospital within 120 hours of the accident. "Emergency personal injury protection coverage" shall also include all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement after the patient is discharged from acute care. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000 on account of bodily injury to any one person in any one accident covered by a policy issued or renewed prior to January 1, 2004, that excess shall be paid by the insurer and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1);

(2) Death benefit in the amount of \$10,000;

(3) The tort option provided in subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8) shall apply to every named insured and any other person to whom the special automobile insurance policy applies.

c. A special automobile insurance policy shall not provide liability, collision, comprehensive, uninsured or underinsured motorist coverage.

d. The policy form for special automobile insurance policies shall be subject to the approval of the Commissioner of Banking and Insurance and shall clearly and conspicuously set forth the limitations on benefits provided under the policy.

e. The commissioner shall approve the rating system to be used for a special automobile insurance policy, which shall be administered by the plan created pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1), to provide a uniform Statewide rate to be utilized by all insurers providing coverage through a special automobile insurance policy. The rate established by the commissioner shall be sufficient to reimburse the insurer for the cost of writing the policy and an amount set by the commissioner to be forwarded to the Unsatisfied Claim and Judgment Fund to offset claims paid by the Unsatisfied Claim and Judgment Fund. The commissioner may adjust the rate annually.

f. Special automobile insurance policies shall be assigned to insurers pursuant to the apportionment methodology of the plan created pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1). The number of policies assigned pursuant to this subsection shall not be included in the determination of a competitive market pursuant to subsection d. of section 27 of P.L.1990, c.8 (C.17:33B-15).

46. Section 5 of P.L.1998, c.21 (C.39:6A-3.2) is amended to read as follows:

**C.39:6A-3.2 Issuance, renewal of automobile insurance policies, required coverage.**

5. a. All automobile insurance policies issued or renewed on or after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) shall be issued or renewed including at least the coverages required pursuant to sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), unless the named insured elects a basic automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or, after the effective date of P.L.2003, c.89 (C.17:30A-2.1 et al.), a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3). Election of a basic automobile insurance policy or a special automobile insurance policy shall be in writing and signed by the named insured on the coverage selection form required by section 17 of P.L.1983, c.362 (C.39:6A-23). The coverage selection form shall contain a statement, clearly readable and in 12-point bold type, in a form approved by the commissioner, that: (1) election of a basic automobile insurance policy will result in less coverage than the \$250,000 medical expense benefits coverage mandated prior to the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.); or (2) election of a special automobile insurance policy will result in coverage only for emergency care. Furthermore, the coverage election form shall contain a

statement, clearly readable and in 12-point bold type, in a form approved by the commissioner, that election of a special automobile insurance policy, or a basic automobile insurance policy without the optional \$10,000 liability coverage provided for in section 4 of P.L.1998, c.21 (C.39:6A-3.1) may subject the named insured to a claim or judgment for noneconomic loss which is not covered by the basic or special automobile insurance policy, and which may place his assets at risk, and in the event the named insured is sued, the insurer shall not provide legal counsel.

b. The insurance coverages provided for in section 4 of P.L.1998, c.21 (C.39:6A-3.1) shall be offered by every insurer which writes insurance coverages pursuant to sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4) for a period of five years after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.). The commissioner shall require every company writing such insurance coverage to report to him annually during that five-year period as to the number of policies written pursuant to this subsection in the previous year, the number of policies with the coverage offered pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) which have been converted to policies with the coverage offered pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) and any other information the commissioner may require such as, but not limited to, the age of the policyholders and the territories in which the policyholders reside. The commissioner shall then report to the Governor and the Legislature regarding the acceptance of the basic automobile insurance policy by the automobile insurance consumers of this State annually for the first four years the basic policy is sold. On or before January 1, 2003, the commissioner shall make a final, cumulative report which shall include recommendations as to the continuation of the basic policy to the Governor and the Legislature.

c. The insurance coverages provided for in section 45 of P.L.2003, c.89 (C.39:6A-3.3) shall be offered or provided pursuant to subsection f. of that section for a period of five years after the effective date of P.L.2003, c.89 (C.17:30A-2.1 et al.). On or before January 1, 2008, the commissioner shall make a final report which shall include recommendations as to the continuation of the special policy to the Governor and the Legislature.

47. Section 14 of P.L.1985, c.520 (C.39:6A-4.5) is amended to read as follows:

**C.39:6A-4.5 Loss of right to sue for failure to insure, for DWI, for intentional acts.**

14. a. Any person who, at the time of an automobile accident resulting in injuries to that person, is required but fails to maintain medical expense benefits coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4), section 4 of P.L.1998, c.21 (C.39:6A-3.1) or section 45 of P.L.2003, c.89 (C.39:6A-3.3)

shall have no cause of action for recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured automobile.

b. Any person who is convicted of, or pleads guilty to, operating a motor vehicle in violation of R.S.39:4-50, section 2 of P.L. 1981, c.512 (C.39:4-50.4a), or a similar statute from any other jurisdiction, in connection with an accident, shall have no cause of action for recovery of economic or noneconomic loss sustained as a result of the accident.

c. Any person acting with specific intent of causing injury to himself or others in the operation or use of an automobile shall have no cause of action for recovery of economic or noneconomic loss sustained as a result of an accident arising from such conduct.

48. Section 5 of P.L. 1972, c. 70 (C.39:6A-5) is amended to read as follows:

**C.39:6A-5 Payment of personal injury protection coverage benefits.**

5. Payment of personal injury protection coverage benefits.

a. An insurer may require written notice to be given as soon as practicable after an accident involving an automobile with respect to which the policy affords personal injury protection coverage benefits payable under a standard automobile insurance policy pursuant to section 4 of P.L. 1972, c. 70 (C.39:6A-4), medical expense benefits payable under a basic automobile insurance policy pursuant to section 4 of P.L. 1998, c. 21 (C.39:6A-3.1) or emergency care medical expense benefits payable under a special automobile insurance policy pursuant to section 45 of P.L. 2003, c. 89 (C.39:6A-3.3). In the case of claims for medical expense benefits under any of those policies, written notice shall be provided to the insurer by the treating health care provider no later than 21 days following the commencement of treatment. Notification required under this section shall be made in accordance with regulations adopted by the Commissioner of Banking and Insurance and on a form prescribed by the Commissioner of Banking and Insurance. Within a reasonable time after receiving notification required pursuant to this act, the insurer shall confirm to the treating health care provider that its policy affords the claimant personal injury protection coverage benefits as required by section 4 of P.L. 1972, c. 70 (C.39:6A-4), medical expense benefits pursuant to section 4 of P.L. 1998, c. 21 (C.39:6A-3.1) or emergency care medical expense benefits payable under a special automobile insurance policy pursuant to section 45 of P.L. 2003, c. 89 (C.39:6A-3.3).

b. For the purposes of this section, notification shall be deemed to be met if a treating health care provider submits a bill or invoice to the insurer for reimbursement of services within 21 days of the commencement of treatment.

c. In the event that notification is not made by the treating health care provider within 21 days following the commencement of treatment, the insurer



shall reserve the right to deny, in accordance with regulations established by the Commissioner of Banking and Insurance, payment of the claim and the treating health care provider shall be prohibited from seeking any payment directly from the insured. In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the length of delay in notification, the severity of the treating health care provider's failure to comply with the notification provisions of this act based upon the potential adverse impact to the public and whether or not the provider has engaged in a pattern of noncompliance with the notification provisions of this act. In establishing the regulations necessary to effectuate the purposes of this subsection, the Commissioner of Banking and Insurance shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply. Such instances may include, but not be limited to, a treating medical provider's failure to provide notification to the insurer as required by this act due to the insured's medical condition during the time period within which notification is required.

d. A health care provider who fails to notify the insurer within 21 days and whose claim for payment has been denied by the insurer pursuant to the standards established by the Commissioner of Banking and Insurance may, in the discretion of a judge of the Superior Court, be permitted to refile such claim provided that the insurer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to notify the insurer within the period of time prescribed by this act.

e. (Deleted by amendment, P.L.1998, c.21.)

f. In instances when multiple treating health care providers render services in connection with emergency care, the Commissioner of Banking and Insurance shall designate, through regulation, a process whereby notification by one treating health care provider to the insurer shall be deemed to meet the notification requirements of all the treating health care providers who render services in connection with emergency care.

g. Personal injury protection coverage benefits pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) and medical expense benefits pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or emergency care medical expense benefits payable under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3) shall be overdue if not paid within 60 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 60 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 60 days after such written notice

is furnished to the insurer; provided, however, that any payment shall not be deemed overdue where, within 60 days of receipt of notice of the claim, the insurer notifies the claimant or his representative in writing of the denial of the claim or the need for additional time, not to exceed 45 days, to investigate the claim, and states the reasons therefor. The written notice stating the need for additional time to investigate the claim shall set forth the number of the insurance policy against which the claim is made, the claim number, the address of the office handling the claim and a telephone number, which is toll free or can be called collect, or is within the claimant's area code. Written notice to the organization administering dispute resolution pursuant to sections 24 and 25 of P.L.1998, c.21 (C.39:6A-5.1 and C.39:6A-5.2) shall satisfy the notice request for additional time to investigate a claim pursuant to this subsection. For the purpose of determining interest charges in the event the injured party prevails in a subsequent proceeding where an insurer has elected a 45-day extension pursuant to this subsection, payment shall be considered overdue at the expiration of the 45-day period or, if the injured person was required to provide additional information to the insurer, within 10 business days following receipt by the insurer of all the information requested by it, whichever is later.

For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.

h. All overdue payments shall bear interest at the percentage of interest prescribed in the Rules Governing the Courts of the State of New Jersey for judgments, awards and orders for the payment of money.

i. All automobile insurers and the Unsatisfied Claim and Judgment Fund shall provide any claimant with the option of submitting a dispute under this section to dispute resolution pursuant to sections 24 and 25 of P.L.1998, c.21 (C.39:6A-5.1 and C.39:6A-5.2).

49. Section 24 of P.L.1998, c.21 (C.39:6A-5.1) is amended to read as follows:

**C.39:6A-5.1 Dispute resolution provided regarding recovery of personal injury protection benefits.**

24. a. Any dispute regarding the recovery of medical expense benefits or other benefits provided under personal injury protection coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), section 4 of P.L.1998, c.21 (C.39:6A-3.1) or section 45 of P.L.2003, c.89 (C.39:6A-3.3) arising out of the operation, ownership, maintenance or use of an automobile may be

submitted to dispute resolution on the initiative of any party to the dispute, as hereinafter provided.

b. The Commissioner of Banking and Insurance shall designate an organization, and for that purpose may, at his discretion, advertise for proposals, for the purpose of administering dispute resolution proceedings regarding medical expense benefits and other benefits provided under personal injury protection pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), medical expense benefits coverage pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or emergency care medical expense benefits pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3). The commissioner shall promulgate rules and regulations with respect to the conduct of the dispute resolution proceedings. The organization administering dispute resolution shall utilize qualified professionals who serve on a full-time basis and who meet standards of competency established by the commissioner. The commissioner shall establish standards of performance for the organization to ensure the independence and fairness of the review process, including, but not limited to, standards relative to the professional qualifications of the professionals presiding over the dispute resolution process, and standards to ensure that no conflict of interest exists which would prevent the professional from performing his duties in an impartial manner. The standards of performance shall include a requirement that the organization establish an advisory council composed of parties who are users of the dispute resolution mechanism established herein. The commissioner may contract with a consulting firm for the formulation of the standards of performance of the organization and establishment of qualifications for the persons who are to conduct the dispute resolution proceedings. The commissioner shall not advertise for bids for the consulting firm, as provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9). Compensation to the dispute resolution professionals shall be established by the commissioner and adjusted from time to time as appropriate, with the approval of the commissioner. In no case shall compensation be paid on a contingency basis. The organization shall establish a dispute resolution plan, which shall include procedures and rules governing the dispute resolution process and provisions for monitoring the dispute resolution process to ensure adherence to the standards of performance established by the commissioner. The plan, and any amendments thereto, shall be subject to the approval of the commissioner.

c. Dispute resolution proceedings under this section 24 and section 25 of this amendatory and supplementary act shall include disputes arising regarding medical expense benefits provided under subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4), section 4 of P.L.1998, c.21 (C.39:6A-3.1) or section 45 of P.L.2003, c.89 (C.39:6A-3.3), benefits provided pursuant to subsection b., c., d. or e. of section 4 of P.L.1972, c.70 (C.39:6A-4), subsection b., c., d. or e. of section 7 of P.L.1972, c.198 (C.39:6-86.1), and

disputes as to additional first party coverage benefits required to be offered pursuant to section 10 of P.L.1972, c.70 (C.39:6A-10). Disputes involving medical expense benefits may include, but not necessarily be limited to, matters concerning: (1) interpretation of the insurance contract; (2) whether the treatment or health care service which is the subject of the dispute resolution proceeding is in accordance with the provisions of section 4 of P.L.1972, c.70 (C.39:6A-4), section 4 of P.L.1998, c.21 (C.39:6A-3.1) or section 45 of P.L.2003, c.89 (C.39:6A-3.3) or the terms of the policy; (3) the eligibility of the treatment or service for compensation; (4) the eligibility of the provider performing the treatment or service to be compensated under the terms of the policy or under regulations promulgated by the commissioner, including whether the person is licensed or certified to perform such treatment; (5) whether the disputed medical treatment was actually performed; (6) whether diagnostic tests performed in connection with the treatment are those recognized by the commissioner; (7) the necessity or appropriateness of consultations by other health care providers; (8) disputes involving application of and adherence to fee schedules promulgated by the commissioner; and (9) whether the treatment performed is reasonable, necessary, and compatible with the protocols provided for pursuant to P.L.1998, c.21 (C.39:6A-1.1 et al.). The dispute resolution professionals may review the entire claims file of the insurer, subject to any confidentiality requirement established pursuant to State or federal law. All decisions of the dispute resolution professional shall be in writing, in a form prescribed by the commissioner, shall state the issues in dispute, the findings and conclusions on which the decision is based, and shall be signed by the dispute resolution professional. All decisions of a dispute resolution professional shall be binding. The dispute resolution organization shall provide for the retention of all documents used in dispute resolution proceedings under this section and section 25 of this amendatory and supplementary act, including the written decision, for a period of at least five years, in a form approved by the commissioner, or for such additional time as may be established by the commissioner. The written decisions of the dispute resolution professional shall be forwarded to the commissioner, who shall establish a record of the proceedings conducted under the dispute resolution procedure, which shall be accessible to the public and may be used as guidance in subsequent dispute resolution proceedings.

d. With respect to disputes as to the diagnosis, the medical necessity of the treatment or diagnostic test administered to the injured person, whether the injury is causally related to the insured event or is the product of a preexisting condition, or disputes as to the appropriateness of the protocols utilized by the provider, the dispute resolution professional shall, either at his option or at the request of any party to the dispute, refer the matter to a medical review organization for a determination. The determination of the medical review

organization on the dispute referred shall be presumed to be correct by the dispute resolution professional, which presumption may be rebutted by a preponderance of the evidence. Should the dispute resolution professional find that the decision of the medical review organization is not correct, the reasons supporting that finding shall be set forth in the dispute resolution professional's written decision.

e. Any person submitting a matter to the dispute resolution process established herein may submit for review all or a portion of a disputed treatment or treatments or a dispute regarding a diagnostic test or tests or a dispute regarding the providing of services or durable medical goods. Any portion of a treatment or diagnostic test or service which is not under review shall be reimbursed in accordance with the provisions of section 5 of P.L. 1972, c.70 (C.39:6A-5). If the dispute resolution proceeding results in a determination that all or part of a treatment or treatments, diagnostic test or tests or service performed, or durable medical goods provided are medically necessary and appropriate, reimbursement shall be made with interest payable in accordance with the provisions of section 5 of P.L. 1972, c.70 (C.39:6A-5).

50. Section 6 of P.L. 1972, c.70 (C.39:6A-6) is amended to read as follows:

**C.39:6A-6 Collateral source.**

6. Collateral Source. The benefits provided in sections 4 and 10 of P.L. 1972, c.70 (C.39:6A-4 and 39:6A-10), the medical expense benefits provided in section 4 of P.L. 1998, c.21 (C.39:6A-3.1) and the benefits provided in section 45 of P.L. 2003, c.89 (C.39:6A-3.3) shall be payable as loss accrues, upon written notice of such loss and without regard to collateral sources, except that benefits, collectible under workers' compensation insurance, employees' temporary disability benefit statutes, Medicare provided under federal law, and benefits, in fact collected, that are provided under federal law to active and retired military personnel shall be deducted from the benefits collectible under sections 4 and 10 of P.L. 1972, c.70 (C.39:6A-4 and 39:6A-10), the medical expense benefits provided in section 4 of P.L. 1998, c.21 (C.39:6A-3.1) and the benefits provided in section 45 of P.L. 2003, c.89 (C.39:6A-3.3).

If an insurer has paid those benefits and the insured is entitled to, but has failed to apply for, workers' compensation benefits or employees' temporary disability benefits, the insurer may immediately apply to the provider of workers' compensation benefits or of employees' temporary disability benefits for a reimbursement of any benefits pursuant to sections 4 and 10 of P.L. 1972, c.70 (C.39:6A-4 and 39:6A-10), medical expense benefits pursuant to section 4 of P.L. 1998, c.21 (C.39:6A-3.1) or benefits pursuant to section 45 of P.L. 2003, c.89 (C.39:6A-3.3) it has paid.

51. Section 7 of P.L. 1972, c. 70 (C.39:6A-7) is amended to read as follows:

**C.39:6A-7 Exclusion from certain insurance benefits.**

7. Exclusions. a. Insurers may exclude a person from benefits under sections 4 and 10 of P.L. 1972, c. 70 (C.39:6A-4 and 39:6A-10), medical expense benefits provided in section 4 of P.L. 1998, c. 21 (C.39:6A-3.1) and benefits provided in section 45 of P.L. 2003, c. 89 (C.39:6A-3.3) if that person's conduct contributed to his personal injuries or death occurred in any of the following ways:

(1) while committing a high misdemeanor or felony or seeking to avoid lawful apprehension or arrest by a police officer; or

(2) while acting with specific intent of causing injury or damage to himself or others.

b. An insurer may also exclude from the benefits provided in sections 4 and 10 of P.L. 1972, c. 70 (C.39:6A-4 and 39:6A-10), the medical expense benefits provided in section 4 of P.L. 1998, c. 21 (C.39:6A-3.1) and benefits provided in section 45 of P.L. 2003, c. 89 (C.39:6A-3.3) any person having incurred injuries or death, who, at the time of the accident:

(1) was the owner or registrant of an automobile registered or principally garaged in this State that was being operated without personal injury protection coverage;

(2) was occupying or operating an automobile without the permission of the owner or other named insured;

(3) was a person other than the named insured or a member of the named insured's family residing in his household, if that person is entitled to coverage under section 4 or section 10 of P.L. 1972, c. 70 (C.39:6A-4 or 39:6A-10), or both, section 4 of P.L. 1998, c. 21 (C.39:6A-3.1) or section 45 of P.L. 2003, c. 89 (C.39:6A-3.3), as a named insured or member of the named insured's family residing in his household under the terms of another policy; or

(4) was a member of the named insured's family residing in the named insured's household, if that person is entitled to coverage under section 4 or section 10 of P.L. 1972, c. 70 (C.39:6A-4 or 39:6A-10), or both, section 4 of P.L. 1998, c. 21 (C.39:6A-3.1) or section 45 of P.L. 2003, c. 89 (C.39:6A-3.3) as a named insured under the terms of another policy.

52. Section 8 of P.L. 1972, c. 70 (C.39:6A-8) is amended to read as follows:

**C.39:6A-8 Tort exemption, limitation on the right to noneconomic loss.**

8. Tort exemption; limitation on the right to noneconomic loss.

One of the following two tort options shall be elected, in accordance with section 14.1 of P.L. 1983, c. 362 (C.39:6A-8.1), by any named insured required to maintain personal injury protection coverage pursuant to section 4 of P.L. 1972, c. 70 (C.39:6A-4):

a. Limitation on lawsuit option. Every owner, registrant, operator or occupant of an automobile to which section 4 of P.L.1972, c.70 (C.39:6A-4), personal injury protection coverage, section 4 of P.L.1998, c.21 (C.39:6A-3.1), medical expense benefits coverage, or section 45 of P.L.2003, c.89 (C.39:6A-3.3) regardless of fault, applies, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain personal injury protection coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), medical expense benefits pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), or is a person who has a right to receive benefits under section 4 of P.L.1972, c.70 (C.39:6A-4), section 4 of P.L.1998, c.21 (C.39:6A-3.1) or section 45 of P.L.2003, c.89 (C.39:6A-3.3), as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State, unless that person has sustained a bodily injury which results in death; dismemberment; significant disfigurement or significant scarring; displaced fractures; loss of a fetus; or a permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement. An injury shall be considered permanent when the body part or organ, or both, has not healed to function normally and will not heal to function normally with further medical treatment. For the purposes of this subsection, "physician" means a physician as defined in section 5 of P.L.1939, c.115 (C.45:9-5.1).

In order to satisfy the tort option provisions of this subsection, the plaintiff shall, within 60 days following the date of the answer to the complaint by the defendant, provide the defendant with a certification from the licensed treating physician or a board-certified licensed physician to whom the plaintiff was referred by the treating physician. The certification shall state, under penalty of perjury, that the plaintiff has sustained an injury described above. The certification shall be based on and refer to objective clinical evidence, which may include medical testing, except that any such testing shall be performed in accordance with medical protocols pursuant to subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4) and the use of valid diagnostic tests administered in accordance with section 12 of P.L.1998, c.21 (C.39:6A-4.7). Such testing may not be experimental in nature or dependent entirely upon subjective patient response. The court may grant no more than one additional period not to exceed 60 days to file the certification pursuant to this subsection upon a finding of good cause.

A person is guilty of a crime of the fourth degree if that person purposefully or knowingly makes, or causes to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omits a material fact from, or causes a material fact to be omitted from, any certification filed pursuant to this

subsection. Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1, the court shall deal with a person who has been convicted of a violation of this subsection by imposing a sentence of imprisonment unless, having regard to the character and condition of the person, the court is of the opinion that imprisonment would be a serious injustice which overrides the need to deter such conduct by others. If the court imposes a noncustodial or probationary sentence, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution. Nothing in this subsection a. shall preclude an indictment and conviction for any other offense defined by the laws of this State. In addition, any professional license held by the person shall be forfeited according to the procedures established by section 4 of P.L.1997, c.353 (C.2C:51-5); or

b. No limitation on lawsuit option. As an alternative to the basic tort option specified in subsection a. of this section, every owner, registrant, operator, or occupant of an automobile to which section 4 of P.L.1972, c.70 (C.39:6A-4), personal injury protection coverage, section 4 of P.L.1998, c.21 (C.39:6A-3.1), medical expense benefits coverage, or section 45 of P.L.2003, c.89 (C.39:6A-3.3), regardless of fault, applies, and every person or organization legally responsible for his acts or omissions, shall be liable for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain the coverage mandated by P.L.1972, c.70 (C.39:6A-1 et seq.) or is a person who has a right to receive benefits under section 4 of that act (C.39:6A-4), as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State.

The tort option provisions of subsection b. of this section shall also apply to the right to recover for noneconomic loss of any person eligible for benefits pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), section 4 of P.L.1998, c.21 (C.39:6A-3.1) or section 45 of P.L.2003, c.89 (C.39:6A-3.3) but who is not required to maintain personal injury protection coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), medical expense benefits coverage pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3) and is not an immediate family member, as defined in section 14.1 of P.L.1983, c.362 (C.39:6A-8.1), under a standard automobile insurance policy or basic automobile insurance policy.

The tort option provisions of subsection a. of this section shall also apply to any person subject to section 14 of P.L.1985, c.520 (C.39:6A-4.5) and to every named insured and any other person to whom the benefits of the special automobile insurance policy provided in section 45 of P.L.2003, c.89 (C.39:6A-3.3) or the medical expense benefits of the basic automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) apply whether or not the person has elected the optional \$10,000 liability coverage insuring against



loss resulting from liability imposed by law for bodily injury or death provided for in subsection c. of section 4 of P.L.1998, c.21 (C.39:6A-3.1).

The tort option provisions of subsections a. and b. of this section as provided in this 1998 amendatory and supplementary act shall apply to automobile insurance policies issued or renewed on or after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) and as otherwise provided by law.

53. Section 20 of P.L.1983, c.362 (C.39:6A-9.1) is amended to read as follows:

**C.39:6A-9.1 Recovery from tortfeasor.**

20. An insurer, health maintenance organization or governmental agency paying benefits pursuant to subsection a., b. or d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3), personal injury protection benefits in accordance with section 4 or section 10 of P.L.1972, c.70 (C.39:6A-4 or 39:6A-10), medical expense benefits pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), as a result of an accident occurring within this State, shall, within two years of the filing of the claim, have the right to recover the amount of payments from any tortfeasor who was not, at the time of the accident, required to maintain personal injury protection or medical expense benefits coverage, other than for pedestrians, under the laws of this State, including personal injury protection coverage required to be provided in accordance with section 18 of P.L.1985, c.520 (C.17:28-1.4), or although required did not maintain personal injury protection or medical expense benefits coverage at the time of the accident. In the case of an accident occurring in this State involving an insured tortfeasor, the determination as to whether an insurer, health maintenance organization or governmental agency is legally entitled to recover the amount of payments and the amount of recovery, including the costs of processing benefit claims and enforcing rights granted under this section, shall be made against the insurer of the tortfeasor, and shall be by agreement of the involved parties or, upon failing to agree, by arbitration.

54. Section 11 of P.L.1972, c.70 (C.39:6A-11) is amended to read as follows:

**C.39:6A-11 Contribution among insurers.**

11. Contribution among insurers. If two or more insurers are liable to pay benefits under sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) under a standard automobile insurance policy for the same bodily injury, or death, of any one person, the maximum amount payable shall be as specified in those sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), section 4 of P.L.1998, c.21 (C.39:6A-3.1) and section 45 of

P.L.2003, c.89 (C.39:6A-3.3), respectively, if additional first party coverage applies and any insurer paying the benefits shall be entitled to recover from each of the other insurers, only by inter-company arbitration or inter-company agreement, an equitable pro-rata share of the benefits paid.

55. Section 12 of P.L.1972, c.70 (C.39:6A-12) is amended to read as follows:

**C.39:6A-12 Inadmissibility of evidence of losses collectible under personal injury protection coverage.**

12. Inadmissibility of evidence of losses collectible under personal injury protection coverage. Except as may be required in an action brought pursuant to section 20 of P.L.1983, c.362 (C.39:6A-9.1), evidence of the amounts collectible or paid under a standard automobile insurance policy pursuant to sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), amounts collectible or paid for medical expense benefits under a basic automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) and amounts collectible or paid for benefits under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), to an injured person, including the amounts of any deductibles, copayments or exclusions, including exclusions pursuant to subsection d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3), otherwise compensated is inadmissible in a civil action for recovery of damages for bodily injury by such injured person.

The court shall instruct the jury that, in arriving at a verdict as to the amount of the damages for noneconomic loss to be recovered by the injured person, the jury shall not speculate as to the amount of the medical expense benefits paid or payable by an automobile insurer under personal injury protection coverage payable under a standard automobile insurance policy pursuant to sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), medical expense benefits under a basic automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3) to the injured person, nor shall they speculate as to the amount of benefits paid or payable by a health insurer, health maintenance organization or governmental agency under subsection d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3).

Nothing in this section shall be construed to limit the right of recovery, against the tortfeasor, of uncompensated economic loss sustained by the injured party.

56. Section 13 of P.L.1972, c.70 (C.39:6A-13) is amended to read as follows:

**C.39:6A-13. Discovery of facts as to personal injury protection coverage.**

13. Discovery of facts as to personal injury protection coverage. The following apply to personal injury protection coverage benefits payable under a standard automobile insurance policy pursuant to sections 4 and 10 of P.L. 1972, c.70 (C.39:6A-4 and 39:6A-10), medical expense benefits payable under a basic automobile insurance policy pursuant to section 4 of P.L. 1998, c.21 (C.39:6A-3.1) and benefits payable under a special automobile insurance policy pursuant to section 45 of P.L. 2003, c.89 (C.39:6A-3.3):

a. Every employer shall, if a request is made by an insurer or the Unsatisfied Claim and Judgment Fund providing personal injury protection benefits under a standard automobile insurance policy or medical expense benefits payable under a basic automobile insurance policy against whom a claim has been made, furnish forthwith, in a form approved by the Commissioner of Banking and Insurance, a signed statement of the lost earnings since the date of the bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

b. Every physician, hospital, or other health care provider providing, before and after the bodily injury upon which a claim for personal injury protection benefits or medical expense benefits is based, any products, services or accommodations in relation to such bodily injury or any other injury, or in relation to a condition claimed to be connected with such bodily injury or any other injury, shall, if requested to do so by the insurer or the Unsatisfied Claim and Judgment Fund against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates and costs of such treatment of the injured person, and produce forthwith and permit the inspection and copying of his or its records regarding such history, condition, treatment dates and costs of treatment. The person requesting such records shall pay all reasonable costs connected therewith.

c. The injured person shall be furnished upon demand a copy of all information obtained by the insurer or the Unsatisfied Claim and Judgment Fund under the provisions of this section, and shall pay a reasonable charge, if required by the insurer and the Unsatisfied Claim and Judgment Fund.

d. Whenever the mental or physical condition of an injured person covered by personal injury protection under a standard automobile insurance policy or medical expense benefits under a basic automobile insurance policy is material to any claim that has been or may be made for such past or future personal injury protection benefits or medical expense benefits, such person shall, upon request of an insurer or the Unsatisfied Claim and Judgment Fund submit to mental or physical examination conducted by a health care provider licensed in this State in the same profession or specialty as the health care provider whose services are subject to review under this section and who is

located within a reasonable proximity to the injured person's residence. The injured person shall provide or make available to the provider any pertinent medical records or medical history that the provider deems necessary to the examination. The costs of any examinations requested by an insurer or the Unsatisfied Claim and Judgment Fund shall be borne entirely by whomever makes such request. Such examination shall be conducted within the municipality of residence of the injured person. If there is no qualified health care provider to conduct the examination within the municipality of residence of the injured person, then such examination shall be conducted in an area of the closest proximity to the injured person's residence. Insurers providing personal injury protection coverage under a standard automobile insurance policy or medical expense benefits under a basic automobile insurance policy are authorized to include reasonable provisions requiring those claiming personal injury protection coverage benefits or medical expense benefits to submit to mental or physical examination as requested by an insurer or the Unsatisfied Claim and Judgment Fund pursuant to the provisions of this section. Failure to submit to a mental or physical examination requested by an insurer or the Unsatisfied Claim and Judgment Fund pursuant to the provisions of this section shall subject the injured person to certain limitations in coverage as specified in regulations promulgated by the commissioner.

e. If requested by the person examined, a party causing an examination to be made, shall deliver to him a copy of every written report concerning the examination rendered by an examining health care provider, at least one of which reports must set out his findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled upon request to receive from the person examined every written report available to him, or his representative, concerning any examination, previously or thereafter made of the same mental or physical condition.

f. The injured person, upon reasonable request by the insurer or the Unsatisfied Claim and Judgment Fund, shall sign all forms, authorizations or releases for information, approved by the Commissioner of Banking and Insurance, which may be necessary to the discovery of the above facts, in order to reasonably prove the injured person's losses.

g. In the event of any dispute regarding an insurer's or the Unsatisfied Claim and Judgment Fund's or an injured person's right as to the discovery of facts about the injured person's earnings or about his history, condition, treatment, dates and costs of such treatment, or the submission of such injured person to a mental or physical examination subject to the provisions of this section, the insurer, Unsatisfied Claim and Judgment Fund or the injured person may petition a court of competent jurisdiction for an order resolving the dispute and protecting the rights of all parties. The order may be entered on motion for good cause shown giving notice to all persons having an interest therein.

Such court may protect against annoyance, embarrassment or oppression and may as justice requires, enter an order compelling or refusing discovery, or specifying conditions of such discovery; the court may further order the payment of costs and expenses of the proceeding, as justice requires.

57. Section 11 of P.L.1972, c.203 (C.39:6A-13.1) is amended to read as follows:

**C.39:6A-13.1 Two-year limitation on action for payment of benefits.**

11. a. Every action for the payment of benefits payable under a standard automobile insurance policy pursuant to sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), medical expense benefits payable under a basic automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits payable under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), except an action by a decedent's estate, shall be commenced not later than two years after the injured person or survivor suffers a loss or incurs an expense and either knows or in the exercise of reasonable diligence should know that the loss or expense was caused by the accident, or not later than four years after the accident whichever is earlier, provided, however, that if benefits have been paid before then an action for further benefits may be commenced not later than two years after the last payment of benefits.

b. Every action by a decedent's estate for the payment of benefits provided under a standard automobile insurance policy pursuant to sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), medical expense benefits provided under a basic automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits payable under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), shall be commenced not later than two years after death or four years after the accident from which death results, whichever is earlier, provided, however, that if benefits had been paid to the decedent prior to his death then an action may be commenced not later than two years after his death or four years after the last payment of benefits, whichever is earlier, provided, further, that if the decedent's estate has received benefits before then an action for further benefits shall be commenced not later than two years from the last payment of benefits.

58. Section 15 of P.L.1972, c.70 (C.39:6A-15) is amended to read as follows:

**C.39:6A-15 Penalties for false and fraudulent representation.**

15. In any claim or action arising for benefits payable under a standard automobile insurance policy under section 4 of P.L.1972, c.70 (C.39:6A-4), any claim or action arising for medical expense benefits payable under a basic

automobile insurance policy under section 4 of P.L.1998, c.21 (C.39:6A-3.1) or any claim or action arising for benefits payable under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3) wherein any person obtains or attempts to obtain from any other person, insurance company or Unsatisfied Claim and Judgment Fund any money or other thing of value by (1) falsely or fraudulently representing that such person is entitled to such benefits; (2) falsely and fraudulently making statements or presenting documentation in order to obtain or attempt to obtain such benefits; or (3) cooperates, conspires or otherwise acts in concert with any person seeking to falsely or fraudulently obtain, or attempt to obtain, such benefits may upon conviction be fined not more than \$5,000.00, or imprisoned for not more than three years or both, or in the event the sum so obtained or attempted to be obtained is not more than \$500.00, may upon conviction, be fined not more than \$500.00, or imprisoned for not more than six months or both, as a disorderly person.

In addition to any penalties imposed by law, any person who is either found by a court of competent jurisdiction to have violated any provision of P.L.1983 c.320 (C.17:33A-1 et seq.) pertaining to automobile insurance or been convicted of any violation of Title 2C of the New Jersey Statutes arising out of automobile insurance fraud shall not operate a motor vehicle over the highways of this State for a period of one year from the date of judgment or conviction.

59. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read as follows:

**C.17:28-1.1 Required coverage; exceptions.**

2. a. Except for a basic automobile insurance policy, no motor vehicle liability policy or renewal of such policy of insurance, including a standard liability policy for an automobile as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss resulting from liability imposed by law for bodily injury or death, sustained by any person arising out of the ownership, maintenance or use of a motor vehicle, shall be issued in this State with respect to any motor vehicle registered or principally garaged in this State unless it includes coverage in limits for bodily injury or death as follows:

(1) an amount or limit of \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident, and

(2) an amount or limit, subject to such limit for any one person so injured or killed, of \$30,000.00, exclusive of interest and costs, on account of injury to or death of more than one person, in any one accident, under provisions approved by the Commissioner of Banking and Insurance, for payment of all or part of the sums which the insured or his legal representative shall be legally entitled to recover as damages from the operator or owner of an

uninsured motor vehicle, or hit and run motor vehicle, as defined in section 18 of P.L.1952, c.174 (C.39:6-78), because of bodily injury, sickness or disease, including death resulting therefrom, sustained by the insured, caused by accident and arising out of the ownership, maintenance, operation or use of such uninsured or hit and run motor vehicle anywhere within the United States or Canada; except that uninsured motorist coverage shall provide that in order to recover for non-economic loss, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), for accidents to which the benefits of section 4 (C.39:6A-4) of that act apply, the tort option elected pursuant to section 8 (C.39:6A-8) of that act shall apply to that injured person.

All motor vehicle liability policies, except basic automobile insurance policies, shall also include coverage for the payment of all or part of the sums which persons insured thereunder shall be legally entitled to recover as damages from owners or operators of uninsured motor vehicles, other than hit and run motor vehicles, because of injury to or destruction to the personal property of such insured, with a limit in the aggregate for all insureds involved in any one accident of \$5,000.00, and subject, for each insured, to an exclusion of the first \$500.00 of such damages.

b. Uninsured and underinsured motorist coverage shall be provided as an option by an insurer to the named insured electing a standard automobile insurance policy up to at least the following limits: \$250,000.00 each person and \$500,000.00 each accident for bodily injury; \$100,000.00 each accident for property damage or \$500,000.00 single limit, subject to an exclusion of the first \$500.00 of such damage to property for each accident, except that the limits for uninsured and underinsured motorist coverage shall not exceed the insured's motor vehicle liability policy limits for bodily injury and property damage, respectively.

Rates for uninsured and underinsured motorist coverage for the same limits shall, for each filer, be uniform on a Statewide basis without regard to classification or territory.

c. Uninsured and underinsured motorist coverage provided for in this section shall not be increased by stacking the limits of coverage of multiple motor vehicles covered under the same policy of insurance nor shall these coverages be increased by stacking the limits of coverage of multiple policies available to the insured. If the insured had uninsured motorist coverage available under more than one policy, any recovery shall not exceed the higher of the applicable limits of the respective coverages and the recovery shall be prorated between the applicable coverages as the limits of each coverage bear to the total of the limits.

d. Uninsured and underinsured motorist coverage shall be subject to the policy terms, conditions and exclusions approved by the Commissioner

of Banking and Insurance, including, but not limited to, unauthorized settlements, nonduplication of coverage, subrogation and arbitration.

e. For the purpose of this section, (1) "underinsured motorist coverage" means insurance for damages because of bodily injury and property damage resulting from an accident arising out of the ownership, maintenance, operation or use of an underinsured motor vehicle. Underinsured motorist coverage shall not apply to an uninsured motor vehicle. A motor vehicle is underinsured when the sum of the limits of liability under all bodily injury and property damage liability bonds and insurance policies available to a person against whom recovery is sought for bodily injury or property damage is, at the time of the accident, less than the applicable limits for underinsured motorist coverage afforded under the motor vehicle insurance policy held by the person seeking that recovery. A motor vehicle shall not be considered an underinsured motor vehicle under this section unless the limits of all bodily injury liability insurance or bonds applicable at the time of the accident have been exhausted by payment of settlements or judgments. The limits of underinsured motorist coverage available to an injured person shall be reduced by the amount he has recovered under all bodily injury liability insurance or bonds;

(2) "uninsured motor vehicle" means:

(a) a motor vehicle with respect to the ownership, operation, maintenance, or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident;

(b) a motor vehicle with respect to the ownership, operation, maintenance, or use of which there is bodily injury liability insurance in existence but the liability insurer denies coverage or is unable to make payment with respect to the legal liability of its insured because the insurer has become insolvent or bankrupt, or the Commissioner of Banking and Insurance has undertaken control of the insurer for the purpose of liquidation;

(c) a hit and run motor vehicle as described in section 18 of P.L.1952, c.174 (C.39:6-78); or

(d) an automobile covered by a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

"Uninsured motor vehicle" shall not include an automobile covered by a basic automobile insurance policy; an underinsured motor vehicle; a motor vehicle owned by or furnished for the regular use of the named insured or any resident of the same household; a self-insurer within the meaning of any financial responsibility or similar law of the state in which the motor vehicle is registered or principally garaged; a motor vehicle which is owned by the United States or Canada, or a state, political subdivision or agency of those governments or any of the foregoing; a land motor vehicle or trailer operated on rails or crawler treads; a motor vehicle used as a residence or stationary



structure and not as a vehicle; or equipment or vehicles designed for use principally off public roads, except while actually upon public roads.

60. Section 1 of P.L.1972, c.197 (C.39:6B-1) is amended to read as follows:

**C.39:6B-1 Maintenance of motor vehicle liability insurance coverage.**

1. a. Every owner or registered owner of a motor vehicle registered or principally garaged in this State shall maintain motor vehicle liability insurance coverage, under provisions approved by the Commissioner of Banking and Insurance, insuring against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, maintenance, operation or use of a motor vehicle wherein such coverage shall be at least in: (1) an amount or limit of \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and (2) an amount or limit, subject to such limit for any one person so injured or killed, of \$30,000.00, exclusive of interest and costs, on account of injury to or death of, more than one person, in any one accident; and (3) an amount or limit of \$5,000.00, exclusive of interest and costs, for damage to property in any one accident.

b. Notwithstanding the provisions of subsection a. of this section, an owner or registered owner of an automobile, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), registered or primarily garaged in the State may satisfy the requirements of subsection a. of this section by maintaining a basic automobile insurance policy containing coverages provided pursuant to subsections a. and b. of section 4 of P.L.1998, c.21 (C.39:6A-3.1).

c. Notwithstanding the provisions of subsection a. of this section, an owner or registered owner of an automobile, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), registered or primarily garaged in the State may satisfy the requirements of subsection a. of this section by maintaining a special automobile insurance policy containing coverages provided pursuant to subsection b. of section 45 of P.L.2003, c.89 (C.39:6A-3.3).

61. Section 2 of P.L.1968, c.158 (C.17:29C-7) is amended to read as follows:

**C.17:29C-7 Notice of cancellation; reasons.**

2. (A) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) Nonpayment of premium or nonpayment of a residual market equalization charge imposed pursuant to the provisions of section 20 of P.L.1983, c.65 (C.17:30E-8); or

(b) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily

operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period; or

(c) Knowingly providing materially false or misleading information in connection with any application for insurance, renewal of insurance or claim for benefits under an insurance policy; or

(d) The insurer determines, within 60 days of issuance of the policy, that the named insurer does not meet the approved underwriting rules of the insured then in effect.

(B) (Deleted by amendment, P.L.2003, c.89.)

(C) (Deleted by amendment, P.L.2003, c.89.)

(D) This section shall not apply to nonrenewal.

(E) Nothing in this section shall be interpreted to limit the ability of an insurer to void a policy ab initio as otherwise provided by law.

(F) The commissioner shall adopt rules and regulations necessary or appropriate to effectuate the purposes of this section.

62. Section 4 of P.L.1968, c.158 (C.17:29C-9) is amended to read as follows:

**C.17:29C-9 Intention not to renew, notice required.**

4. No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least 60 days' advance notice of its intention not to renew, except that the commissioner may extend the advance notice period up to an additional 30 days by regulation. This section shall not apply:

(a) If the insurer has manifested its willingness to renew; nor

(b) In case of nonpayment of premium;

provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

63. Section 25 of P.L.1990, c.8 (C.17:33B-13) is amended to read as follows:

**C.17:33B-13 Definitions.**

25. As used in sections 25 through 33 of this 1990 amendatory and supplementary act:

"Automobile" means an automobile as defined in section 2 of P.L.1972, c.70 (C.39:6A-2).

"Automobile insurance" means insurance for an automobile including coverage for bodily injury liability and property damage liability, comprehensive and collision coverages, uninsured and underinsured motorist coverage, personal injury protection coverage, additional personal injury protection coverage and any other automobile insurance required by law.

"Commissioner" means the Commissioner of Banking and Insurance.

"Declination" means:

- a. Refusal by an insurance agent to submit an application on behalf of an applicant to any of the insurers represented by the agent;
- b. Refusal by an insurer to issue an automobile insurance policy to an eligible person upon receipt of an application for automobile insurance;
- c. The offer of automobile insurance coverage with less favorable terms or conditions than those requested by an eligible person; or
- d. The refusal by an insurer or agent to provide, upon the request of an eligible person, an application form or other means of making an application or request for automobile insurance coverage.

"Automobile insurance eligibility points" means points calculated under the schedule promulgated by the commissioner pursuant to section 26 of this act.

"Eligible person" means a person who is an owner or registrant of an automobile registered in this State or who holds a valid New Jersey driver's license to operate an automobile, but does not include any person:

- a. Who, during the three-year period immediately preceding application for, or renewal of, an automobile insurance policy has been convicted pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for an offense of a substantially similar nature committed in another jurisdiction; has been convicted of a crime of the first, second or third degree resulting from the use of a motor vehicle; or has been convicted of theft of a motor vehicle;
- b. Whose driver's license to operate an automobile is under suspension or revocation;
- c. Who has been convicted, within the five-year period immediately preceding application for or renewal of a policy of automobile insurance, of fraud or intent to defraud involving an insurance claim or an application for insurance; or who has been successfully denied, within the immediately preceding five years, payment by an insurer of a claim in excess of \$1,000 under an automobile insurance policy, if there was evidence of fraud or intent to defraud involving the automobile insurance claim or application;
- d. Whose policy of automobile insurance has been canceled because of nonpayment of premium or financed premium within the immediately preceding two-year period, unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy;

e. Who fails to obtain or maintain membership or qualification for membership in a club, group, or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance, and if the dues or charges, if any, or other conditions for membership or qualifications for membership are applied uniformly throughout this State, are not expressed as a percentage of the insurance premium, and do not vary with respect to the rating classification of the member or potential member except for the purpose of offering a membership fee to family units. Membership fees, if applicable, may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees;

f. Whose driving record for the three-year period immediately preceding application for or renewal of a policy of automobile insurance has an accumulation of automobile insurance eligibility points as determined under the schedule promulgated by the commissioner pursuant to section 26 of this act;

g. Who possesses such other risk factors as determined to be relevant by rule or regulation of the commissioner; or

h. Who, during the three-year period immediately preceding application for, or renewal of, an automobile insurance policy, has knowingly provided materially false or misleading information in connection with an application for insurance, renewal of insurance or claim for benefits under an insurance policy.

"Insurance agent" or "agent" means an insurance agent as defined by subsection f. of section 2 of P.L.1987, c.293 (C.17:22A-2) and shall also include an insurance broker as defined by subsection g. of section 2 of P.L.1987, c.293 (C.17:22A-2) who has a brokerage relationship with an insurer.

"Insurer" means any insurer authorized or admitted to write automobile insurance in this State, but does not include the New Jersey Automobile Full Insurance Underwriting Association created pursuant to sections 13 through 34 of P.L.1983, c.65 (C.17:30E-1 et seq.) or any residual market mechanism implemented pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1).

64. Section 26 of P.L.1990, c.8 (C.17:33B-14) is amended to read as follows:

**C.17:33B-14 Schedule of automobile insurance eligibility points.**

26. The commissioner shall, within 90 days of the effective date of this act, promulgate a schedule of automobile insurance eligibility points by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The schedule shall assess a point valuation to driving experience related violations and shall include assessments for violations

of lawful speed limits within such increments as determined by the commissioner, other moving violations, and at-fault accidents. For the purposes of this section, an "at-fault accident," occurring before the effective date of P.L.2003, c.89 (C.17:30A-2.1 et al.), means an at-fault accident which results in payment by the insurer of at least a \$500 claim and for accidents occurring on or after the effective date of P.L.2003, c.89 (C.17:30A-2.1 et al.), means an at-fault accident which results in payment by the insurer of at least a \$1,000 claim, which amount may be adjusted in \$100 or \$250 increments periodically by order of the commissioner no more frequently than every 36 months, as the commissioner deems appropriate, to reflect the cumulative increases or decreases in the components of the Consumer Price Index, All Urban Consumers (CPI-U) for the Northeast Region, and the adjusted amount shall apply to automobile accidents occurring at least 120 days after the effective date of the adjustment; except that an at-fault accident shall not mean an accident occurring as a result of operation of any motor vehicle in response to a medical emergency if the operator at the time of the accident was a physician responding to the medical emergency.

65. Section 10 of P.L.1983, c.65 (C.17:29A-39) is amended to read as follows:

**C.17:29A-39 Deductibles.**

10. a. Unless the named insured selects a lower deductible amount, every private passenger automobile insurance policy providing collision and comprehensive coverages, issued or renewed on or after the effective date of this act, shall provide a deductible in a minimum amount of \$500.00 each for collision and comprehensive coverages, except for policies issued on or after the effective date of this section, that deductible amount shall be \$750 each for collision and comprehensive coverages. The minimum deductible established by this subsection shall apply to all policies providing collision and comprehensive coverages unless the named insured provides otherwise in writing on a form approved by the commissioner.

b. The commissioner shall promulgate rules and regulations requiring insurers to offer a range of deductibles up to at least \$2,000.00 for private passenger automobile collision and comprehensive coverages, which upper range may be adjusted in \$100 or \$250 increments periodically by order of the commissioner no more frequently than every 36 months, as the commissioner deems appropriate, to reflect the cumulative increases or decreases, since the deductibles were last set, in the components of the Consumer Price Index, All Urban Consumers (CPI-U) for the Northeast Region.

66. Section 16 of P.L.1974, c.17 (C.17:30A-16) is amended to read as follows:

**C.17:30A-16 Surcharges.**

16. a. The commissioner shall adopt rules permitting member insurers to recoup over a reasonable length of time, a sum reasonably calculated to recoup assessments paid by the member insurer pursuant to paragraph (3) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8) by way of a surcharge on premiums charged for insurance policies to which this act applies. The amount of any surcharge shall be determined by the commissioner. The commissioner may permit an insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge, provided that nothing in this subsection shall relieve the insurer of its obligation to remit the amount of surcharge otherwise collectible.

b. No member insurer shall impose a surcharge on the premiums of any policy to recoup assessments paid pursuant to paragraph (9) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8).

c. Members shall recoup assessments paid by member insurers pursuant to paragraph (11) of section 8 of P.L.1974, c.17 (C.17:30A-8) by way of a surcharge on premiums charged for insurance policies to which this act applies. Members shall recoup these assessments within two years of the date they are paid. The commissioner may permit an insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge, provided that nothing in this subsection shall relieve the insurer of its obligation to remit the amount of the surcharge otherwise collectible.

67. Section 1 of P.L.1988, c.118 (C.17:29A-5.6) is amended to read as follows:

**C.17:29A-5.6 Definitions.**

1. As used in this act:

a. "Actual investment income" means that portion of income generated by investment of policyholder-supplied funds. Policyholder-supplied funds are the assets that offset the insurer's total New Jersey private passenger automobile insurance unearned premium and loss reserves without regard to whether those funds came from private passenger automobile insurance policyholders or other policyholders or were from policyholder funds from the last seven calendar years or earlier years.

b. "Actuarial gain" means the remainder obtained by subtracting the allowance for profit and contingencies from underwriting income, which remainder may be positive or negative.

c. "AIRE charges" and "AIRE compensation" mean, respectively, amounts paid to or received from the New Jersey Automobile Insurance Risk Exchange pursuant to section 16 of P.L.1983, c.362 (C.39:6A-22).

d. "Anticipated investment income" means the amount obtained by multiplying earned premium by the percentage of premium representing investment income and used in the insurer's approved rate filings or filings made pursuant to section 29 of P.L.1988, c.119 (C.17:29A-42), during the period of the three calendar-accident years being calculated, to calculate the allowance for profit and contingencies.

e. "Calendar-accident year" means the period from January 1 to December 31, during which, in the appropriate context:

- (1) premium or investment income was earned;
- (2) expenses were incurred; or
- (3) accidents occurred which resulted in losses, loss adjustment expenses or AIRE compensation.

f. "Car year" means the unit of exposure equivalent to the insuring of one automobile for 12 months, two automobiles for six months each, three automobiles for four months each, and so forth.

g. "Commissioner" means the Commissioner of Banking and Insurance.

h. "Development adjustment," for a given calendar-accident year, means the difference obtained by subtracting:

- (1) The sum of

- (a) Losses and loss adjustment expenses for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year preceding the year in which the profits report required by section 2 of this act is due; plus

- (b) AIRE compensation for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year in which the profits report is due; from

- (2) The sum of

- (a) Losses and loss adjustment expenses for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year in which the profits report is due; plus

- (b) AIRE compensation for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year preceding the year in which the profits report is due.

i. "Excess investment income" means the remainder obtained by subtracting the anticipated investment income from the actual investment income earned by the insurer, which remainder may be positive or negative.

j. "Insurer" means an entity authorized or admitted to transact private passenger automobile insurance business in New Jersey.

k. "Private passenger automobile insurance business" means direct insurance on private passenger automobiles as defined in subsection a. of section 2 of P.L.1972, c.70 (C.39:6A-2), excluding personal excess liability insurance and insurance on commercial vehicles.

l. "Total actuarial gain" means the sum of the actuarial gains for the seven calendar-accident years immediately preceding the due date of the profits report required by section 2 of this act, less the development adjustments submitted at the option of the insurer for the calendar-accident years beginning with the eleventh calendar-accident year immediately preceding the due date of the profits report and ending with the eighth calendar-accident year immediately preceding the due date of the profits report.

m. "Underwriting income" means the remainder obtained by subtracting the sum of all losses developed to an ultimate basis, all loss adjustment expenses developed to an ultimate basis, and all other expenses exclusive of UCJF assessments, from the sum of premiums earned and AIRE compensation developed to an ultimate basis, which remainder may be positive or negative.

n. "UCJF assessments" means amounts paid by insurers to the Unsatisfied Claim and Judgment Fund pursuant to section 3 of P.L.1952, c.174 (C.39:6-63).

o. "UCJF reimbursements" means amounts received by an insurer from the Unsatisfied Claim and Judgment Fund as a result of excess medical expense benefit payments by the insurer pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1).

68. Section 2 of P.L.1988, c.118 (C.17:29A-5.7) is amended to read as follows:

**C.17:29A-5.7 Annual profits report.**

2. a. Each insurer, except those exempt from filing pursuant to section 6 of this act, shall annually file with the commissioner, on or before July 1 of each year, a profits report containing the information and calculations required by this section. The information shall be provided with respect to the insurer's New Jersey private passenger automobile insurance business separately for each of the following coverages and for all these coverages combined:

- (1) Personal injury protection, including all options;
- (2) Bodily injury liability, reported at total limits;
- (3) Other liability, consisting of property damage liability and uninsured and underinsured motorist coverages, all reported at total limits;
- (4) Physical damage, consisting of comprehensive and collision coverages, including all deductibles.

A separate profits report shall be filed for each insurer and each insurer in an insurance holding company system. Each insurance holding company system shall file a separate combined profits report for all insurers in its system.



The excess profits computation for an insurance holding company system shall be performed on its combined profits report, except that the commissioner may order an adjustment in the combined profits report if in his judgment, upon examining each insurer's profits report in the insurance holding company system, one or more of the insurers in that system are excessively subsidizing other insurers in that system.

b. The profits report shall contain the following information, in a manner and for a time period as prescribed by the commissioner by regulation:

- (1) Losses paid;
- (2) Losses developed to an ultimate basis;
- (3) Loss adjustment expenses paid;
- (4) Loss adjustment expenses developed to an ultimate basis;
- (5) AIRE compensation received; and
- (6) AIRE compensation developed to an ultimate basis.

c. The profits report shall contain the following information for the calendar-accident year ending December 31 immediately preceding the date the profits report is due:

- (1) Premiums written;
- (2) Premiums earned;
- (3) All other expenses, itemized separately as follows:
  - (a) All commissions and all brokerage fees;
  - (b) All taxes, all licenses and all fees;
  - (c) All AIRE charges;
  - (d) All UCJF assessments;
  - (e) All other acquisition costs and all general expenses;
  - (f) All policyholder dividends incurred by the insurer, including any excess profits refunded or credited to policyholders;
- (g) The net of all catastrophe reinsurance premiums incurred to unaffiliated catastrophe reinsurers and all sums paid or owed by unaffiliated catastrophe reinsurers for losses that occurred during the calendar-accident year, subject to such substantiation of expense as the commissioner may require;
- (h) All expenses incurred for the services of a limited assignment distribution carrier pursuant to subsection c. of section 1 of P.L. 1970, c.215 (C.17:29D-1);
- (4) Allowance for profit and contingencies, calculated by multiplying the premiums earned by the profit and contingency factors authorized for use with the insurer's approved rate filings, which profit and contingency factors shall be based on the insurer's targeted rate of return, method of doing business, the cost of capital and other relevant economic considerations of the insurer;
- (5) Anticipated investment income;
- (6) Actual investment income; and
- (7) UCJF reimbursements received.

d. The profits report shall include a clear and explicit calculation of each of the following items, in a manner and for a time period as prescribed by the commissioner by regulation:

- (1) Underwriting income;
- (2) Actuarial gain;
- (3) Excess investment income;
- (4) Development adjustment;
- (5) Total actuarial gain; and
- (6) Excess profits.

69. Section 3 of P.L.1988, c.118 (C.17:29A-5.8) is amended to read as follows:

**C.17:29A-5.8 Excess profits.**

3. Excess profits shall exist if for the seven calendar-accident years immediately preceding the date the profits report is due, the sum of an insurer's total actuarial gain and excess investment income for all private passenger automobile coverages combined exceeds 2.5 percent of earned premiums, except that the effect of a negative excess investment income shall be limited in the computation of excess profits, at the discretion of the commissioner, which discretion shall be exercised pursuant to a standard on the investment of policyholder-supplied funds pursuant to regulations promulgated by the commissioner not later than April 1 of the year in which excess profits reports are filed.

70. Section 2 of P.L.1972, c.200 (C.39:3-29.1) is amended to read as follows:

**C.39:3-29.1 Insurance identification cards; rules, regulations.**

2. The Commissioner of Banking and Insurance shall, after consultation with the New Jersey Motor Vehicle Commission, promulgate rules and regulations concerning the issuance, design and content of the insurance identification cards required by this act.

The rules and regulations shall contain provisions designed to deter and detect counterfeit or fraudulent insurance identification cards.

**C.2C:21-4.4 Findings, declarations relative to insurance fraud.**

71. With respect to sections 72 through 74 of P.L.2003, c.89 (C.2C:21-4.5 through C.2C:21-4.7), the Legislature finds and declares:

a. Insurance fraud is inimical to public safety, welfare and order within the State of New Jersey. Insurance fraud is pervasive and expensive, costing consumers and businesses millions of dollars in direct and indirect losses each year. Insurance fraud increases insurance premiums, to the detriment of

individual policyholders, small businesses, large corporations and governmental entities. All New Jerseyans ultimately bear the societal burdens and costs caused by those who commit insurance fraud.

b. The problem of insurance fraud must be confronted aggressively by facilitating the detection, investigation and prosecution of such misconduct, as well as by reducing its occurrence and achieving deterrence through the implementation of measures that more precisely target specific conduct constituting insurance fraud.

c. To enable more efficient prosecution of criminally culpable persons who knowingly commit or assist or conspire with others in committing fraud against insurance companies, it is necessary to establish a crime of "insurance fraud" to directly and comprehensively criminalize this type of harmful conduct, with substantial criminal penalties to punish wrongdoers and to appropriately deter others from such illicit activity.

d. In addition to criminal penalties, in order to maintain the public trust and ensure the integrity of professional licensees and certificate-holders who by virtue of their professions are involved in insurance transactions, it is appropriate to provide civil remedial provisions governing license or certificate forfeiture and suspension tailored to this new crime of insurance fraud and other criminal insurance-related activities.

e. To enhance the State's ability to detect insurance fraud, which will lead to more productive investigations and, ultimately, more successful criminal prosecutions, it is appropriate to provide members of the public with significant incentives to come forward when they may have reasonable suspicions or knowledge of a person or persons committing insurance fraud. The establishment of an Insurance Fraud Detection Reward Program will enable the Insurance Fraud Prosecutor to obtain information which may lead to the arrest, prosecution and conviction of persons or entities who have committed insurance-related fraud.

**C.2C:21-4.5 Definitions relative to insurance fraud.**

72. As used in sections 73 and 74 of P.L.2003, c.89 (C.2C:21-4.6 and C.2C:21-4.7), unless the context otherwise requires, the following words and terms shall have the following meanings:

"Insurance company" means any person, company, corporation, unincorporated association, partnership, professional corporation, agency of government and any other entity authorized or permitted to do business in New Jersey, subject to regulation by the State, or incorporated or organized under the laws of any other state of the United States or of any foreign nation or of any province or territory thereof, to indemnify another against loss, damage, risk or liability arising from a contingent or unknown event. "Insurance company" includes, but is not limited to, an insurance company as that term

is defined in section 3 of P.L.1983, c.320 (C.17:33A-3), self-insurer, re-insurer, reciprocal exchange, inter-insurer, hospital, medical or health service corporation, health maintenance organization, surety, assigned risk plan, joint insurance fund, and any other entity legally engaged in the business of insurance as authorized or permitted by the State of New Jersey, including but not limited to any such entity incorporated or organized under the laws of any other state of the United States or of any foreign nation or of any province or territory thereof.

"Insurance policy" means the instrument, in writing, electronically or in any other form, in which are set forth the terms of any certificate of insurance, binder of coverage, contract of insurance or contract of re-insurance, issued by an insurance company, including, but not limited to, a State-assigned risk plan, plan of indemnity protection provided by or on behalf of a joint insurance fund or benefit plan, motor club service plan, or guaranty bond, surety bond, cash bond or any other alternative to insurance authorized or permitted by the State of New Jersey.

"Insurance transaction" means a transaction by, between, or among (1) an insurance company and (2) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner as defined by section 2 of P.L.1997, c.353 (C.2C:21-4.2), attorney, or any person who acts on behalf of any of the foregoing for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self insurance, or reinsurance, or obtaining the benefits or annuities thereof or therefrom.

"Premium finance transaction" means a transaction involving or related to insurance premium financing which is subject to the "Insurance Premium Finance Company Act," P.L.1968, c.221 (C.17:16D-1 et seq.).

**C.2C:21-4.6 Crime of insurance fraud.**

73. a. A person is guilty of the crime of insurance fraud if that person knowingly makes, or causes to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omits a material fact from, or causes a material fact to be omitted from, any record, bill, claim or other document, in writing, electronically, orally or in any other form, that a person attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted as part of, in support of or opposition to or in connection with: (1) a claim for payment, reimbursement or other benefit pursuant to an insurance policy, or from an insurance company or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.); (2) an application to obtain or renew an insurance policy; (3) any payment made or to be made in accordance with the terms of an insurance policy or premium finance transaction; or (4) an

affidavit, certification, record or other document used in any insurance or premium finance transaction.

b. Insurance fraud constitutes a crime of the second degree if the person knowingly commits five or more acts of insurance fraud, including acts of health care claims fraud pursuant to section 2 of P.L. 1997, c.353 (C.2C:21-4.2) and if the aggregate value of property, services or other benefit wrongfully obtained or sought to be obtained is at least \$1,000. Otherwise, insurance fraud is a crime of the third degree. Each act of insurance fraud shall constitute an additional, separate and distinct offense, except that five or more separate acts may be aggregated for the purpose of establishing liability pursuant to this subsection. Multiple acts of insurance fraud which are contained in a single record, bill, claim, application, payment, affidavit, certification or other document shall each constitute an additional, separate and distinct offense for purposes of this subsection.

c. Proof that a person has signed or initialed an application, bill, claim, affidavit, certification, record or other document may give rise to an inference that the person has read and reviewed the application, bill, claim, affidavit, certification, record or other document.

d. In order to promote the uniform enforcement of this act, the Attorney General shall develop insurance fraud prosecution guidelines and disseminate them to county prosecutors within 180 days of the effective date of this act.

e. Nothing in this act shall preclude an indictment and conviction for any other offense defined by the laws of this State.

f. Nothing in this act shall preclude an assignment judge from dismissing a prosecution of insurance fraud if the assignment judge determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a de minimis infraction.

**C.2C:21-4.7 Insurance Fraud Detection Reward Program.**

74. a. There is established within the Office of the Insurance Fraud Prosecutor an Insurance Fraud Detection Reward Program, to be funded from surcharges imposed pursuant to section 53 of P.L.2002, c.34 (C.17:33A-5.1) and supplemented as necessary and appropriate by amounts budgeted for the operation of the office.

b. A member of the public who has knowledge of or who believes that an act of health care claims fraud, insurance fraud or any other criminal offense involving or related to an insurance transaction is being or has been committed may provide the Insurance Fraud Prosecutor with a report or information pertinent to that knowledge or belief and may provide additional information that the Insurance Fraud Prosecutor requests.

c. The Insurance Fraud Prosecutor shall maintain a 24-hour toll-free insurance fraud hotline to receive information from members of the public who have knowledge of or who believe that an act of health care claims fraud,

insurance fraud or any other criminal offense involving or related to an insurance transaction is being or has been committed.

d. The Attorney General, through the Insurance Fraud Prosecutor, is authorized to pay a reward of up to \$25,000 to persons providing information leading to the arrest, prosecution and conviction of persons or entities who have committed health care claims fraud, insurance fraud or any other criminal offense related to an insurance transaction. Only a single reward amount may be paid by the Insurance Fraud Prosecutor for claims arising out of the same transaction or occurrence, regardless of the number of persons arrested, prosecuted and convicted and regardless of the number of persons submitting claims for the reward. The reward may be divided and disbursed among more than one person in amounts determined by the Insurance Fraud Prosecutor, in accordance with the provisions of this subsection. The decision of the Insurance Fraud Prosecutor as to the person or persons entitled to the reward shall be final unless the reward recipients shall disagree, in which event, the matter shall be referred to the Attorney General whose decision shall be final and shall not be subject to judicial review.

e. Any person acting in good faith who provides information in accordance with subsection b. of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.

f. The Attorney General shall promulgate and adopt rules and regulations which set forth the reward program application and approval process, including the criteria against which claims shall be evaluated, the basis for determining specific reward amounts, and the manner of reward disbursement. Applications for rewards authorized by this section must be submitted in accordance with rules established by the Attorney General.

75. Section 3 of P.L.1997, c.353 (C.2C:21-4.3) is amended to read as follows:

**C.2C:21-4.3 Health care claims fraud, degree of crime; prosecution guidelines.**

3. a. A practitioner is guilty of a crime of the second degree if that person knowingly commits health care claims fraud in the course of providing professional services. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.

b. A practitioner is guilty of a crime of the third degree if that person recklessly commits health care claims fraud in the course of providing professional services. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.

c. A person, who is not a practitioner subject to the provisions of subsection a. or b. of this section, is guilty of a crime of the third degree if that person knowingly commits health care claims fraud. A person, who is not a practitioner subject to the provisions of subsection a. or b. of this section, is guilty of a crime of the second degree if that person knowingly commits five or more acts of health care claims fraud and the aggregate pecuniary benefit obtained or sought to be obtained is at least \$1,000. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.

d. A person, who is not a practitioner subject to the provisions of subsection a. or b. of this section, is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.

e. Each act of health care claims fraud shall constitute an additional, separate and distinct offense, except that five or more separate acts may be aggregated for the purpose of establishing liability pursuant to subsection c. of this section. Multiple acts of health care claims fraud which are contained in a single record, bill, claim, application, payment, affidavit, certification or other document shall each constitute an additional, separate and distinct offense for purposes of this section.

f. (1) The falsity, fictitiousness, fraudulence or misleading nature of a statement may be inferred by the trier of fact in the case of a practitioner who attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted, any record, bill, claim or other document for treatment or procedure without the practitioner, or an associate of the practitioner, having performed an assessment of the physical or mental condition of the patient or client necessary to determine the appropriate course of treatment.

(2) The falsity, fictitiousness, fraudulence or misleading nature of a statement may be inferred by the trier of fact in the case of a person who attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted any record, bill, claim or other document for more treatments or procedures than can be performed during the time in which the treatments or procedures were represented to have been performed.

(3) Proof that a practitioner has signed or initialed a record, bill, claim or other document gives rise to an inference that the practitioner has read and reviewed that record, bill, claim or other document.

g. In order to promote the uniform enforcement of this act, the Attorney General shall develop health care claims fraud prosecution guidelines and

disseminate them to the county prosecutors within 120 days of the effective date of this act.

h. For the purposes of this section, a person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

i. (1) Nothing in this act shall preclude an indictment and conviction for any other offense defined by the laws of this State.

(2) Nothing in this act shall preclude an assignment judge from dismissing a prosecution of health care claims fraud if the assignment judge determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a de minimis infraction.

76. Section 4 of P.L.1997, c.353 (C.2C:51-5) is amended to read as follows:

**C.2C:51-5 Forfeiture, suspension of license, certificate; exceptions.**

4. a. (1) A practitioner convicted of health care claims fraud pursuant to subsection a. of section 3 of P.L. 1997, c.353 (C.2C:21-4.3) or a substantially similar crime under the laws of another state or the United States shall forfeit his license and be forever barred from the practice of the profession unless the court finds that such license forfeiture would be a serious injustice which overrides the need to deter such conduct by others and in such case the court shall determine an appropriate period of license suspension which shall be for a period of not less than one year. If the court does not permanently forfeit such license pursuant to this paragraph, the sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

(2) Upon a first conviction of health care claims fraud pursuant to subsection b. of section 3 of P.L. 1997, c.353 (C.2C:21-4.3) or a substantially similar crime under the laws of another state or the United States, a practitioner shall have his license suspended and be barred from the practice of the profession for a period of at least one year.

(3) Upon a second conviction of health care claims fraud pursuant to subsection b. of section 3 of P.L. 1997, c.353 (C.2C:21-4.3) or a substantially similar crime under the laws of another state or the United States, a practitioner shall forfeit his license and be forever barred from the practice of the profession.

(4) A person convicted of second degree insurance fraud pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6) or a substantially similar crime under the laws of another state or the United States who holds a license or certificate of authority or qualification to engage in the practice of a profession, occupation, trade, or vocation or business, including but not limited to a practitioner as



defined in section 2 of P.L. 1997, c.353 (C.2C:21-4.2), shall forfeit that license or certificate and be forever barred from the practice of that profession, occupation, trade, vocation or business if the act or acts of insurance fraud were related to or performed while engaged in the practice of that profession, occupation, trade, vocation or business, unless the court finds that such license or certificate forfeiture would be a serious injustice which overrides the need to deter such conduct by others and in that case the court shall determine an appropriate period of license or certificate suspension which shall be for a period of not less than one year. If the court does not permanently forfeit such license or certificate pursuant to this paragraph, the sentence shall not become final for 10 days in order to permit the appeal of that sentence by the prosecution.

(5) A person convicted of third degree insurance fraud pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6) or a substantially similar crime under the laws of another state or the United States who holds a license or certificate of authority or qualification to engage in the practice of a profession, occupation, trade, vocation or business, including but not limited to a practitioner as defined in section 2 of P.L.1997, c.353 (C.2C:21-4.2), shall have his license or certificate suspended and be barred from the practice of that profession, occupation, trade, vocation or business for a period of at least one year if the act or acts of insurance fraud were related to or performed while engaged in the practice of that profession, occupation, trade, vocation or business.

(6) Upon a second conviction of third degree insurance fraud pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6) or a substantially similar crime under the laws of another state or the United States which meets the criteria of paragraph (2) of this subsection, a person shall forfeit his license or certificate and be forever barred from the practice of that profession, occupation, trade, vocation or business.

(7) Upon application of the county prosecutor or the Attorney General, a person convicted of any crime of the second degree or above enumerated in chapter 20 or 21 of Title 2C of the New Jersey Statutes or a substantially similar crime under the laws of another state or the United States who holds a license or certificate or authority or qualification to engage in the practice of a profession, occupation, trade, vocation or business, including a practitioner as defined in section 2 of P.L. 1997, c.353 (C.2C:21-4.2), shall forfeit such license or certificate and be forever barred from the practice of that profession, occupation, trade, vocation or business if the act or acts underlying the conviction involved or were related to an insurance transaction as defined in section 72 of P.L.2003, c.89 (C.2C:21-4.5) and touched upon or were performed while engaged in the practice of that profession, occupation, trade, vocation or business, unless the court finds that the license or certificate forfeiture would be a serious injustice which overrides the need to deter such

conduct by others and in that case the court shall determine an appropriate period of license or certificate suspension which shall be for a period of not less than one year. If the court does not permanently forfeit that license or certificate pursuant to this paragraph, the sentence shall not become final for 10 days in order to permit the appeal of that sentence by the prosecution.

(8) Upon application of the county prosecutor or the Attorney General, a person convicted of any crime of the third degree enumerated in chapter 20 or 21 of Title 2C of the New Jersey Statutes or a substantially similar crime under the laws of another state or the United States who holds a license or certificate of authority or qualification to engage in the practice of a profession, occupation, trade, vocation or business, including but not limited to a practitioner as defined in section 2 of P.L.1997, c.353 (C.2C:21-4.2), shall have his license or certificate suspended and be barred from the practice of that profession, occupation, trade, vocation or business for a period of at least one year if the act or acts underlying the conviction involved or were related to an insurance transaction as defined in section 72 of P.L.2003, c.89 (C.2C:21-4.5) and touched upon or were performed while engaged in the practice of that profession, occupation, trade, vocation or business.

b. A court of this State shall enter an order of license or certificate forfeiture or suspension pursuant to subsection a. of this section:

(1) Immediately upon a finding of guilt by the trier of fact or a plea of guilty entered in any court of this State; or

(2) Upon application of the county prosecutor or the Attorney General, when the license or certificate forfeiture or suspension is made pursuant to paragraph (4) of subsection a. of this section or is based upon a conviction of an offense under the laws of another state or of the United States. An order of license or certificate forfeiture or suspension pursuant to this paragraph shall be effective as of the date the person is found guilty by the trier of fact or pleads guilty to the offense.

This application may also be made in the alternative by the Attorney General to the appropriate licensing agency.

The court shall provide notice of the forfeiture or suspension to the appropriate licensing agency within 10 days of the date an order of forfeiture or suspension is entered.

c. No court shall grant a stay of an order of license or certificate forfeiture or suspension pending appeal of a conviction or forfeiture or suspension order unless the court is clearly convinced that there is a substantial likelihood of success on the merits. If the conviction is reversed or the order of license or certificate forfeiture or suspension is overturned, the court shall provide notice of reinstatement to the appropriate licensing agency within 10 days of the date of the order of reinstatement. The license or certificate shall be restored,

in accordance with applicable procedures, unless the appropriate licensing agency determines to suspend or revoke the license or certificate.

d. In any case in which the issue of license or certificate forfeiture or suspension is not raised in a court of this State at the time of a finding of guilt, entry of a guilty plea or sentencing, a license or certificate forfeiture or suspension required by this section may be ordered by a court or by the appropriate licensing agency of this State upon application of the county prosecutor or the Attorney General or upon application of the appropriate licensing agency having authority to revoke or suspend the professional's license or certificate. The fact that a court has declined to order license or certificate forfeiture or suspension shall not preclude the appropriate licensing agency having authority to revoke or suspend the professional's license or certificate from seeking to do so on the ground that the conduct giving rise to the conviction demonstrates that the person is unfit to hold the license or certificate or is otherwise liable for an offense as specified in section 8 of P.L.1978, c.73 (C.45:1-21).

e. If the Supreme Court of the State of New Jersey issues Rules of Court pursuant to this act, the Supreme Court may revoke the license to practice law of any attorney who has been convicted, under the laws of this State, of health care claims fraud pursuant to section 3 of P.L.1997, c.353 (C.2C:21-4.3), or an offense which, if committed in this State, would constitute health care claims fraud, insurance fraud pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6), or an offense which, if committed in this State, would constitute insurance fraud.

f. Nothing in this section shall be construed to prevent or limit the appropriate licensing agency or any other party from taking any other action permitted by law against the practitioner.

77. Section 5 of P.L.1997, c.353 (C.2C:52-27.1) is amended to read as follows:

C.2C:52-27.1 Petition to rescind order of debarment for health care claims fraud; restoration.

5. a. If an order of expungement of records of conviction under the provisions of chapter 52 of Title 2C of the New Jersey Statutes is granted by the court to a person convicted of health care claims fraud in which the court had ordered the offender's professional license or certificate be forfeited and the person be forever barred from the practice of the profession, occupation, trade, vocation or business pursuant to subsection a. of section 4 of P.L.1997, c.353 (C.2C:51-5), the person may petition the court for an order to rescind the court's order of debarment if the person can demonstrate that the person is sufficiently rehabilitated.

b. If an order to rescind the court's order of debarment is granted, the person granted the order may apply to be licensed or certified to practice the profession, occupation, trade, vocation or business from which the offender was barred.

78. R.S.39:3-29 is amended to read as follows:

**License, registration certificate and insurance identification card; possession; exhibit upon request; violations; fine; defense.**

39:3-29. The driver's license, the registration certificate of a motor vehicle and an insurance identification card shall be in the possession of the driver or operator at all times when he is in charge of a motor vehicle on the highways of this State.

The driver or operator shall exhibit his driver's license and an insurance identification card, and the holder of a registration certificate or the operator or driver of a motor vehicle for which a registration certificate has been issued, whether or not the holder, driver or operator is a resident of this State, shall also exhibit the registration certificate, when requested so to do by a police officer or judge, while in the performance of the duties of his office, and shall write his name in the presence of the officer, so that the officer may thereby determine the identity of the licensee and at the same time determine the correctness of the registration certificate, as it relates to the registration number and number plates of the motor vehicle for which it was issued; and the correctness of the evidence of a policy of insurance, as it relates to the coverage of the motor vehicle for which it was issued.

Any person violating this section shall be subject to a fine of \$150, of which \$25 shall be deposited in the Uninsured Motorist Prevention Fund established by section 2 of P.L.1983, c.141 (C.39:6B-3).

If a person charged with a violation of this section can exhibit his driver's license, insurance identification card and registration certificate, which were valid on the day he was charged, to the judge of the municipal court before whom he is summoned to answer to the charge, such judge may dismiss the charge. However, the judge may impose court costs.

**C.39:3-29.1a Provision of proof of insurance; impoundment of vehicle.**

79. a. Upon the issuance of a summons for failing to possess or exhibit an insurance identification card in violation of R.S.39:3-29, the violator or registrant shall have 24 hours from the time of the citation to provide the issuing law enforcement agency with the insurance identification card, or other satisfactory proof of insurance. Failure to provide the insurance identification card or other satisfactory proof of insurance within the 24-hour time frame shall result in the issuance of a warrant for the immediate impoundment of the vehicle that was being operated when the summons was issued. A motor

vehicle impounded pursuant to the provisions of this subsection shall be removed to a storage space or garage. The registrant shall be responsible for the cost of the removal and storage of the impounded motor vehicle.

b. (1) If the registrant fails to claim a motor vehicle impounded pursuant to subsection a. of this section and pay the reasonable costs of removal and storage by midnight of the 30th day following impoundment, along with a fine of \$100 to cover the administrative costs of the municipality wherein the violation occurred, and after a hearing, the municipality may sell the motor vehicle at public auction. The municipality shall give notice of the sale by certified mail to the registrant of the motor vehicle and to the holder of any security interest filed with the New Jersey Motor Vehicle Commission, and by publication in a form to be prescribed by the director by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the motor vehicle has been impounded.

(2) At any time prior to the sale, the registrant or other person entitled to the motor vehicle may reclaim possession of it upon providing satisfactory proof of motor vehicle liability insurance coverage and payment of the reasonable costs of removal and storage of the motor vehicle and any outstanding fines or penalties; provided, however, if the other person entitled to the motor vehicle is a lessor or the holder of a lien on the motor vehicle, he may reclaim the motor vehicle without payment. In such cases, the registrant shall be liable for all outstanding costs, fines and penalties, and the municipality shall have a lien against the property and income of that registrant for the total amount of those outstanding costs, fines and penalties.

(3) Any proceeds obtained from the sale of a motor vehicle at public auction pursuant to paragraph (1) of this subsection in excess of the amount owed to the municipality for the reasonable costs of removal and storage of the motor vehicle and any outstanding fines or penalties shall be returned to the registrant of the vehicle.

80. Section 2 of P.L. 1983. c. 141 (C.39:6B-3) is amended to read as follows:

**C.39:6B-3 Uninsured Motorist Prevention Fund.**

2. The Uninsured Motorist Prevention Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund into which shall be deposited all revenues from the fines imposed pursuant to section 2 of P.L. 1972, c. 197 (C.39:6B-2) and \$25 from each fine imposed pursuant to R.S. 39:3-29. Interest received on moneys in the fund shall be credited to the fund. The fund shall be administered by the New Jersey Motor Vehicle Commission. Moneys in the fund shall be allocated and used for the purpose of the administrative expenses of the fund and enforcement of the compulsory

motor vehicle insurance law, P.L.1972, c.197 (C.39:6B-1 et seq.) by the New Jersey Motor Vehicle Commission.

81. Section 5 of P.L.1984, c.101 (C.17:22-6.74) is amended to read as follows:

**C.17:22-6.74 Powers, duties and obligations of the Surplus Lines Insurance Guaranty Fund.**

5. a. The fund shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred prior to or 30 days after the determination of insolvency, or before the policy expiration date, if less than 30 days after that determination, or before the policyholder replaces the policy or causes its cancellation, if he does so within 30 days of the determination. The fund's obligation for covered claims shall not be greater than \$300,000.00 per occurrence, subject to any applicable deductible contained in the policy. The commissioner may adjust the fund's obligations for covered claims based on the moneys available in the fund. In no event shall the fund be obligated to a policyholder or claimant in excess of the limits of liability of the insolvent insurer stated in the policy from which the claim arises;

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Assess member insurers in accordance with section 6 of this act in amounts necessary to pay:

(a) Obligations of the fund under paragraph (1) of this subsection,

(b) Expenses of handling covered claims,

(c) Any other expenses incurred in the implementation of the provisions of this act;

(4) Investigate claims brought against the fund; and adjust, compromise, settle, and pay covered claims to the extent of the fund's obligation; and deny all other claims; and may review settlements, releases and judgments to which the insolvent insurer or its policyholders were parties to determine the extent to which the settlements, releases and judgments may be properly contested;

(5) Notify those persons as the commissioner directs under section 8 of this act;

(6) Handle claims through the association's employees or representatives, or through one or more insurers or other persons designated as servicing facilities;

(7) Pay the other expenses of the association in administering the provisions of this act; and

(8) Within 60 days of enactment of P.L.2002, c.30 (C.17:22-6.70a et al.), transfer to the General Fund any and all moneys in excess of \$40,000,000 in the fund as of June 24, 2002.

- b. The fund may:
  - (1) Sue or be sued;
  - (2) Negotiate and become a party to those contracts which are necessary to carry out the purpose of this act;
  - (3) Perform those other acts which are necessary or appropriate to effectuate the purpose of this act;
  - (4) (Deleted by amendment, P.L.2002, c.30.)
  - (5) With the approval of the commissioner, borrow and separately account for moneys from any source, including but not limited to the New Jersey Property-Liability Insurance Guaranty Association and the Unsatisfied Claim and Judgment Fund, in such amounts and on such terms as the New Jersey Property-Liability Insurance Guaranty Association may determine are necessary or appropriate to effectuate the purposes of P.L.2003, c.89 (C.17:30A-2.1 et al.) in accordance with the association's plan of operation; and
  - (6) Make loans, in such amounts and on such terms as the association may determine are necessary or appropriate, to the New Jersey Property-Liability Insurance Guaranty Association in accordance with the provisions of the "New Jersey Property-Liability Insurance Guaranty Association Act," P.L.1974, c.17 (C.17:30A-1 et seq.) and the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.).

82. Section 7 of P.L.1988, c.118 (C.17:29A-5.12) is amended to read as follows:

**C.17:29A-5.12 Plan for refund, credit.**

7. If the commissioner finds that an insurer has excess profits, the insurer shall establish, subject to the approval of the commissioner, a fair, practicable, and nondiscriminatory plan for the refund or credit of the excess profits to such group or groups of policyholders as the commissioner may determine to be reasonable in consideration of the insurer's financial and business circumstances.

83. R.S.17:17-10 is amended to read as follows:

**Certificate authorizing company to commence business; issuance, surrender; replacement carrier.**

17:17-10. a. When satisfied that a company has complied with all the requirements of this subtitle to entitle it to engage in business and that the proposed methods of operation of the company are not such as would render its operation hazardous to the public or its policyholders, the commissioner shall issue to the company a certificate authorizing it to commence business, specifying in the certificate the particular kind or kinds of insurance it is authorized to transact. The commissioner may refuse to issue a certificate of authority if he finds that any of the company's directors or officers has been

convicted of a crime involving fraud, dishonesty, or like moral turpitude or that said persons are not persons of good character and integrity. No company shall transact the business for which it is incorporated until it has received the certificate from the commissioner. If any company fails to obtain the certificate of authority within one year from the date of the certificate of the Attorney General to its certificate of incorporation, as provided in R.S.17:17-5, the company shall, ipso facto, be dissolved and its certificate of incorporation be null and void.

b. No company licensed to transact insurance business in this State pursuant to chapter 17 of Title 17 of the Revised Statutes may surrender its certificate of authority or discontinue writing or renewing any kind or kinds of insurance specified in the certificate, except in accordance with an informational filing submitted to the commissioner, which filing shall be subject to the following provisions regarding any withdrawals:

(1) the company shall send a notice to policyholders of the proposed withdrawal no later than thirty days following the submission of the informational filing to the commissioner, which shall state that the insurer intends to withdraw and has filed its intention to withdraw with the commissioner, the terms of the withdrawal, including the date of the proposed commencement of nonrenewal of policies, and the proposed duration of the nonrenewal of the company's book of business;

(2) nonrenewals shall not commence prior to one calendar year and ninety days following the submission of the informational filing;

(3) the company shall send a notice of nonrenewal to every policyholder (a) no later than one calendar year preceding the date of nonrenewal and (b) a subsequent notice of nonrenewal in accordance with any time limit otherwise established by law for that line of insurance;

(4) nonrenewals shall take place in a manner so as to be applicable to all insureds on an equitable basis with respect to risk classification and territorial or other form of rating factor, and shall be effectuated at a uniform rate over a period not exceeding three calendar years, commencing with the date established in paragraph (2) of this subsection; provided, however, that if more than one company files for withdrawal for the same line of business and the companies, in the aggregate, write more than 25% of the market share for that line of business, the commissioner may extend the period of withdrawal provided for herein to five years.

The commissioner's authority with respect to withdrawals as provided for herein shall be limited to enforcing compliance with this subsection and enforcing the terms of the withdrawal plan proposed in the informational filing.

c. Upon receiving the informational filing provided for in subsection b. of this section, the commissioner shall consider, and may require as a condition of approval, whether some or all of the company's other certificates



of authority issued pursuant to Title 17 of the Revised Statutes held by the company or other companies within the same holding company system as the company submitting the plan shall be required to be surrendered.

d. Notwithstanding the provisions of subsection b. of this section, if the company finds a replacement carrier for the business that will not be renewed as the result of the withdrawal either prior to or after the date of the informational filing, the insurer may apply to the commissioner for approval to transfer the business to a replacement carrier or carriers. If the commissioner approves the replacement carrier or carriers, notwithstanding the provisions of paragraphs (1), (2), and (3) of subsection b. of this section, the notice of nonrenewal shall be in compliance with the time limits provided by law for that line of insurance, and the company shall offer every insured coverage with the replacement carrier prior to the effective date of the nonrenewal. The commissioner shall not withhold approval of a replacement carrier or carriers if that insurer is authorized to do business in the same line of business in New Jersey and has the financial and business capability to write and service the business being transferred to it by the withdrawing company. The commissioner shall approve or disapprove the replacement carrier or carriers within 60 days of (1) the date of the filing by both the withdrawing insurer requesting approval of a replacement carrier or carrier or (2) the filing by the replacement carrier or carriers requesting to be a replacement carrier, whichever is later.

e. Notwithstanding the provisions of subsection b. of this section, the commissioner may waive the requirements of paragraph (2) of that subsection, and the one-year nonrenewal notice of paragraph (3) of that subsection, as well as the three-year minimum nonrenewal period provided in paragraph (4) of that subsection if the commissioner deems a waiver to be necessary to protect the solvency of the insurer making the informational filing or if the commissioner deems the withdrawal to have a limited impact on the market.

84. Section 72 of P.L.1990, c.8 (C.17:33B-30) is amended to read as follows:

**C.17:33B-30 Out-of-State insurance company, surrender of certificate.**

72. a. An insurance company of another state or foreign country authorized under chapter 32 of Title 17 of the Revised Statutes to transact insurance business in this State may surrender to the commissioner its certificate of authority and thereafter cease to transact insurance in this State, or discontinue the writing or renewal of private passenger automobile insurance specified in the certificate of authority only after the submission of an informational filing submitted to the commissioner, which filing shall be subject to the following provisions:

(1) the company shall send a notice to policyholders of the proposed withdrawal no later than thirty days following the submission of the

informational filing to the commissioner, which shall state that the insurer intends to withdraw and has filed its intention to withdraw with the commissioner, the terms of the withdrawal, including the date of the proposed commencement of nonrenewal of policies, and the proposed duration of the nonrenewal of the company's book of business;

(2) nonrenewals shall not commence prior to one calendar year and ninety days following the submission of the informational filing;

(3) the company shall send a notice of nonrenewal to every policyholder (a) no later than one calendar year preceding the date of nonrenewal and (b) a subsequent notice of nonrenewal in accordance with any time limit otherwise established by law for that line of insurance;

(4) nonrenewals shall take place in a manner so as to be applicable to all insureds on an equitable basis with respect to risk classification and territorial or other form of rating factor, and shall be effectuated at a uniform rate over a period not exceeding three calendar years, commencing with the date established in paragraph (2) of this subsection; provided, however, that if more than one company files for withdrawal for the same line of business and the companies, in the aggregate, write more than 25% of the market share for that line of business, the commissioner may extend the period of withdrawal provided for herein to five years.

The commissioner's authority with respect to withdrawals as provided for herein shall be limited to enforcing compliance with this subsection and enforcing the terms of the withdrawal plan proposed in the informational filing.

b. Upon receiving the informational filing provided for in subsection a. of this section, the commissioner shall consider, and may require as a condition of approval, whether some or all of the company's other certificates of authority issued pursuant to Title 17 of the Revised Statutes held by the company or other companies within the same holding company system as the company submitting the plan shall be required to be surrendered.

c. Notwithstanding the provisions of subsection a. of this section, if the company finds a replacement carrier for the business that will not be renewed as the result of the withdrawal either prior to or after the date of the informational filing, the insurer may apply to the commissioner for approval to transfer the business to a replacement carrier or carriers. If the commissioner approves the replacement carrier or carriers, notwithstanding the provisions of paragraphs (1), (2), and (3) of subsection a. of this section, the notice of nonrenewal shall be in compliance with the time limits provided by law for that line of insurance, and the company shall offer every insured coverage with the replacement carrier prior to the effective date of the nonrenewal. The commissioner shall not withhold approval of a replacement carrier or carriers if that insurer is authorized to do business in the same line of business in New Jersey and has the financial and business capability to write and service the business being transferred

to it by the withdrawing company. The commissioner shall approve or disapprove the replacement carrier or carriers within 60 days of (1) the date of the filing by both the withdrawing insurer requesting approval of a replacement carrier or carrier or (2) the filing by the replacement carrier or carriers requesting to be a replacement carrier, whichever is later.

d. Notwithstanding the provisions of subsection a. of this section, the commissioner may waive the requirements of paragraph (2) of that subsection, and the one-year nonrenewal notice of paragraph (3) of that subsection, as well as the three-year minimum nonrenewal period provided in paragraph (4) of that subsection if the commissioner deems a waiver to be necessary to protect the solvency of the insurer making the informational filing or if the commissioner deems the withdrawal to have a limited impact on the market.

**Repealer.**

85. The following are repealed:

- a. Sections 4, 6, 15, 29 and 31 of P.L.1952, c.174 (C.39:6-64, 39:6-66, 39:6-75, 39:6-89 and 39:6-91);
- b. Sections 1 and 2 of P.L.1985, c.148 (C.39:6-64a and 39:6-64b);
- c. Section 23 of P.L.1990, c.8 (C.17:33B-5).

86. This act shall take effect immediately, except that section 38 shall take effect on January 1, 2004, section 45 shall take effect on the earlier of the 120th day next following enactment or the adoption of regulations by the Commissioner of Banking and Insurance to implement that section, section 65 shall take effect upon the adoption of regulations by the Commissioner of Banking and Insurance, sections 83 and 84 shall take effect on January 1, 2007, and section 79 shall take effect on 365th day next following enactment.

Approved June 9, 2003.

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CHAPTER 90

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to assist local government units in southern New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$12,475,000 to provide grants or loans, or both, to assist local government units to acquire

or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Burlington County	Burlington	Planning	\$750,000
Bordentown Twp	Burlington	Incentive Acq	
Eastampton Twp	Burlington	Open Space Acq	400,000
		Planning	400,000
		Incentive Acq	
Edgewater Park Twp	Burlington	Open Space Acq	400,000
Evesham Twp	Burlington	Planning	400,000
		Incentive Acq	
Hainesport Twp	Burlington	Open Space & Recreation Plan	400,000
		Acq	
Moorestown Twp	Burlington	Open Space	400,000
		Preservation Plan Acq	
Mount Laurel Twp	Burlington	Mt Laurel	400,000
		Acq Plan	
Westhampton Twp	Burlington	Planning	400,000
		Incentive Acq	
Camden County	Camden	Open Space Plan Acq	750,000
Cherry Hill Twp	Camden	Planning	400,000
		Incentive Grant	
		Acq	
Harrison Twp	Gloucester	Planning	400,000
		Incentive	
		Grant Acq	
Monmouth County	Monmouth	Planning	750,000
		Incentive Acq	
Marlboro Twp	Monmouth	Marlboro	400,000
		Open Space Acq	
Oceanport Boro	Monmouth	Planning	400,000
		Incentive Acq	
Tinton Falls Boro	Monmouth	Tinton Falls Acq	400,000
Ocean County	Ocean	Planning	750,000
		Incentive Grant	
		Acq	
Dover Twp	Ocean	Open Space & Recreation Plan	400,000
		Acq	
Stafford Twp	Ocean	Planning	400,000
		Incentive Program	
		Acq	
<b>SUBTOTAL</b>			<b><u>\$9,000,000</u></b>

*(2) Site Specific Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Cape May City	Cape May	Cape May City Open Space Acq	\$400,000
<b>SUBTOTAL</b>			<b><u>\$400,000</u></b>

*(3) Standard Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Brigantine City	Atlantic	Brigantine Golf Club Acq	\$400,000
Avalon Boro	Cape May	Beachfront Acq	400,000
Monmouth Beach Boro	Monmouth	Municipal Recreation Area Acq	400,000
<b>SUBTOTAL</b>			<b><u>\$1,200,000</u></b>

*(4) Non Urban Development Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Linwood City	Atlantic	Linwood's Performance Park Dev	\$50,000
Lower Twp	Cape May	Multi Parks Dev	400,000
Lawrence Twp	Cumberland	Anthony Miletta Recreation Area Dev	150,000
Greenwich Twp	Gloucester	North School St. Recreation Improvement Dev	400,000
Bradley Beach Boro	Monmouth	Recreation Areas Dev	400,000
Union Beach Boro	Monmouth	Fire Fighters Park Dev	150,000
Manchester Twp	Ocean	Pine Lake Park Phase II Dev	325,000
<b>SUBTOTAL</b>			<b><u>\$1,875,000</u></b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b><u>\$12,475,000</u></b>

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2003, c.84, P.L.2003, c.85, or P.L.2003, c.86, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect immediately.

Approved June 13, 2003.

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## CHAPTER 91

AN ACT concerning public works contractor registration and amending P.L.1999, c.238.

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

1. Section 3 of P.L.1999, c.238 (C.34:11-56.50) is amended to read as follows:

**C.34:11-56.50 Definitions relative to public works contractors.**

3. As used in this act:

"Commissioner" means the Commissioner of Labor or his duly authorized representatives.

"Contractor" means a person, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof who enters into a contract which is subject to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), and includes any subcontractor or lower tier subcontractor of a contractor as defined herein.

"Department" means the Department of Labor.

"Worker" includes laborer, mechanic, skilled or semi-skilled laborer and apprentices or helpers employed by any contractor or subcontractor and engaged

in the performance of services directly upon a public work, regardless of whether their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site.

2. Section 4 of P.L.1999, c.238 (C.34:11-56.51) is amended to read as follows:

**C.34:11-56.51 Registration required for contractors, subcontractors.**

4. No contractor shall bid on any contract for public work as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26) unless the contractor is registered pursuant to this act. No contractor shall list a subcontractor in a bid proposal for the contract unless the subcontractor is registered pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) at the time the bid is made. No contractor or subcontractor, including a subcontractor not listed in the bid proposal, shall engage in the performance of any public work subject to the contract, unless the contractor or subcontractor is registered pursuant to that act.

3. Section 6 of P.L.1999, c.238 (C.34:11-56.53) is amended to read as follows:

**C.34:11-56.53 Nonrefundable registration fees.**

6. a. The contractor shall pay an initial annual non-refundable registration fee of \$300 to the commissioner. The non-refundable registration fee for the second annual registration shall be \$300. Upon successful completion of two consecutive years of registration, a contractor may elect to register for a two-year period and pay a non-refundable registration fee of \$500.

b. A contractor who is performing public work on the effective date of this act shall submit the registration application form and fee to the commissioner within 30 days of the effective date of this act.

c. Registration fees collected pursuant to this act shall be applied toward the enforcement and administration costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the department.

4. Section 8 of P.L.1999, c.238 (C.34:11-56.55) is amended to read as follows:

**C.34:11-56.55 Submission of all subcontractor registration certificates by contractor.**

8. Each contractor shall, after the bid is made and prior to the awarding of the contract, submit to the public entity the certificates of registration for all subcontractors listed in the bid proposal. Applications for registration shall not be accepted as a substitute for a certificate of registration for the purposes of this section.

5. Section 9 of P.L.1999, c.238 (C.34:11-56.56) is amended to read as follows:

**C.34:11-56.56 Violation; disorderly persons offense; other penalties; surety bonds.**

9. a. A contractor who: (1) willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act; (2) fails to make, keep, and preserve any records as required under the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); (3) falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand; (4) refuses to furnish a sworn statement of such records or any other information required for the enforcement of this act to the commissioner upon demand; (5) pays or agrees to pay wages at a rate less than the rate prescribed by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); or (6) otherwise violates any provision of this act, shall be guilty of a disorderly persons offense.

b. As an alternative to or in addition to sanctions provided by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may, after providing the contractor with notice of any alleged violation of this act, and with an opportunity to request a hearing before the commissioner or his designee:

(1) Deny renewal, revoke or suspend the registration of a contractor for a period of not more than five years; or

(2) Require a contractor, as a condition of initial or continued registration, to provide a surety bond payable to the State. The surety bond shall be for the benefit of workers damaged by any failure of a contractor to pay wages or benefits pursuant to or otherwise comply with the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or this act. The surety bond shall be in the amount and form that the commissioner deems necessary for the protection of the contractor's workers, but shall not exceed \$10,000 per worker. The surety bond shall be issued by a surety that meets the requirements of N.J.S.2A:44-143.

6. This act shall take effect on the 60th day after enactment

Approved June 17, 2003.

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## CHAPTER 92

AN ACT concerning municipal, county and school district budgets, amending P.L.1976, c.68 and supplementing P.L.1996, c.138 (C.18A:7F-1 et seq.).



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

1. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

**C.40A:4-45.3 Municipalities; budget limitation exceptions.**

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and

any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89;

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

v. (Deleted by amendment, P.L.1990, c.89.)

w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L. 1987, c. 75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L. 1987, c. 75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L. 1976, c. 68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Amounts expended for the staffing and operation of the municipal court;

gg. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L. 1983, c. 372 (C.40A:10-36), but not including appropriations for claims payments by local member units;

hh. Amounts appropriated for the cost of implementing an estimated tax billing system and the issuance of tax bills thereunder pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

ii. Expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5);

jj. Amounts expended for a length of service award program pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

kk. Amounts expended to provide municipal services or reimbursement amounts to multifamily dwellings for the collection and disposal of solid waste generated by the residents of the multifamily dwellings. This subsection shall cease to be operative at the end of the first local budget year in which the municipality has fully phased in its reimbursement amount expenses;

ll. Amounts expended by a municipality under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of the municipality that will receive the service may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

mm. Amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of each participating municipality may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

nn. Amounts expended to pay the salaries of police officers hired under the federal "Community Oriented Policing Services" program, which was enacted as part of the "Violent Crime Control and Law Enforcement Act of 1994," Pub.L.No. 103, 108 Stat. 1796 (1994);

oo. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;

pp. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security.

In the first full year when an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that

purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

In the first full year when an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a municipality shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L. 1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

2. Section 4 of P.L. 1976, c.68 (C.40A:4-45.4) is amended to read as follows:

**C.40A:4-45.4 Limitation on increase in county tax levies over previous year; exceptions.**

4. In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 5% or the index rate, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

a. The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation;

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditures would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the county, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or f. below;

d. All debt service;

e. (Deleted by amendment, P.L.1990, c.89.)

f. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

h. (Deleted by amendment, P.L.1987, c.74.)

i. (Deleted by amendment, P.L.1990, c.89.)

j. (Deleted by amendment, P.L.1990, c.89.)

k. (Deleted by amendment, P.L.1990, c.89.)

l. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

m. (Deleted by amendment, P.L.1990, c.89.)

n. (Deleted by amendment, P.L.1990, c.89.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;

t. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L.1983, c.372

(C.40A:10-36), but not including appropriations for claims payments by local member units;

u. Expenditures for the administration of general public assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

v. Amounts in a separate line item of a county budget that are expended on tick-borne disease vector management activities undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

w. Amounts expended by a county under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

x. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;

y. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security.

In the first full year where an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a county shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

In the first full year where an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a county shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

**C.18A:7F-5b Temporary school budget cap adjustments for certain expenditures.**

3. a. Notwithstanding any provision of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5) to the contrary, for the first three budget years following the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.), any costs incurred by a school district for the budget year for liability insurance, workers' compensation insurance and employee group insurance or incurred for domestic

security preparedness and responses to incidents and threats to domestic security shall be an adjustment to the district's spending growth limitation.

b. For the first budget year in which an expenditure that was subject to the district's spending growth limitation in the prebudget year is made an adjustment to that limitation pursuant to subsection a. of this section, a school district shall deduct from its prebudget year net budget the amount which the district expended for that purpose in that prebudget year.

c. For the first budget year in which an expenditure that was an adjustment to the district's spending growth limitation in the prebudget year pursuant to subsection a. of this section is subject to the district's spending growth limitation, the district's prebudget year net budget shall be increased by the amount of that adjustment to the spending growth limitation in the prebudget year.

4. This act shall take effect immediately.

Approved June 18, 2003.

### CHAPTER 93

AN ACT appropriating \$56,000,000 from the "Garden State Green Acres Preservation Trust Fund," and reappropriating certain other moneys, for the acquisition of lands by the State for recreation and conservation purposes.

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

1. a. There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L. 1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$56,000,000 for the acquisition of lands by the State for recreation and conservation purposes. This sum shall be allocated as follows:

Project	County	Municipality	Amount
(1) BARNEGAT BAY WATERSHED GREENWAY			\$ 500,000
<i>Barnegat Bay Greenway</i>			
	Monmouth	Freehold Twp Howell Twp	
	Ocean	Barnegat Light Boro Barnegat Twp Berkeley Twp	



Brick Twp  
 Dover Twp  
 Eagleswood Twp  
 Jackson Twp  
 Lacey Twp  
 Lakewood Twp  
 Little Egg Harbor Twp  
 Ocean Twp  
 Stafford Twp

## (2) CAPE MAY PENINSULA

500,000

*Cape May Peninsula*

## Cape May

Cape May City  
 Cape May Point Boro  
 Dennis Twp  
 Lower Twp  
 Middle Twp  
 Sea Isle City  
 Upper Twp  
 West Cape May Boro  
 Woodbine Boro

## (3) CROSSROADS OF AMERICAN REVOLUTION

10,000,000

*Princeton Battlefield to Monmouth*

## Burlington

Bordentown City  
 Bordentown Twp  
 Chesterfield Twp  
 New Hanover Twp  
 East Windsor Twp  
 Hamilton Twp  
 Lawrence Twp  
 Washington Twp  
 West Windsor Twp

## Mercer

## Middlesex

## Monmouth

Cranbury Twp  
 Monroe Twp  
 Plainsboro Twp  
 Allentown Boro  
 Englishtown Boro  
 Freehold Twp  
 Manalapan Twp  
 Marlboro Twp  
 Millstone Twp  
 Roosevelt Boro  
 Upper Freehold Twp

*Princeton to Morristown*

## Morris

Chester Boro  
 Harding Twp

	Somerset	Long Hill Twp Mendham Boro Mendham Twp Morris Twp Morristown Town Randolph Twp Bedminster Twp Bernards Twp Bernardsville Boro Bound Brook Boro Branchburg Twp Bridgewater Twp Franklin Twp Hillsborough Twp Manville Boro Montgomery Twp Raritan Boro Somerville Boro Warren Twp
<i>Washington Crossing to Princeton Battlefield</i>		
	Hunterdon	East Amwell Twp West Amwell Twp
	Mercer	Hopewell Twp Princeton Twp
	Somerset	Montgomery Twp
(4) DELAWARE & RARITAN CANAL WATERSHED GREENWAY		2,500,000
	Hunterdon	Delaware Twp Kingwood Twp Lambertville City Stockton Boro West Amwell Twp
	Mercer	Ewing Twp Hamilton Twp Hopewell Twp Lawrence Twp Princeton Twp Trenton City
	Middlesex	New Brunswick City Plainsboro Twp South Brunswick Twp
	Somerset	Franklin Twp
(5) DELAWARE BAY WATERSHED GREENWAY		1,000,000
<i>Alloways Creek Greenway</i>		
	Salem	Alloway Twp Elsinboro Twp Lower Alloways Creek

		Twp Pilesgrove Twp Quinton Twp Upper Pittsgrove Twp
<i>Cape May Tributaries</i>		
	Cape May	Lower Twp Middle Twp Upper Twp
<i>Cohansey River Greenway</i>		
	Cumberland	Bridgeton City Fairfield Twp Greenwich Twp Hopewell Twp Lawrence Twp Shiloh Boro Upper Deerfield Twp
	Salem	Alloway Twp
<i>Dividing/ Nantuxent/ Cedar/ Back Creeks Greenway</i>		
	Cumberland	Commercial Twp Downe Twp Fairfield Twp Lawrence Twp
<i>Maurice River Greenway</i>		
	Atlantic	Buena Boro
		Buena Vista Twp
	Cape May	Dennis Twp
	Cumberland	Commercial Twp Deerfield Twp Maurice River Twp Millville City Vineland City
	Gloucester	Clayton Boro Elk Twp Franklin Twp Glassboro Boro Monroe Twp Newfield Boro
	Salem	Elmer Boro Pittsgrove Twp Upper Pittsgrove Twp
<i>Salem River/ Mannington Greenway</i>		
	Salem	Carneys Point Twp Elsinboro Twp

		Mannington Twp Pennsville Twp Pilesgrove Twp Upper Pittsgrove Twp Woodstown Boro
<i>Stow Creek Greenway</i>		
	Cumberland	Greenwich Twp Stow Creek Twp
	Salem	Alloway Twp Lower Alloways Creek Twp Quinton Twp
(6) DELAWARE RIVER WATERSHED GREENWAY		4,000,000
<i>Assiscunk Creek Watershed</i>		
	Burlington	Mansfield Twp
<i>Big Timber Creek</i>		
	Camden	Gloucester Twp Lindenwold Boro
	Gloucester	Deptford Twp Westville Boro
<i>Delaware River Bluffs</i>		
	Hunterdon	Alexandria Twp Delaware Twp Frenchtown Boro Holland Twp Kingwood Twp Lambertville City Milford Boro Stockton Boro West Amwell Twp
	Mercer Sussex Warren	Hopewell Twp Montague Twp Belvidere Town Harmony Twp Knowlton Twp Lopatcong Twp Phillipsburg Town Pohatcong Twp White Twp
<i>Nishisakawick Greenway</i>		
	Hunterdon	Alexandria Twp

		Delaware Twp Frenchtown Boro Kingwood Twp
<i>Oldsman Creek Greenway</i>		
	Gloucester	Logan Twp South Harrison Twp Woolwich Twp
	Salem	Oldmans Twp Pilesgrove Twp Upper Pittsgrove Twp
<i>Raccoon Creek Greenway</i>		
	Gloucester	Elk Twp Harrison Twp Logan Twp Woolwich Twp
<i>Rancocas Creek Greenway</i>		
	Burlington	Cinnaminson Twp Delran Twp Eastampton Twp Hainesport Twp Lumberton Twp Medford Twp Moorestown Twp Mount Holly Twp Mount Laurel Twp Pemberton Twp Southampton Twp Springfield Twp Westampton Twp Willingboro Twp
<i>Trenton/ Hamilton Marsh</i>		
	Burlington	Bordentown Twp Chesterfield Twp
	Mercer	Hamilton Twp Trenton City
<i>Woodbury Creek Watershed</i>		
	Gloucester	National Park Boro West Deptford Twp
(7) HARBOR ESTUARY		2,500,000
	Bergen	Carlstadt Boro East Rutherford Boro

	Emerson Boro	
	Haworth Boro	
	Lyndhurst Twp	
	North Arlington Boro	
	Old Tappan Boro	
	Oradell Boro	
	Ridgefield Boro	
	Ridgefield Park Village	
	River Vale Twp	
	Westwood Boro	
Hudson	Jersey City	
	Kearny Town	
	North Bergen Twp	
Middlesex	Secaucus Town	
	Carteret Boro	
	Edison Twp	
	Old Bridge Twp	
	Sayreville Boro	
	South Amboy City	
Monmouth	Woodbridge Twp	
	Aberdeen Twp	
	Atlantic Highlands Boro	
	Hazlet Twp	
	Keansburg Boro	
	Keyport Boro	
	Matawan Boro	
	Middletown Twp	
Union	Union Beach Boro	
	Clark Twp	
	Linden City	
	Rahway City	
(8) HIGHLANDS GREENWAY		10,000,000
Bergen	Mahwah Twp	
	Oakland Boro	
Morris	Boonton Twp	
	Denville Twp	
	Jefferson Twp	
	Kinnelon Boro	
	Montville Twp	
	Rockaway Twp	
	Roxbury Twp	
Passaic	Ringwood Boro	
	Wanaque Boro	
	West Milford Twp	
Sussex	Hardyston Twp	
	Sparta Twp	
	Vernon Twp	
(9) HISTORIC RESOURCES		1,000,000

*Allaire State Park*

Monmouth	Howell Twp Wall Twp
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*Battlefields/ Encampments*

Middlesex	Edison Twp
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*Monmouth Battlefield*

Monmouth	Freehold Twp Manalapan Twp
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*New Bridge Landing*

Bergen	New Milford Boro River Edge Boro
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*Princeton Battlefield*

Mercer	Princeton Twp
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*Proprietary House*

Middlesex	Perth Amboy City
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*Register Eligible Sites*

Cape May Gloucester	Lower Twp East Greenwich Twp Woolwich Twp
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*Twin Lights*

Monmouth	Highlands Boro
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*Washington Crossing State Park*

Mercer	Ewing Twp Hopewell Twp
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*Washington Rock State Park*

Somerset	Green Brook Twp Watchung Boro
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*Waterloo Village*

Sussex	Byram Twp Stanhope Boro
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## (10) JENNY JUMP STATE FOREST 500,000

Warren	Allamuchy Twp Frelinghuysen Twp Hope Twp Independence Twp Knowlton Twp Liberty Twp White Twp
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## (11) MUSCONETCONG WATERSHED GREENWAY 1,000,000

Hunterdon	Alexandria Twp Bethlehem Twp Bloomsbury Boro Franklin Twp Hampton Boro Holland Twp Lebanon Boro
Morris	Mount Olive Twp Roxbury Twp Washington Twp
Sussex	Byram Twp Green Twp Hopatcong Boro Stanhope Boro
Warren	Allamuchy Twp Franklin Twp Greenwich Twp Hackettstown Town Lopatcong Twp Mansfield Twp Pohatcong Twp Washington Boro Washington Twp

## (12) NATURAL AREAS 1,000,000

*Bill Henry Pond*

Atlantic	Egg Harbor Twp
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*Budd Lake Bog*

Morris	Mount Olive Twp
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*Campus Swamp*

Camden	Gloucester Twp
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*Cheesequake State Park*

Middlesex	Old Bridge Twp
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*Crossley Preserve*

Ocean	Berkeley Twp Manchester Twp
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*Five Acre Pond*

Atlantic	Estell Manor City
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*Great Piece Meadows*

Essex Morris	Fairfield Twp East Hanover Twp Lincoln Park Boro
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*Hamburg Mountain*

Sussex	Vernon Twp
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*Hidden Lake*

Camden	Gloucester Twp
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*High Mountain*

Passaic	North Haledon Boro Wayne Twp
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*Limestone Ridge*

Warren	Blairstown Twp
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*Long-A-Coming Branch*

Camden	Winslow Twp
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*Milford Bluffs*

Hunterdon	Holland Twp
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*Mountain Lake Bog*

Warren	White Twp
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*Ogdensburg Fen*

Sussex	Ogdensburg Boro
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*Oswego River Natural Area*

Burlington	Washington Twp
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*Phone-In-Fen*

Warren

Hardwick Twp

*Ramapo Lake Natural Area*Bergen  
PassaicOakland Boro  
Ringwood Boro  
Wanaque Boro*Ramapo Mountain State Park*Bergen  
PassaicMahwah Twp  
Oakland Boro  
Pompton Lakes Boro  
Ringwood Boro  
Wanaque Boro*Strawberry Hill*

Mercer

Hopewell Twp

*Sunfish Pond*

Warren

Hardwick Twp

*Troy Meadows*

Morris

East Hanover Twp  
Hanover Twp  
Parsippany - Troy Hills Twp*Utertown Bog*

Passaic

West Milford Twp

*Washington Crossing State Park*

Mercer

Hopewell Twp

*Wetlands Habitat/ Bog Turtle*

Sussex

Frankford Twp  
Wantage Twp*Whale Pond*

Monmouth

Ocean Twp

*Woodbine Bogs*

Cape May

Upper Twp

## (13) NON-PROFIT CAMPS

500,000

*Youth Camps*

Bergen	Mahwah Twp
Burlington	Evesham Twp
	Medford Twp
	Tabernacle Twp
Hunterdon	East Amwell Twp
Monmouth	Wall Twp
Morris	Kinnelon Boro
	Rockaway Boro
Ocean	Ocean Twp
Passaic	Ringwood Boro
Salem	Alloway Twp
Somerset	Franklin Twp
Sussex	Byram Twp
	Hampton Twp
	Sandyston Twp
	Sparta Twp
	Stillwater Twp
	Vernon Twp
	Wantage Twp
Warren	Hardwick Twp
	Independence Twp
	Mansfield Twp

## (14) PAULINSKILL RIVER WATERSHED GREENWAY

4,000,000

Sussex	Branchville Boro
	Fredon Twp
	Hampton Twp
	Lafayette Twp
	Sparta Twp
	Stillwater Twp
Warren	Blairstown Twp
	Frelinghuysen Twp
	Hardwick Twp
	Knowlton Twp

## (15) PEQUEST RIVER WATERSHED GREENWAY

1,000,000

Sussex	Andover Boro
	Andover Twp
	Fredon Twp
	Green Twp
Warren	Allamuchy Twp
	Belvidere Town
	Hackettstown Town
	Independence Twp
	Liberty Twp
	Mansfield Twp
	White Twp

## (16) PINELANDS

1,000,000

Atlantic	Brigantine City Buena Boro Buena Vista Twp Corbin City Egg Harbor City Egg Harbor Twp Estell Manor City Folsom Boro Galloway Twp Hamilton Twp Hammonton Town Mullica Twp Port Republic City Weymouth Twp
Burlington	Bass River Twp Evesham Twp Medford Lakes Boro Medford Twp New Hanover Twp North Hanover Twp Pemberton Twp Shamong Twp Southampton Twp Springfield Twp Tabernacle Twp Washington Twp Woodland Twp Wrightstown Boro
Camden	Berlin Boro Berlin Twp Chesilhurst Boro Waterford Twp Winslow Twp
Cape May	Dennis Twp Middle Twp Upper Twp Woodbine Boro
Cumberland	Maurice River Twp Vineland City
Gloucester	Franklin Twp Monroe Twp
Ocean	Barneget Twp Beachwood Boro Berkeley Twp Dover Twp Eagleswood Twp Jackson Twp Lacey Twp Lakehurst Boro Little Egg Harbor Twp Manchester Twp

		Ocean Twp Plumsted Twp South Toms River Boro Stafford Twp Tuckerton Boro	
(17) RARITAN RIVER WATERSHED GREENWAY			3,000,000
	Hunterdon	Bethlehem Twp Clinton Twp East Amwell Twp Franklin Twp High Bridge Boro Lebanon Twp Raritan Twp Readington Twp Tewksbury Twp Union Twp	
	Morris	Chester Twp Harding Twp Long Hill Twp Mendham Boro Mendham Twp Mount Olive Twp Washington Twp	
	Somerset	Bernards Twp Branchburg Twp Bridgewater Twp Far Hills Boro Franklin Twp Hillsborough Twp Manville Boro Montgomery Twp Peapack-Gladstone Boro Somerville Boro Warren Twp	
(18) STOKES/ HIGH POINT ADDITIONS			1,000,000
	Sussex	Frankford Twp Hampton Twp Montague Twp Sandyston Twp Wantage Twp	
(19) TRAILS			4,000,000
	<i>Appalachian Trail Easements</i>		
	Passaic	West Milford Twp	
	Sussex	Vernon Twp	

*Capitol to the Coast*

Mercer	Hamilton Twp
	Trenton City
	Washington Twp
	West Windsor Twp
Monmouth	Freehold Twp
	Howell Twp
	Manasquan Boro
	Millstone Twp
	Roosevelt Boro
	Spring Lake Boro
	Spring Lake Heights Boro
	Upper Freehold Twp
Ocean	Wall Twp
	Jackson Twp

*Rails to Trails*

Burlington	Burlington City
	Burlington Twp
	Chesterfield Twp
	Mansfield Twp
	North Hanover Twp
	Pemberton Boro
	Pemberton Twp
	Southampton Twp
	Springfield Twp
	Westampton Twp
	Willingboro Twp
	East Windsor Twp
Mercer	Hightstown Boro
	Washington Twp
	West Windsor Twp
	Plumsted Twp
Ocean	Andover Boro
	Andover Twp
Sussex	Franklin Boro
	Green Twp
	Hamburg Boro
	Newton Town
	Ogdensburg Boro
	Sparta Twp
	Sussex Boro
	Vernon Twp
	Allamuchy Twp
	Franklin Twp
Warren	Independence Twp
	Washington Twp
	White Twp

*Warren County Trail*

	Warren	Franklin Twp Harmony Twp Lopatcong Twp Oxford Twp Phillipsburg Town Washington Twp	
(20) URBAN PARKS			4,000,000
	Camden Mercer	Camden City Trenton City	
(21) WATERSHED LANDS/ RESERVOIRS			3,000,000
	Hunterdon	Bethlehem Twp Clinton Town Clinton Twp Glen Gardner Boro High Bridge Boro Lebanon Twp Readington Twp Union Twp	
	Monmouth Morris	Howell Twp Jefferson Twp Kinnelon Boro Rockaway Twp	
	Passaic	Bloomington Boro Ringwood Boro Wanaque Boro	
	Sussex	West Milford Twp Hardyston Twp Vernon Twp	
<b>TOTAL</b>			<b>\$56,000,000</b>

b. Any transfer of any funds, or change in project site, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project cancellations or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for State projects to acquire lands for recreation and conservation purposes, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

e. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. This act shall take effect immediately.

Approved June 21, 2003.

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## CHAPTER 94

AN ACT concerning financing of certain home repair contracts and amending P.L.1969, c.237.

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

1. Section 2 of P.L.1969, c.237 (C.17:16C-64.2) is amended to read as follows:

**C.17:16C-64.2 Form, terms of consumer notes; contractor's bond.**

2. No home repair contract shall require or entail the execution of any note unless a home repair contractor obtains a bond in a form and amount prescribed by regulations of the commissioner, but said bond shall be in the amount of \$25,000 or 1% of a home repair contractor's home improvement annual sales of the previous year, whichever is greater, and applies for a building permit, if required, within 10 business days of the execution of the home repair contract. The bond shall be obtained from a surety company authorized by law to do business in this State and shall be filed with the commissioner. The bond required by this section shall contain a provision that it shall not be canceled for any cause unless notice of intention to cancel is filed in the department at least 30 days before the day upon which cancellation shall take



effect. That note shall have printed the words "CONSUMER NOTE" in 10-point bold type or larger on the face thereof. Such a note with the words "CONSUMER NOTE" printed thereon shall be subject to the terms and conditions of the home repair contract and shall not be a negotiable instrument within the meaning of chapter 3 (Negotiable Instruments) of the Uniform Commercial Code, N.J.S.12A:3-101 et seq.

2. This act shall take effect immediately.

Approved June 23, 2003.

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## CHAPTER 95

AN ACT concerning arbitration procedures and supplementing Title 2A of the New Jersey Statutes.

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

**C.2A:23B-1 Definitions relative to arbitration after 2002.**

1. Definitions. For the purposes of this act:

"Arbitration organization" means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

"Arbitrator" means an individual appointed either as a neutral arbitrator or as a party arbitrator to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

"Court" means the Superior Court of New Jersey.

"Court rules" means the Rules Governing the Courts of the State of New Jersey.

"Knowledge" means actual knowledge.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

**C.2A:23B-2 Notice.**

2. Notice.

a. Except as otherwise provided in this act, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

b. A person has notice if the person has knowledge of the notice or has received notice.

c. A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such a notice.

**C.2A:23B-3 When act applies.**

**3. When Act Applies.**

a. This act governs all agreements to arbitrate made on or after January 1, 2003 with the exception of an arbitration between an employer and a duly elected representative of employees under a collective bargaining agreement or collectively negotiated agreement.

b. This act governs an agreement to arbitrate made before January 1, 2003 if all the parties to the agreement or to the arbitration proceeding so agree in a record with the exception of an arbitration between an employer and a duly elected representative of employees under a collective bargaining agreement or collectively negotiated agreement.

c. On or after January 1, 2005, this act governs an agreement to arbitrate whenever made with the exception of an arbitration between an employer and a duly elected representative of employees under a collective bargaining agreement or collectively negotiated agreement.

d. This act shall not apply to agreements to arbitrate made before July 4, 1923.

**C.2A:23B-4 Effect of agreement to arbitrate; nonwaivable provisions.**

**4. Effect of Agreement to Arbitrate; Nonwaivable Provisions.**

a. Except as otherwise provided in subsections b. and c. of this section, a party to an agreement to arbitrate or to an arbitration proceeding may waive or, the parties may vary the effect of, the requirements of this act to the extent permitted by law.

b. Before a controversy that is subject to an agreement to arbitrate arises, a party to the agreement may not:

(1) waive or agree to vary the effect of the requirements of section 5a., 6a., 8, 17a., 17b., 26, or 28 of this act;

(2) agree to unreasonably restrict the right to notice of the initiation of an arbitration proceeding pursuant to section 9 of this act;

(3) agree to unreasonably restrict the right to disclosure of any facts by an arbitrator pursuant to section 12 of this act; or

(4) waive the right of a party to an agreement to arbitrate to be represented by a lawyer pursuant to section 16 of this act at any proceeding or hearing pursuant to this act.

c. A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or section 3a., 3c., 7, 14, 18, 20d., 20e., 22, 23, 24, 25a., 25b., 29, 30, 34 or 35. Provided however, that nothing in this act shall preclude the parties from expanding the scope of judicial review of an award by expressly providing for such expansion in a record.

**C.2A:23B-5 Application for judicial relief.**

**5. Application for Judicial Relief.**

a. Except as otherwise provided in section 28 of this act, an application for judicial relief pursuant to this act shall be made upon commencement of a summary action with the court and heard in the manner provided for in such matters by the applicable court rules.

b. Unless a civil action involving the agreement to arbitrate is pending, notice of commencement of a summary action pursuant to this act shall be served in the manner provided by the court rules for serving process in summary actions.

**C.2A:23B-6 Validity of agreement to arbitrate.**

**6. Validity of Agreement to Arbitrate.**

a. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

b. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

c. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

d. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

**C.2A:23B-7 Application to compel or stay arbitration.**

**7. Application to Compel or Stay Arbitration.**

a. On filing a summary action with the court by a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(1) if the refusing party does not appear or does not oppose the summary action, the court shall order the parties to arbitrate; and

(2) if the refusing party opposes the summary action, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

b. On filing a summary action with the court by a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

c. If the court finds that there is no enforceable agreement, it may not, pursuant to subsection a. or b. of this section, order the parties to arbitrate.

d. The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

e. If a proceeding involving a claim referable to arbitration pursuant to an alleged agreement to arbitrate is pending in court, an application pursuant to this section shall be made in that court. Otherwise, an application pursuant to this section may be made in any court as provided in section 27 of this act.

f. If a party commences a summary action to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision pursuant to this section.

g. If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

**C.2A:23B-8 Provisional remedies.**

**8. Provisional Remedies.**

a. Before an arbitrator is appointed and is authorized and able to act, the court, in such summary action upon application of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and pursuant to the same conditions as if the controversy were the subject of a civil action.

b. After an arbitrator is appointed and is authorized and able to act:

(1) the arbitrator may issue orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and pursuant to the same conditions as if the controversy were the subject of a civil action; and

(2) a party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

c. A party does not waive a right of arbitration by making an application pursuant to subsection a. or b. of this section.

**C.2A:23B-9 Initiation of arbitration.**

9. Initiation of Arbitration.

a. A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the manner agreed between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice shall describe the nature of the controversy and the remedy sought.

b. Unless a person objects for lack or insufficiency of notice pursuant to subsection c. of section 15 of this act not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to the lack or insufficiency of notice.

**C.2A:23B-10 Consolidation of separate arbitration proceedings.**

10. Consolidation of Separate Arbitration Proceedings.

a. Except as otherwise provided in subsection c. of this section, upon application of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(1) there are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(2) the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(3) the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(4) prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

b. The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

c. The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

**C.2A:23B-11 Appointment of arbitrator; service as a neutral arbitrator.**

11. Appointment of Arbitrator; Service as a Neutral Arbitrator.

a. If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method shall be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on application of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

b. An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

c. An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as a party arbitrator if such information has not been disclosed pursuant to section 12 of this act.

d. An individual appointed as a party arbitrator may be predisposed toward the appointing party. From and after the commencement of an arbitration, an arbitrator shall act in good faith and exercise the arbitrator's responsibilities in a manner consistent with the authority placed in the arbitrator by the courts of this State and this act.

**C.2A:23B-12 Disclosure by arbitrator.**

**12. Disclosure by Arbitrator.**

a. Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(1) a financial or personal interest in the outcome of the arbitration proceeding; and

(2) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.

b. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

c. If an arbitrator discloses a fact required by subsection a. or b. of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, subject to

the provisions of section 11d. of this act, the objection may be a ground pursuant to paragraph (2) of subsection a. of section 23 of this act for vacating an award made by the arbitrator.

d. If the arbitrator did not disclose a fact as required by subsection a. or b. of this section, upon timely objection by a party, the court pursuant to paragraph (2) of subsection a. of section 23 may vacate an award.

e. An individual appointed as an neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality pursuant to paragraph (2) of subsection a. of section 23 of this act.

f. An individual appointed as a party arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding is presumed to act with evident partiality pursuant to paragraph (2) of subsection a. of section 23 of this act.

g. If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a summary action to vacate an award on that ground pursuant to paragraph (2) of subsection a. of section 23 of this act.

h. Should an individual designated as an arbitrator make full disclosure as required by this section and a party fails to object within a reasonable time, the party receiving such information shall be held to have waived any right to object to the designation of the arbitrator on the grounds so revealed.

**C.2A:23B-13 Action by majority.**

**13. Action by Majority.**

If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, but all of them shall conduct the hearing pursuant to subsection c. of section 15 of this act.

**C.2A:23B-14 Immunity of arbitrator; competency to testify; attorney's fees and costs.**

**14. Immunity of Arbitrator; Competency to Testify; Attorney's Fees and Costs.**

a. An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this State acting in a judicial capacity.

b. The immunity afforded by this section supplements any immunity pursuant to other law.

c. The failure of an arbitrator to make a disclosure required by section 12 of this act does not cause any loss of immunity pursuant to this section.

d. In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify, and

may not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this State acting in a judicial capacity. This subsection does not apply:

(1) to the extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or

(2) to a hearing in a summary action to vacate an award pursuant to paragraph (1) or (2) of subsection a. of section 23 of this act if the movant establishes prima facie that a ground for vacating the award exists.

e. If a person commences a civil action against an arbitrator, arbitration organization or representative of an arbitration organization arising from the services of the arbitrator, organization or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection d. of this section, and the court decides that the arbitrator, arbitration organization or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization or representative reasonable attorney's fees and other reasonable expenses of litigation.

**C.2A:23B-15 Arbitration process.**

**15. Arbitration Process.**

a. An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.

b. An arbitrator may decide a request for summary disposition of a claim or particular issue:

(1) if all interested parties agree; or

(2) upon request of one party to the arbitration proceeding if that party gives notice to all other parties to the proceeding, and the other parties have a reasonable opportunity to respond.

c. If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection due to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as



necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

d. At a hearing pursuant to subsection c. of this section, a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

e. an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed in accordance with section 11 of this act to continue the proceeding and to resolve the controversy.

**C.2A:23B-16 Representation by lawyer.**

**16. Representation by Lawyer.**

A party to an arbitration proceeding may be represented by a lawyer.

**C.2A:23B-17 Witnesses; subpoenas; depositions; discovery.**

**17. Witnesses; Subpoenas; Depositions; Discovery.**

a. An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena shall be served in the manner for service of subpoenas in a civil action, and upon filing a summary action with the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in any civil action.

b. In order to make the proceedings fair, expeditious, and cost effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions pursuant to which the deposition is taken.

c. An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost effective.

d. If an arbitrator permits discovery pursuant to subsection c. of this section, the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this State.

e. An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this State.

f. All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this State.

g. The court may enforce a subpoena or discovery-related order for the attendance of a witness within this State and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another State upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost effective. A subpoena or discovery-related order issued by an arbitrator in another State shall be served in the manner provided by law for service of subpoenas in a civil action in this State and, upon filing a summary action with the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in any civil action in this State.

**C.2A:23B-18 Judicial enforcement of preaward ruling by arbitrator.**

**18. Judicial Enforcement of Preaward Ruling by Arbitrator.**

If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award pursuant to section 19 of this act. A prevailing party may file a summary action with the court for an expedited order to confirm the award pursuant to section 22 of this act, in which case the court shall summarily decide the application. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award pursuant to section 23 or 24 of this act.

**C.2A:23B-19 Award.**

**19. Award.**

a. An arbitrator shall make a record of an award. The record shall be signed or otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

b. An award shall be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

**C.2A:23B-20 Change of award by arbitration.****20. Change of Award by Arbitrator.**

a. On application to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

(1) upon a ground stated in paragraph (1) or (3) of subsection a. of section 24 of this act;

(2) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

b. An application pursuant to subsection a. of this section shall be made and notice given to all parties within 20 days after the aggrieved party receives notice of the award.

c. A party to the arbitration proceeding shall give notice of any objection to the application within 10 days after receipt of the notice.

d. If a summary action with the court is pending pursuant to section 22, 23, or 24 of this act, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(1) upon a ground stated in paragraph (1) or (3) of subsection a. of section 24 of this act.

(2) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

e. An award modified or corrected pursuant to this section is subject to sections 19a., 22, 23, and 24 of this act.

**C.2A:23B-21 Remedies; fees and expenses of arbitration proceeding.****21. Remedies; Fees and Expenses of Arbitration Proceeding.**

a. An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award in accordance with the legal standards otherwise applicable to the claim.

b. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

c. As to all remedies other than those authorized by subsections a. and b. of this section, an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award pursuant to section 22 of this act or for vacating an award pursuant to section 23 of this act.

d. An arbitrator's expenses and fees, together with other expenses, shall be paid as provided in the award.

e. If an arbitrator awards punitive damages or other exemplary relief pursuant to subsection a. of this section, the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

**C.2A:23B-22 Confirmation of award.**

**22. Confirmation of Award.**

After a party to an arbitration proceeding receives notice of an award, the party may file a summary action with the court for an order confirming the award, at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to section 20 or 24 of this act or is vacated pursuant to section 23 of this act.

**C.2A:23B-23 Vacating award.**

**23. Vacating Award.**

a. Upon the filing of a summary action with the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

(1) the award was procured by corruption, fraud, or other undue means;

(2) the court finds evident partiality by an arbitrator; corruption by an arbitrator; or misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(3) an arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 15 of this act, so as to substantially prejudice the rights of a party to the arbitration proceeding;

(4) an arbitrator exceeded the arbitrator's powers;

(5) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection pursuant to subsection c. of section 15 of this act not later than the beginning of the arbitration hearing; or

(6) the arbitration was conducted without proper notice of the initiation of an arbitration as required in section 9 of this act so as to substantially prejudice the rights of a party to the arbitration proceeding.

b. A summary action pursuant to this section shall be filed within 120 days after the aggrieved party receives notice of the award pursuant to section 19 of this act or within 120 days after the aggrieved party receives notice of a modified or corrected award pursuant to section 20 of this act, unless the aggrieved party alleges that the award was procured by corruption, fraud, or other undue means, in which case the summary action shall be commenced

within 120 days after the ground is known or by the exercise of reasonable care would have been known by the aggrieved party.

c. If the court vacates an award on a ground other than that set forth in paragraph (5) of subsection a. of this section, it may order a rehearing. If the award is vacated on a ground stated in paragraph (1) or (2) of subsection a. of this section, the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in paragraph (3), (4), or (6) of subsection a. of this section, the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as that provided in subsection b. of section 19 of this act for an award.

d. If the court denies an application to vacate an award, it shall confirm the award unless an application to modify or correct the award is pending.

**C.2A:23B-24 Modification or correction of award.**

**24. Modification or Correction of Award.**

a. Upon filing a summary action within 120 days after the party receives notice of the award pursuant to section 19 of this act or within 120 days after the party receives notice of a modified or corrected award pursuant to section 20 of this act, the court shall modify or correct the award if:

(1) there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;

(2) the arbitrator made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(3) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

b. If an application made pursuant to subsection a. of this section is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless an application to vacate is pending, the court shall confirm the award.

c. An application to modify or correct an award pursuant to this section may be joined with an application to vacate the award.

**C.2A:23B-25 Judgment on award; attorney's fees and litigation expenses.**

**25. Judgment on Award; Attorney's Fees and Litigation Expenses.**

a. Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity with the arbitrator's award. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

b. A court may allow reasonable costs of the summary action and subsequent judicial proceedings.

c. On application of a prevailing party to a contested judicial proceeding pursuant to section 22, 23, or 24 of this act, the court may add reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, or substantially modifying or correcting an award.

**C.2A:23B-26 Jurisdiction.**

**26. Jurisdiction.**

a. A court of this State having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

b. An agreement to arbitrate providing for arbitration in this State confers exclusive jurisdiction on the court to enter judgment on an award pursuant to this act.

c. Wherever reference is made to any procedural matter stated in this act, the New Jersey Supreme Court rules governing summary actions, or such other rules as may be adopted by the Supreme Court of New Jersey shall apply.

**C.2A:23B-24 Venue.**

**27. Venue.**

A summary action pursuant to section 5 of this act shall be commenced in the court of the county that would have venue if the matter were subject to Superior Court rules in civil actions, or to a court in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held.

**C.2A:23B-28 Appeals.**

**28. Appeals.**

a. An appeal may be taken from:

- (1) an order denying a summary action to compel arbitration;
- (2) an order granting a summary action to stay arbitration;
- (3) an order confirming or denying confirmation of an award;
- (4) an order modifying or correcting an award;
- (5) an order vacating an award without directing a rehearing; or
- (6) a final judgment entered pursuant to this act.

b. An appeal pursuant to this section shall be taken as from an order or a judgment in a civil action.

**C.2A:23B-29 Uniformity of application and construction.**

**29. Uniformity of Application and Construction.**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**C.2A:23B-30 Relationship to Electronic Signatures in Global and National Commerce Act.****30. Relationship to Electronic Signatures in Global and National Commerce Act.**

The provisions of this act governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures conform to the requirements of the "Electronic Signatures in Global and National Commerce Act," 15 U.S.C.s.7002.

**C.2A:23B-31 Prior action or proceeding.****31. Prior Action or Proceeding.**

This act does not affect an action or proceeding commenced or right accrued before this act takes effect. Subject to section 3 of this act, an arbitration agreement made before the effective date of this act is governed by N.J.S.2A:24-1 et seq. and P.L.1987, c.54 (C.2A:23A-1 et seq.).

**C.2A:23B-32 Statutes and procedures not affected.****32. Statutes and Procedures Not Affected.**

This act shall not apply to the substance and procedure of "The New Jersey Alternative Procedure for Dispute Resolution Act," P.L.1987, c.54 (C.2A:23A-1 et seq.), nor shall this act apply to arbitrations governed by P.L.1987, c.329 (C.2A:23A-20 et seq.), P.L.1983, c.358 (C.39:6A-24 et seq.) or section 24 of P.L.1998, c.21 (C.39:6A-5.1); and, unless otherwise agreed by the parties, any other non-binding court annexed arbitration procedures authorized under court rules or where under existing statutes the application of N.J.S.2A:24-1 through 2A:24-11 is expressly excluded.

33. Section 11 of P.L.1987, c.54 (C.2A:23A-11) is amended to read as follows:

**C.2A:23A-11 Hearing by umpire; witnesses; subpoena; factual, legal contentions.**

11. a. When more than one umpire is agreed upon, all the umpires shall sit at the hearing of the case, unless by written consent, all parties agree to a lesser number.

b. The umpire conducting an alternative resolution proceeding may require the attendance of any person as a witness and the production of any book or written instrument. The fees for the attendance shall be those allowed witnesses in a civil action.

c. Subpoenas shall issue in the name of and be signed by the umpire, or if there is more than one umpire, by a majority of them, and shall be directed to the person therein named and served in the same manner as a subpoena to testify before a court of record. If a person subpoenaed to testify refuses or neglects to obey a subpoena, the Superior Court, upon application, may

compel his attendance before the umpire or hold the person in contempt as if the person had failed to respond to a subpoena issued by the court.

d. In alternative resolution proceedings held under this act, parties shall not be bound by the statutory and common law rules of evidence, except as provided for conduct of contested cases under the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.); provided, however, that all statutes and common law rules relating to privilege shall remain in effect. In any case when no rule, procedure or practice applies to the offer of evidence or procedure to be adopted, the umpire shall proceed so that the informality of the proceedings is assured.

e. Each party to an alternative resolution proceeding shall submit to the umpire and his adversary a statement of the party's factual and legal position with respect to the issues to be resolved, at a date fixed by the umpire to permit proper preparation for all hearings. The submitted statement shall govern, control and limit the facts and legal issues to be determined in the alternative resolution proceeding. Amended or supplemental legal and factual statements may be filed as permitted by the umpire where the same will not unduly prejudice the other party to the proceeding.

f. In an alternative resolution proceeding when the umpire is of the opinion that evidence by impartial experts would be of assistance, the umpire may direct that expert evidence be obtained. The fees and expenses of expert witnesses shall be paid by the parties as directed by the umpire.

g. Unless otherwise provided by the agreement for alternative resolution:

(1) The umpire shall appoint a time and place for the hearing and cause notification to the parties by personal service or by certified mail, with return receipt requested, not less than five days before the hearing. Appearance at the hearing waives the notice requirement. The umpire may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award, unless the parties consent to a later date. The umpire may determine the controversy upon the evidence produced, notwithstanding the failure of a party duly notified to appear. The Superior Court, on application in any pending summary proceeding, may direct the umpire to proceed promptly with the hearing and determination of the controversy.

(2) The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(3) The hearing shall be conducted by all the umpires, but a majority may determine any question and render a final award. If, during the course of the hearing, an umpire for any reason ceases to act, the remaining umpires appointed to act may continue with the hearing and determination of the controversy.



C.2A:24-1.1 Applicability of N.J.S.2A:24-1 through N.J.S.2A:24-11 to collective bargaining agreements.

34. N.J.S.2A:24-1 through N.J.S.2A:24-11 shall only apply to an arbitration or dispute arising from a collective bargaining agreement or a collectively negotiated agreement.

35. Effective Date.

This act shall take effect on January 1, 2003

Approved June 23, 2003.

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## CHAPTER 96

AN ACT concerning the dissemination of certain information about physicians and podiatrists to the public, amending P.L.1983, c.248 and P.L.1989, c.300 and supplementing Title 45 of the Revised Statutes.

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

C.45:9-22.21 Short title.

1. This act shall be known and may be cited as the "New Jersey Health Care Consumer Information Act."

C.45:9-22.22 Collection, maintenance of information regarding physicians, podiatrists.

2. a. The Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners, shall collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist pursuant to this act. The profiles shall be made available to the public through electronic and other appropriate means, at no charge to the public. The division shall establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

b. A physician or podiatrist shall be required to provide the board or division or its designated agent with any information necessary to complete the profile as provided in section 3 of this act.

c. The board may request any additional information it deems necessary to complete the profiles on the biennial license renewal form submitted by physicians and podiatrists.

d. The board shall provide to the division or its designated agent any information required pursuant to this act that is available to the board concerning

a physician or podiatrist, for the purpose of creating the physician and podiatrist profiles.

**C.45:9-22.23 Information included in profile of physician, podiatrist.**

3. a. The following information shall be included for each profile of a physician or podiatrist:

- (1) Name of all medical schools attended and dates of graduation;
- (2) Graduate medical education, including all internships, residencies and fellowships;
- (3) Year first licensed;
- (4) Year first licensed in New Jersey;
- (5) Location of the physician's or podiatrist's office practice site or sites, as applicable;
- (6) A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years. For the purposes of this paragraph, a person shall be deemed to be convicted of a crime if the individual pleaded guilty or was found or adjudged guilty by a court of competent jurisdiction. The description of criminal convictions shall not include any convictions that have been expunged. The following statement shall be included with the information about criminal convictions: "Information provided in this section may not be comprehensive. Courts in New Jersey are required by law to provide information about criminal convictions to the State Board of Medical Examiners.";
- (7) A description of any final board disciplinary actions within the most recent 10 years, except that any such disciplinary action that is being appealed shall be identified;
- (8) A description of any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years, except that any such disciplinary action that is being appealed shall be identified. The following statement shall be included with the information about disciplinary actions in other states: "Information provided in this section may not be comprehensive. The State Board of Medical Examiners receives information about disciplinary actions in other states from physicians themselves and outside sources.";
- (9) A description of: the revocation or involuntary restriction of privileges at a health care facility for reasons related to the practitioner's competence or misconduct or impairment taken by a health care facility's governing body or any other official of the health care facility after procedural due process has been afforded; the resignation from or nonrenewal of medical staff membership at the health care facility for reasons related to the practitioner's competence or misconduct or impairment; or the restriction of privileges at a health care facility taken in lieu of or in settlement of a pending disciplinary case related to the practitioner's competence or misconduct or impairment.

Only those cases that have occurred within the most recent 10 years and that were reported by the health care facility pursuant to section 1 of P.L.1983, c.247 (C.26:2H-12.2) shall be included in the profile; and

(10) All medical malpractice court judgments and all medical malpractice arbitration awards reported to the board, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims reported to the board, in which a payment is made to the complaining party within the most recent five years, as follows:

(a) Pending medical malpractice claims shall not be included in the profile and information on pending medical malpractice claims shall not be disclosed to the public;

(b) A medical malpractice judgment that is being appealed shall be so identified;

(c) The context in which the payment of a medical malpractice claim occurs shall be identified by categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average number of judgments, arbitration awards and settlements. These groupings shall be arrived at by comparing the number of an individual physician's or podiatrist's medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same speciality. In addition to any information provided by a physician or podiatrist, an insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall, at the request of the division, provide data and information necessary to effectuate this subparagraph; and

(d) The following statement shall be included with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

b. If requested by a physician or podiatrist, the following information shall be included in a physician's or podiatrist's profile:

(1) Names of the hospitals where the physician or podiatrist has privileges;

(2) Appointments of the physician or podiatrist to medical school faculties within the most recent 10 years;

(3) Information regarding any board certification granted by a specialty board or other certifying entity recognized by the American Board of Medical Specialties, the American Osteopathic Association or the American Board of Podiatric Medicine or by any other national professional organization that has been demonstrated to have comparable standards;

(4) Information regarding any translating services that may be available at the physician's or podiatrist's office practice site or sites, as applicable, or languages other than English that are spoken by the physician or podiatrist;

(5) Information regarding whether the physician or podiatrist participates in the Medicaid program or accepts assignment under the Medicare program;

(6) Information regarding the medical insurance plans in which the physician or podiatrist is a participating provider;

(7) Information concerning the hours during which the physician or podiatrist conducts his practice; and

(8) Information concerning accessibility of the practice site or sites, as applicable, to persons with disabilities.

The following disclaimer shall be included with the information supplied by the physician or podiatrist pursuant to this subsection: "This information has been provided by the physician (or podiatrist) but has not been independently verified by the State Board of Medical Examiners or the Division of Consumer Affairs."

If the physician or podiatrist includes information regarding medical insurance plans in which the practitioner is a participating provider, the following disclaimer shall be included with that information: "This information may be subject to change. Contact your health benefits plan to verify if the physician (or podiatrist) currently participates in the plan."

c. Before a profile is made available to the public, each physician or podiatrist shall be provided with a copy of his profile. The physician or podiatrist shall be given 30 calendar days to correct a factual inaccuracy that may appear in the profile and so advise the Division of Consumer Affairs or its designated agent; however, upon receipt of a written request that the division or its designated agent deems reasonable, the physician or podiatrist may be granted an extension of up to 15 calendar days to correct a factual inaccuracy and so advise the division or its designated agent.

d. If new information or a change in existing information is received by the division concerning a physician or podiatrist, the physician or podiatrist shall be provided with a copy of the proposed revision and shall be given 30 calendar days to correct a factual inaccuracy and to return the corrected information to the division or its designated agent.

e. The profile and any revisions thereto shall not be made available to the public until after the review period provided for in this section has lapsed.

**C.45:9-22.24 Contracts with public, private entity for profiles.**

4. The Division of Consumer Affairs may contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles required pursuant to this act.

a. The contract shall specify the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile. The contract shall specify the duties and responsibilities of the division with respect to providing the information required pursuant to section 3 of this act to the entity on a regular and timely basis.

b. The contract shall specify that any identifying information concerning a physician or podiatrist provided to the entity by the division, the State Board of Medical Examiners or the physician or podiatrist shall be used only for the purpose of the profile.

c. The division shall monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this act.

5. The Director of the Division of Consumer Affairs shall report to the Legislature no later than 18 months after the effective date of this act on the status of the physician and podiatrist profiles.

The director shall also make recommendations in the report on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors, and the type of information that would be appropriate to include in the respective profiles for each type of licensed health care professional.

6. Section 3 of P.L.1983, c.248 (C.45:9-19.3) is amended to read as follows:

**C.45:9-19.3 Confidentiality of information.**

3. Any information concerning the conduct of a physician or surgeon provided to the State Board of Medical Examiners pursuant to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, is confidential pending final disposition of the inquiry or investigation by the board, except for that information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of section 9 of P.L.1983, c.320 (C.17:33A-9) or with any other law enforcement agency. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information shall remain confidential, except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the physician or surgeon, who is the subject of the information, and an opportunity to be heard. The application for the court order shall be placed under seal.

The provisions of this section shall not apply to information that the Division of Consumer Affairs in the Department of Law and Public Safety, or its

designated agent, is required to include in a physician's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et al.).

7. Section 10 of P.L.1989, c.300 (C.45:9-19.10) is amended to read as follows:

**C.45:9-19.10 Records maintained by review panel.**

10. a. The review panel shall maintain records of all notices and complaints it receives and all actions taken with respect to the notices and complaints.

b. At least once a month, the review panel shall provide the State Board of Medical Examiners with a summary report of all information received by the review panel and all recommendations made by the review panel. Upon request of the board, the review panel shall provide the board with any information contained in the review panel's files concerning a practitioner.

c. Any information concerning the professional conduct of a practitioner provided to, or obtained by, the review panel is confidential pending final disposition of an inquiry or investigation of the practitioner by the State Board of Medical Examiners, and may be disclosed only to the board, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General for the purposes of carrying out their respective responsibilities pursuant to Title 45 of the Revised Statutes.

The provisions of this section shall not apply to information that the division, or its designated agent, is required to include in a physician's or podiatrist's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et al.).

**C.45:9-22.25 Regulations.**

8. Within 180 days of the effective date of this act, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners, shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

9. This act shall take effect on the 365th day after enactment, except that the division and the board may take such anticipatory action in advance as may be necessary for the timely implementation of the act

Approved June 23, 2003.

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**CHAPTER 97**

**AN ACT concerning borrowing by public school districts and supplementing chapter 22 of Title 18A of the New Jersey Statutes.**

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

**C.18A:22-44.2 State school aid payments not made until following school budget year; borrowing.**

1. a. Notwithstanding any provision of law, rule, or regulation to the contrary, in the event that a State school aid payment for the current school budget year is not made until the following school budget year, the payment shall be recorded as revenue for budget purposes only in the current school budget year.

b. Notwithstanding the provisions of N.J.S.18A:22-25 and section 1 of P.L.1968, c.384 (C.18A:22-44.1) or any other law, rule, or regulation to the contrary, if a board of education of a school district is notified by the Commissioner of Education that a June State school aid payment will not be made until the following school budget year, and the district demonstrates through a written application to the commissioner the need to borrow and the commissioner approves that application, the board may borrow on or before June 30 of the current school budget year but not earlier than June 22 of the current school budget year a sum not exceeding the amount of the delayed State school aid payment, and may execute and deliver promissory notes therefore through private sale or delivery thereof. The district shall pay the amount so borrowed together with interest thereon and costs thereof. The promissory notes shall mature on or prior to the date of payment of the delayed June State school aid payment, may be redeemable prior to maturity, shall have such terms and conditions as shall be accepted by the board, and shall be authorized by resolution adopted by the board, which resolution may be adopted prior to application to the commissioner contingent upon approval by the commissioner. The amount so borrowed shall constitute a general obligation of the board and shall not constitute gross debt for purposes of N.J.S.40A:2-43.

c. If a school district's application to the commissioner contains a determination letter from a lending bank certifying to the interest charges on the borrowing and if the district's application is approved by the commissioner, the State shall pay on behalf of the district the approved interest on the promissory notes in an amount calculated from the date of borrowing through the date of payment by the State of the delayed June State school aid payment and other approved costs of issuance. Any obligations of the State to make payments pursuant to this section shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution. Any payments required to be made by the State pursuant to this section shall be subject to appropriation.

d. Each school district which issues promissory notes pursuant to this section shall certify to the State Treasurer the name and address of the paying

agent, the maturity schedule, interest rate, and date of payment of debt service on the promissory notes within three days after the date of issuance of the promissory notes. Following receipt of the certification, the State Treasurer shall withhold from the amount of State school aid payable to the district an amount sufficient to pay the principal on the maturity date of the promissory notes. In the event that there are interest or issuance costs which are not approved by the commissioner pursuant to subsection c. of this section, the State Treasurer shall also withhold an amount sufficient to pay those unapproved costs. The State Treasurer shall, on or before the maturity date, forward the withheld amount to the paying agent for the purpose of paying the debt service on the promissory notes. Notwithstanding any provision of this section to the contrary, the State Treasurer's obligation to pay the paying agent pursuant to this subsection, other than those payments required to be made pursuant to subsection c. of this section, shall not exceed the amount of State school aid payable to the school district or the municipality.

e. Any negative unreserved, undesignated general fund balance that may be recorded as a direct result of a State aid payment for the current school budget year which is not made until the following school budget year shall not be considered a violation of any law or regulation and in need of corrective action.

f. The State Treasurer may, at his discretion, establish procedures and forms necessary to implement the provisions of this section. The State Treasurer may also adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section.

2. This act shall take effect immediately.

Approved June 23, 2003.

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## CHAPTER 98

AN ACT providing for the designation of a children's hospital for Morris and Union counties, supplementing Title 26 of the Revised Statutes and amending P.L.1993, c.374.

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

1. The Legislature finds and declares that:



a. Morristown Memorial Hospital currently offers the full array of services for, and meets all of the licensure criteria that apply to, a children's hospital, and has met and complied with all of the appropriate certificate of need and licensure requirements to obtain State authorization to offer the component services that constitute a children's hospital; and

b. It is, therefore, appropriate that the Commissioner of Health and Senior Services designate Morristown Memorial Hospital as the State's specialty acute care children's hospital for Morris and Union counties.

**C.26:2H-18f Morristown Memorial Hospital designated specialty acute care children's hospital for Morris, Union counties.**

2. a. The Commissioner of Health and Senior Services, subject to the provisions of subsection b. of this section, shall designate Morristown Memorial Hospital as the State's specialty acute care children's hospital for Morris and Union counties.

b. The designation by the Commissioner of Health and Senior Services pursuant to subsection a. of this section shall be made subsequent to, and shall be contingent upon, the execution of written transfer agreements between Morristown Memorial Hospital and a majority of the acute care hospitals providing inpatient pediatric services which are located in Morris and Union counties.

The written agreement shall state that the other facility recognizes Morristown Memorial Hospital as the State's specialty acute care children's hospital for Morris and Union counties and shall set forth the basis on which the other facility shall make referrals to Morristown Memorial Hospital.

3. Section 1 of P.L.1993, c.374 (C.26:2H-18e) is amended to read as follows:

**C.26:2H-18e St. Joseph's Hospital and Medical Center designated specialty acute care children's hospital for certain counties.**

1. a. The Commissioner of Health and Senior Services, subject to the provisions of subsection b. of this section, shall designate St. Joseph's Hospital and Medical Center in the City of Paterson as the State's specialty acute care children's hospital for the counties of Bergen, Passaic, Sussex and Warren.

b. The designation by the Commissioner of Health and Senior Services pursuant to subsection a. of this section shall be made subsequent to, and shall be contingent upon, the execution of a written agreement between St. Joseph's Hospital and Medical Center and a majority of the acute care hospitals providing inpatient pediatric services which are located in the counties listed in subsection a. of this section.

The written agreement shall state that the other facility recognizes St. Joseph's Hospital and Medical Center as the State's specialty acute care

children's hospital for the counties listed in subsection a. of this section and shall set forth the basis on which the other facility shall make referrals to St. Joseph's Hospital and Medical Center.

4. This act shall take effect immediately.

Approved June 24, 2003.

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## CHAPTER 99

AN ACT concerning the membership of the New Jersey Presidents' Council and its executive board and amending P.L.1994, c.48.

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

1. Section 7 of P.L.1994, c.48 (C.18A:3B-7) is amended to read as follows:

**C.18A:3B-7 "New Jersey Presidents' Council" established.**

7. There is established a body corporate and politic, with corporate succession, to be known as the "New Jersey Presidents' Council." Each president of a public institution of higher education in the State and of an independent institution which receives direct State aid shall be a member of the council and shall serve ex officio. The presidents of the proprietary schools which have been authorized to offer licensed degree programs prior to the effective date of P.L.2003, c.99 shall also serve as members of the council, ex officio, to represent the interests of all such schools. The presidents of the two institutions primarily involved in the preparation of professional persons in the field of religion which enroll the largest number of pupils in State licensed degree programs shall also serve as members of the council, ex officio, to represent the interests of all such schools.

2. Section 12 of P.L.1994, c.48 (C.18A:3B-12) is amended to read as follows:

**C.18A:3B-12 Executive board.**

12. a. There shall be established an executive board which performs such duties as determined by the council. The executive board shall be composed of 15 members as follows:

The president of Rutgers, The State University;

The president of the University of Medicine and Dentistry of New Jersey;

The president of New Jersey Institute of Technology;

Three presidents of State Colleges who shall be selected by the presidents of this sector;

Five presidents of county colleges who shall be selected by the presidents of this sector;

Three presidents of independent institutions who shall be selected by the presidents of this sector;

One president of the proprietary schools which have been authorized to offer licensed degree programs prior to the effective date of P.L.2003, c.99 who shall be selected by the presidents of these proprietary schools.

b. The chair of the executive board shall be rotated among the following: one of the presidents of Rutgers, The State University of New Jersey, the president of the University of Medicine and Dentistry of New Jersey, and the president of New Jersey Institute of Technology; a president selected by the presidents of the State Colleges; a president selected by the presidents of the county colleges; and a president selected by the presidents of the independent institutions. The chair of the executive board shall serve for a two-year period. Biennially, the executive board shall select the chair in the manner provided above, but not necessarily in the order provided above.

c. The chair of the executive board shall also serve as the chair of the council.

3. This act shall take effect immediately.

Approved June 26, 2003.

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## CHAPTER 100

AN ACT concerning professional and occupational licensing and amending P.L.1999, c.403.

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

1. Section 7 of P.L.1999, c.403 (C.45:1-7.3) is amended to read as follows:

**C.45:1-7.3 Active, inactive options on renewal applications.**

7. a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing

to renew as inactive shall not engage in professional or occupational practice within the State.

b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable. The continuing education hours or credits shall be completed by the applicant within three years prior to the date of application for the return to active status, unless otherwise provided by board rule.

2. This act shall take effect immediately.

Approved June 30, 2003.

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## CHAPTER 101

AN ACT concerning certain rental housing for seniors and supplementing P.L.1975, c. 217 (C. 52:27D-119 et seq.).

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

**C.55:14K-7.1 Shower, bathtub safety rails required in certain senior rental projects.**

1. Notwithstanding any law or regulation to the contrary, whenever a rental dwelling unit reserved for occupancy by an adult aged 55 or over is to be newly constructed and such construction is financed, in whole or in part, or through the allocation of low-income federal tax credits by the New Jersey Housing and Mortgage Finance Agency, the agency shall require that each shower or bathtub within the dwelling unit be equipped with safety rails which shall be reachable by a person of average height, in order to assist the person in maneuvering in or out of the shower or bathtub, as the case may be.

2. This act shall take effect on the first day of the third month next following enactment, but shall not apply to those rental projects for which a development application was approved prior to the effective date.

Approved June 30, 2003.

## CHAPTER 102

AN ACT concerning limiting frequency of question on reclassification of school district and amending various sections of statutory law.

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

1. N.J.S.18A:9-4 is amended to read as follows:

**Type I districts; reclassification; resolution or petition for submission; frequency.**

18A:9-4. The question of the acceptance of section 18A:9-2 of this title, in any local school district governed by section 18A:9-3 of this title, except a consolidated school district, or of the acceptance of section 18A:9-3 of this title in any local school district governed by section 18A:9-2 of this title, shall be submitted to the legal voters of such district whenever the governing body of the municipality constituting such district or the board of education of any type I districts, shall by resolution so direct, or whenever a petition, signed by not less than 15% of the number of legally qualified voters who voted in such district at the last preceding general election held for the election of all of the members of the general assembly, shall be filed with the clerk of such municipality. No resolution may be adopted and no petition may be filed for the submission of the question of acceptance of N.J.S.18A:9-2 or N.J.S.18A:9-3, as the case may be, within four years after an election shall have been held pursuant to any resolution adopted, or petition filed, pursuant to this section or N.J.S.18A:9-6.

2. N.J.S.18A:9-5 is amended to read as follows:

**Type I districts; submission of reclassification question; frequency.**

18A:9-5. The clerk of the municipality shall in either case cause said question to be submitted at the next municipal or general election which will be held in the municipality following the expiration of 35 days from the date of the adoption of the resolution or the filing of the petition, whichever shall first occur, except that the clerk shall not cause the question to be submitted if a similar question was submitted at an election within the previous four years.

3. N.J.S.18A:9-6 is amended to read as follows:

**Type II districts; reclassification; resolution or petition; submission; frequency.**

18A:9-6. Except as provided below, if the board of education of a type II local school district shall so determine by resolution, or if a petition is filed

with the board requesting the submission of the question to the voters, signed by 15% or more of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of all of the members of the general assembly, the question shall be submitted to the voters of the district at the next annual school election of the district which will be held at least 15 days after the adoption of the resolution or the filing of the petition but if in the petition it is requested that the question be submitted at a special school election and the first annual school election to be held in the district after the petition is filed will be held less than 20 days or more than 50 days thereafter, the board shall forthwith call a special school election in the district, for the submission of the question, to be held not more than 50 days after the filing of the petition. No resolution may be adopted and no petition may be filed for the submission of the question of acceptance of N.J.S.18A:9-2 within four years after an election shall have been held pursuant to any resolution adopted, or petition filed, pursuant to this section or N.J.S.18A:9-4.

4. This act shall take effect immediately.

Approved June 30, 2003.

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## CHAPTER 103

AN ACT requiring a feasibility study on integrating the Civil Air Patrol with New Jersey Air National Guard homeland security operations.

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

1. The Legislature finds that the New Jersey Wing of the Civil Air Patrol has a history of providing unique assistance in times of emergency. The New Jersey Wing of the Civil Air Patrol, currently staffed with approximately 1,350 dedicated volunteers, is well equipped with aircraft, radios and airborne photography and will be equipped with sensor imaging equipment in the near future. It is necessary and appropriate, therefore, that the Department of Military and Veterans' Affairs conduct a study on the feasibility of integrating the New Jersey Wing of the Civil Air Patrol in conducting homeland security operations in support of the State's homeland security initiatives. It is also necessary and appropriate that the Department of Transportation conduct a similar study concerning the integration of the New Jersey Wing of the Civil Air Patrol into homeland security operations in the State's general aviation airports.

2. a. Except as provided for general aviation airports in subsection b. of this section, the Department of Military and Veterans' Affairs shall conduct a study on the feasibility of integrating the personnel, aircraft and equipment of the New Jersey Wing of the Civil Air Patrol with the New Jersey Air and Army National Guard in conducting homeland security operations in support of State and federal homeland security initiatives.

b. The Department of Transportation shall conduct a study on the feasibility of integrating the personnel, aircraft and equipment of the New Jersey Wing of the Civil Air Patrol with the New Jersey Air and Army National Guard in conducting homeland security operations in support of State and federal homeland security initiatives at the State's general aviation airports as defined in section 3 of P.L.1983, c.264 (C.6:1-91).

c. The feasibility study shall also identify what legal or procedural steps would have to be taken in order to integrate Civil Air Patrol resources with those of the National Guard.

d. In order to eliminate any duplication of effort, the Adjutant General of the Department of Military and Veterans' Affairs and the Commissioner of Transportation shall coordinate the feasibility studies conducted by their respective departments.

e. No later than three months following the effective date of this act, the Adjutant General of the Department of Military and Veterans' Affairs and the Commissioner of Transportation shall submit written reports to the Legislature and the Governor describing their findings.

3. This act shall take effect immediately.

Approved June 30, 2003.

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## CHAPTER 104

AN ACT to amend and supplement "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2003 and regulating the disbursement thereof," approved July 1, 2002 (P.L.2002, c.38).

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

1. In addition to the amounts appropriated under P.L.2002, c.38, there is appropriated out of the General Fund the following sum for the purpose specified:

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES****20 Physical and Mental Health****26 Senior Services****GRANTS-IN-AID**

24-4275 Pharmaceutical Assistance to the Aged and Disabled .....	<u>\$11,000,000</u>
Total Grants-In-Aid Appropriation, Senior Services .....	<u>\$11,000,000</u>

***Grants-In-Aid:***

24 Pharmaceutical Assistance to the Aged and Disabled .....	(\$11,000,000)
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The amount appropriated hereinabove is available to offset any costs remaining during fiscal year 2003 that are attributable to the delay in the approval of the PAAD waiver anticipated in October, 2002.

2. The following language is added in section 1 of P.L.2002, c.38 to read as follows:

**82 DEPARTMENT OF THE TREASURY****70 Government Direction, Management and Control****75 State Subsidies and Financial Aid****STATE AID**

Notwithstanding the provisions of section 32 of P.L.2002, c.40 (C.52:9H-38) to the contrary, revenues derived from the corporation business tax during fiscal year 2003 shall not be credited to the "Corporation Business Tax Excess Revenue Fund" but shall be available as undesignated funds in the General Fund except as are dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

3. Section 49 of P.L.2002, c.38 is amended to read as follows:

49. Notwithstanding any provisions of this act providing that appropriations are made from dedicated or other sources of funds or any other law to the contrary, amounts appropriated or reappropriated for State transportation projects and for State aid or grants to municipalities, school districts, and senior public colleges and universities, and for State capital construction projects, subject to the designation of such appropriation accounts and the amounts thereof by the Director of the Division of Budget and Accounting are



appropriated in an aggregate amount not to exceed \$1,270,000,000 from funds paid to the State from any net proceeds, earnings thereon or residual interests from the sale of tobacco settlement revenues as authorized pursuant to P.L.2002, c.32 (C.52:18B-1 et seq.).

4. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 105

AN ACT establishing the "Nursing Home Quality of Care Improvement Fund" and supplementing Title 26 of the Revised Statutes.

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

**C.26:2H-92 Short title.**

1. This act shall be known and may be cited as the "Nursing Home Quality of Care Improvement Fund Act."

**C.26:2H-93 Findings, declarations relative to nursing home quality of care.**

2. The Legislature finds and declares that:

a. It is in the public interest of this State for its nursing home industry to continue to provide high-quality services to those frail and vulnerable citizens who critically need nursing home care;

b. Presently, New Jersey has the lowest Medicaid reimbursement rate in the region for nursing home services provided;

c. Additional reductions in federal funding, together with the current budget crisis facing the State, are likely to deepen the nursing home industry's funding shortfall;

d. This funding crisis leads directly to caregiver staffing problems, high staff turnover, reduced staffing levels, and, in turn, a diminution in the quality of nursing care services;

e. By establishing an appropriate assessment on nursing homes, in accordance with federal regulations set forth at 42 C.F.R. s.433.68(f), additional funding will be made available to improve the quality of care by increasing Medicaid reimbursement for services delivered to those senior citizens and other persons residing in New Jersey nursing homes;

f. It is, therefore, appropriate to establish a "Nursing Home Quality of Care Improvement Fund" by using investment contributions from nursing home providers to attract federal matching funds; and

g. This innovative approach would allow New Jersey to improve nursing home services by using available federal dollars in the best manner possible.

**C.26:2H-94 Definitions relative to nursing home quality of care.**

3. As used in this act:

"Commissioner" means the Commissioner of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Fund" means the "Nursing Home Quality of Care Improvement Fund" established pursuant to this act.

"High Medicaid occupancy nursing home" means those nursing homes with the highest Medicaid occupancy that will ensure eligibility for the federal waiver of uniformity under federal regulations consistent with this act.

"Low Medicaid occupancy nursing home" means the 30% of all nursing homes with the lowest Medicaid occupancy consistent with this act.

"Medicaid" means the Medicaid program established pursuant to P.L. 1968, c.413 (C.30:4D-1 et seq.).

"Medicaid occupancy" means the ratio resulting from dividing Medicaid patient days by total patient days paid for by Medicaid, Medicare, private insurance and private payers.

"Non-Medicare patient day" means any day that a nursing home is paid for a patient and for which it does not receive a payment or copayment from Medicare for Part A skilled nursing facility care.

"Nursing home" means a long-term care facility licensed pursuant to P.L. 1971, c.136 (C.26:2H-1 et seq.), as well as the distinct part of another health care facility or continuing care retirement community that is licensed to provide skilled nursing care services pursuant to P.L. 1971, c.136 (C.26:2H-1 et seq.). For the purposes of this act, nursing home shall not include: an acute care hospital; assisted living facility; comprehensive personal care home; residential health care facility; adult day health care facility; alternate family care program; adult family care program; home health care agency; State psychiatric hospital; county health care facility, including, but not limited to, county geriatric center, county nursing home or other county long-term care facility; the New Jersey Firemen's Home; or a health care facility operated by the Department of Military and Veterans' Affairs.

**C.26:2H-95 "Nursing Home Quality of Care Improvement Fund."**

4. The "Nursing Home Quality of Care Improvement Fund" is established as a nonlapsing fund in the Department of the Treasury. The fund shall be administered by the State Treasurer, in consultation with the Commissioner of Health and Senior Services or his designee, who shall be responsible for the oversight, coordination and disbursement of fund monies, and shall be

credited with monies received pursuant to section 6 of this act, except for those monies which are deposited into the General Fund in accordance with the provisions of that section.

a. The fund shall be comprised of:

(1) revenues from assessments paid by nursing homes pursuant to section 5 of this act;

(2) matching federal funds received pursuant to Title XIX of the federal Social Security Act (42 U.S.C. s.1396 et seq.) that result from the expenditure of revenues from assessments collected pursuant to section 5 of this act;

(3) General Fund revenues, as necessary, to allow for the per diem add-on payments pursuant to subsection d. of section 6 of this act until the revenue from the assessment has been collected. Upon collection of the revenue from the assessment, the General Fund shall be repaid within 90 days; and

(4) any interest or other income earned on monies deposited into the fund.

b. Any disbursement of monies from the fund shall be used solely for Medicaid nursing home add-ons as provided for under section 6 of this act, which shall not in any manner render the assessment mechanism set forth in section 5 of this act to be in violation of the hold harmless provisions of 42 C.F.R. s.433.68(f).

c. The State Treasurer shall provide by regulation for such measures as are required to ensure the integrity of the fund.

d. The State Treasurer shall establish separate accounts within the fund as are needed to efficiently manage and disburse fund monies.

e. Monies in the fund shall not be used to supplant appropriations from the General Fund to the department or the Department of Human Services for use in securing matching federal funds not otherwise provided for in this act.

f. The Director of the Division of Taxation shall be responsible for collecting the assessments.

**C.26:2H-96 Payment of annual assessment by nursing homes.**

5. a. Each nursing home shall pay an assessment which, when combined with the aggregate amount of assessments paid by all other nursing homes pursuant to this section shall not exceed 6% of the aggregate amount of annual revenues received by all nursing homes in accordance with 42 C.F.R. s.433.68(f)(3)(I). The assessment shall be comprised of the payments required pursuant to paragraphs (1) and (2) of this subsection. This assessment shall be paid to the Director of the Division of Taxation in the Department of the Treasury. The director, in consultation with the commissioner, shall establish appropriate procedures and forms for the purpose of collecting and recording this assessment. The provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq., shall apply to the extent that those provisions, including

the confidentiality, protest and appeal provisions, are not inconsistent with the provisions of this act. The State shall neither collect the assessment on nursing homes nor distribute increases in Medicaid until both the provider assessment and the plan for distribution of the proceeds of the fund are approved by the federal government.

(1) All high or low Medicaid occupancy nursing homes shall pay annually an amount of \$1 per patient day based upon non-Medicare patient days. All other nursing homes shall pay a per diem assessment, to be calculated by dividing the total Statewide maximum allowable assessment permitted under 42 C.F.R. s.433.68(f)(3)(I) less the amount of assessment paid by high and low Medicaid occupancy nursing homes by the total non-Medicare patient days of those nursing homes which are not high or low Medicaid occupancy nursing homes.

(2) Notwithstanding any law to the contrary, each nursing home shall pay to the director for deposit into the fund, in accordance with the requirements set forth in this act, an amount for nursing home patient days, excluding Medicare patient days, up to the maximum limit allowed by law less any licensing or other fees which would be considered "health care-related taxes" as defined by 42 C.F.R. s.433.55, including, but not limited to, any fees established by the commissioner as permitted under law.

b. The assessment paid under subsection a. of this section shall not include Medicare patient day revenues and receipts from Medicare certified beds.

c. The director, in consultation with the commissioner, shall prescribe by regulation the method by which nursing homes shall report information necessary for the director to calculate the assessment.

d. The assessment shall not be payable by nursing homes until both the provider assessment and the plan for distribution of the proceeds of the fund are approved by the federal government. Thereafter, the assessment shall be payable after the end of each calendar quarter during which the assessment accrues. Prior written notice of the due date of the assessment shall not be issued until the per diem add-ons pursuant to subsection d. of section 6 of this act have been paid.

e. A nursing home shall submit appropriate reports to the director to facilitate the purposes of this act, on a form and in a manner prescribed by the director and within such period of time as the director may require.

**C.26:2H-97 Dedicated purposes for monies collected from assessment.**

6. The monies collected from the assessment paid by nursing homes pursuant to section 5 of this act shall be dedicated for the purposes provided in this section and shall be allocated through appropriation as follows:

a. As soon after the collection of the monies from the assessment as is practicable, the State Treasurer shall authorize the transfer to the General

Fund of \$12.875 million for each quarter for which the assessment has been collected, not to exceed \$51.5 million on an annual basis. All of the amounts so transferred to the General Fund shall be allocated for the support of nursing home programs as the commissioner shall designate, provided that of those amounts, a sufficient amount shall be used to fund nursing home rates at State fiscal year 2003 levels or higher and the continued applicability of nursing home rebasing and bed hold payment methodologies in effect during fiscal year 2003;

b. After the transfer set forth in subsection a. of this section, the director shall transfer \$625,000 for each quarter for which the assessment has been collected, not to exceed \$2.5 million on an annual basis, from the fund to such accounts as the commissioner shall designate to establish a grant program for all nursing homes located in this State. The purpose of the grants shall be: to ensure quality care and to promote recruitment and retention of qualified staff; to improve the quality of care for nursing home residents through the increase of direct or indirect care staff at nursing homes; and to increase or improve the use of innovative patient care technologies. The commissioner shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this subsection, but in no way shall this subsection be designed to violate the hold harmless provisions of 42 C.F.R. 433.50 et seq.;

c. The State Treasurer, in consultation with the commissioner, shall distribute to nursing homes all remaining monies in the fund, in accordance with the provisions of this section, including any federal Medicaid funds received pursuant to this act, in order to enhance the quality of care for the residents of those facilities, which may include training, recruitment and improvement of wages and benefits for nursing home direct care employees;

d. The monies identified in subsection c. of this section shall be allocated in the following manner:

(1) sufficient monies from these funds shall be used to recognize the assessment as an allowable cost for Medicaid reimbursement purposes; and

(2) the remaining portion of these funds not allocated under paragraph (1) of this subsection shall be made as a uniform per diem add-on for all Medicaid days provided by nursing facilities.

The Medicaid payments to nursing homes provided for under this subsection shall not violate the hold harmless provisions set forth at 42 C.F.R. s.433.50 et seq.;

e. Beginning immediately and continuing for a period of 24 months following the enactment of this act, any monies received by facilities pursuant to this act that are expended in the furtherance of increasing recruitment and retention of employees and increasing the wages of caregivers shall not be subject to the nursing screen or direct patient care screens within the routine

cost limits imposed by the nursing home rate setting regulations, in accordance with federal regulations and in such a manner so as to not violate the hold harmless provisions set forth at 42 C.F.R. s.433.50 et seq.

During this 24-month period it is recommended that nursing homes increase the nursing and direct care staffing ratio to above the State minimum requirement. Within 24 months of the enactment of this act, the commissioner shall develop, with the advice of industry representatives, consumer organizations and the caregivers' union, increased mandatory State ratios for direct patient care and nursing staffing, to significantly improve nursing and patient care staffing ratios, subject to the availability of funding;

f. The commissioner or his designee shall certify the amounts to be provided to each nursing home in accordance with the formulas established by the commissioner for Medicaid reimbursement.

**C.26:2H-98 Duties of commissioner.**

7. The commissioner shall:

a. apply for: a State plan amendment to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program pursuant to 42 U.S.C. s.1396b(w)(3)(B); and a waiver of the uniformity requirements contained in 42 C.F.R. s.433.68(e)(2)(i); and

b. prescribe such procedures and forms, and take such other actions, as the commissioner determines necessary to carry out the provisions of this act.

**C.26:2H-99 Noncompliance with mechanism for distribution of moneys.**

8. a. Notwithstanding any other provision of this act to the contrary, if the State, or any of its officials, agents or employees, fails to comply with the mechanism for distributing monies from the fund as set forth in section 6 of this act, or if the State does not demonstrate continued maintenance of effort for the level of State funding of nursing home reimbursement provided in fiscal year 2003:

(1) the assessment provided for in section 5 of this act shall become void, no further assessment shall be collected and all funds collected to date shall be returned to nursing homes in proportion to the amounts of assessments paid by them under the provisions of this act; and

(2) thereafter, no penalty, fine or fee shall be imposed upon, or other punitive measure taken against, a nursing home that fails to pay an assessment.

b. If federal law is altered to prohibit the use of provider assessments to generate a matching amount of federal Medicaid funds as provided for in this act, the provisions of this act shall become inoperative and void upon the effective date of that prohibition.

c. Notwithstanding any other provision of this act to the contrary, the assessments imposed by section 5 of this act shall not be imposed or collected

and the authorized expenditures shall not be made until the State has obtained federal approval of any related State plan amendment and verified the availability of federal financial participation for the New Jersey Medicaid expenditure funded in whole or in part by revenues collected in accordance with section 5 of this act from the assessments.

**C.26:2H-100 Payment of assessment not passed through as cost, charge to payers.**

9. a. A nursing home that realizes a net financial gain resulting from the payment of its assessment pursuant to section 5 of this act and the distribution of monies in the fund pursuant to section 6 of this act shall not pass through, as a charge or other cost to its residents or a third party payer, any portion of its assessment paid pursuant to section 5 of this act.

b. A nursing home that realizes a net financial loss resulting from the payment of its assessment pursuant to section 5 of this act and the distribution of monies in the fund pursuant to section 6 of this act shall not pass through, as a charge or other cost to its residents or a third party payer, any amount that exceeds the amount of that net financial loss.

**C.26:2H-101 Rules, regulations.**

10. a. The State Treasurer shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the applicable provisions of this act; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the State Treasurer may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the State Treasurer deems necessary to implement the applicable provisions of this act, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the State Treasurer in accordance with the requirements of P.L.1968, c.410.

b. The rules and regulations adopted by the State Treasurer pursuant to subsection a. of this section shall be adopted in consultation with the commissioner and shall include, but not be limited to: establishment of a system for the efficient collection of the assessment paid by nursing homes pursuant to section 5 of this act; the auditing of nursing home financial information relevant to the collection of the assessment; the reporting of relevant information needed to effectuate the assessment and procedures to effectuate the purposes of section 9 of this act.

c. The commissioner shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the applicable provisions of this act; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the applicable provisions of this act, which shall be effective for a period not to exceed six

months and may thereafter be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

11. This act shall take effect July 1, 2003; implementation of the assessment and distribution shall take place 30 days following federal approval of any necessary State plan amendments.

Approved July 1, 2003.

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## CHAPTER 106

AN ACT authorizing the extension, to entities participating in structured financing transactions, of rights to immunity from or indemnification for certain legal liabilities, amending P.L.1999, c.157.

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

1. Section 4 of P.L.1999, c.157 (C.52:31C-4) is amended to read as follows:

**C.52:31C-4 Authority to enter into structured financing transaction.**

4. Notwithstanding any other provisions of law to the contrary:

a. The State Treasurer is authorized to enter into a structured financing transaction, on such terms, covenants and conditions and at such times as the State Treasurer may determine, to enter into, execute and deliver a structured financing agreement, and to do any act necessary or convenient to carrying out a structured financing transaction; provided that the State Treasurer shall not enter into a structured financing transaction relating to any State assets that are otherwise restricted by law, regulation or contract with respect to the transfer of the State's interest in those assets. A structured financing transaction shall not result in a change in the use or occupancy by the State of the assets that are the subject of a structured financing transaction; provided however, that the structured financing transaction may permit that, upon the occurrence of certain events, the investor may have the right to exercise certain rights and remedies and to acquire certain interests which may interfere with or terminate the State's ownership, occupation or use of the assets.

b. No consent or approval of any State agency or State authority, other than the approval as required by subsection a. and subsection c. of this section, shall be required to effectuate a structured financing transaction and to enter into, execute, deliver and perform a structured financing agreement.

c. If with respect to assets that are the subject of a structured financing agreement, the participation of a State agency or State authority is required,



the State Treasurer shall not enter into that structured financing agreement without the consent of the participating State agency or State authority, as the case may be, and upon such consent if given, such State agency or State authority is hereby authorized, notwithstanding any other law to the contrary, to enter into, execute, deliver and perform a structured financing agreement upon such terms and conditions as such State agency, State authority and the State Treasurer shall determine; and no consent or approval of any other State agency or State authority, except as otherwise required by this section, shall be required to authorize entry into, execution, delivery and performance of a structured financing agreement. Notwithstanding anything to the contrary, the entry into, execution, delivery and performance of a structured financing agreement by the New Jersey Building Authority established pursuant to the "New Jersey Building Authority Act," P.L.1981, c.120 (C.52:18A-78.1 et seq.) shall not constitute a "project" for the purposes of the "New Jersey Building Authority Act."

d. The State Treasurer is authorized to select the investors for structured financing transactions through a public bidding procedure.

e. The State Treasurer is authorized to engage, in such manner as the State Treasurer may determine, the services of financial advisors and experts, placement agents, underwriters, appraisers, and such other advisors, consultants and agents as may be necessary in the State Treasurer's judgment to assist the State Treasurer in carrying out a structured financing transaction.

f. An obligation of the State to make payments pursuant to a structured financing transaction shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution. An obligation of the State to make payments pursuant to a structured financing agreement shall be subject to and dependent upon appropriations being made by the Legislature for the purposes of this act. The net receipt made in connection with a structured financing transaction and received by the State Treasurer shall be deposited in the General Fund of the State.

g. A structured financing agreement may, upon the determination of the State Treasurer, provide that an entity taking part in a structured financing transaction shall be immune from liability in the same manner and to the same extent as is the State under the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., and the "New Jersey Contractual Liability Act," N.J.S.59:13-1 et seq.

h. A structured financing agreement may provide that an entity taking part in a structured financing transaction, and the officers, directors and employees of that entity, shall have a right of indemnification from the State or the State agency or State authority with which the agreement is made for any claim or judgment arising out of assets that are the subject of the structured financing agreement, except that the State, State agency or State authority,

as appropriate, shall not indemnify or agree to indemnify such an entity, officer, director or employee for any act or omission to act that constitutes gross negligence, actual malice, actual fraud, willful misconduct or a crime, or that relates to any financial decisions made by the entity and its officers, directors and employees in connection with the structured financing transaction. The State or State agency or State authority may agree to indemnify any entity taking part in a structured financing transaction, and the officers, directors and employees of that entity, for punitive damages for a violation of civil law if such damages do not arise from actions that constitute gross negligence, actual malice, actual fraud or willful misconduct. The State Treasurer may set forth a provision for indemnity under this subsection in the structured financing agreement upon such terms and conditions as the State Treasurer shall determine.

2. Section 10 of P.L.1999, c.157 (C.52:31C-10) is amended to read as follows:

**C.52:31C-10 Procedures for undertaking structured financing agreements by public agencies other than the State.**

10. Notwithstanding any law to the contrary, the State Treasurer shall establish procedures under which a county or municipal governing board, a board of education, a sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), a utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), or the Passaic Valley Sewerage Commissioners, continued pursuant to R.S.58:14-2 may undertake structured financing agreements involving local assets in a manner similar to that provided for State assets, including procedures for the incorporation in such agreements of provisions that accord entities participating in structured financing transactions such rights of immunity and indemnification as the State Treasurer, under subsections g. and h. of section 4 of P.L.1999, c.157 (C.52:31C-4), may deem appropriate to be established for entities participating in a structured financing transaction with the State.

3. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 107

AN ACT concerning the provision and funding of services and benefits for certain persons and revising parts of the statutory law.

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

1. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended to read as follows:

**C.26:2H-18.58 Health Care Subsidy Fund.**

8. There is established the Health Care Subsidy Fund in the Department of Health and Senior Services.

a. The fund shall be comprised of revenues from employee and employer contributions made pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b), revenues from the hospital assessment made pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), revenues pursuant to section 11 of P.L.1996, c.28 (C.26:2H-18.58c), revenues from interest and penalties collected pursuant to this act and revenues from such other sources as the Legislature shall determine. Interest earned on the monies in the fund shall be credited to the fund. The fund shall be a nonlapsing fund dedicated for use by the State to: (1) distribute charity care and other uncompensated care disproportionate share payments to hospitals, and other eligible providers pursuant to section 8 of P.L.1996, c.28 (C.26:2H-18.59f), provide subsidies for the Health Access New Jersey program established pursuant to section 15 of P.L.1992, c.160 (C.26:2H-18.65), and provide funding for children's health care coverage pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.); (2) assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services; and (3) provide for the payment in State fiscal year 2002 of appropriate Medicaid expenses, subject to the approval of the Director of the Division of Budget and Accounting.

b. The fund shall be administered by a person appointed by the commissioner.

The administrator of the fund is responsible for overseeing and coordinating the collection and reimbursement of fund monies. The administrator is responsible for promptly informing the commissioner if monies are not or are not reasonably expected to be collected or disbursed.

c. The commissioner shall adopt rules and regulations to ensure the integrity of the fund, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The administrator shall establish separate accounts for the charity care component of the disproportionate share hospital subsidy, other uncompensated care component of the disproportionate share hospital subsidy, hospital and other health care initiatives funding and the payments for subsidies for insurance premiums to provide care in disproportionate share hospitals, known as the Health Access New Jersey subsidy account, respectively.

e. In the event that the charity care component of the disproportionate share hospital subsidy account has a surplus in a given year after payments are distributed pursuant to the methodology established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and within the limitations provided in subsection e. of section 9 of P.L.1992, c.160 (C.26:2H-18.59), the surplus monies in calendar years 2002, 2003 and 2004 shall lapse to the unemployment compensation fund established pursuant to R.S.43:21-9, and each year thereafter shall lapse to the charity care component of the disproportionate share hospital subsidy account for distribution in subsequent years.

2. R.S.43:21-3 is amended to read as follows:

**Benefits.**

43:21-3. Benefits.

(a) Payment of benefits.

All benefits shall be promptly paid from the fund in accordance with such regulations as may be prescribed hereunder.

(b) Weekly benefits for unemployment.

With respect to an individual's benefit year commencing on or after July 1, 1961, such individual, if eligible and unemployed (as defined in subsection (m) of R.S.43:21-19), shall be paid an amount (except as to final payment) equal to his weekly benefit rate less any remuneration, other than remuneration from self-employment paid to an individual who is receiving a self-employment assistance allowance, paid or payable to him for such week in excess of 20% of his weekly benefit rate (fractional part of a dollar omitted) or \$5.00, whichever is the greater; provided that such amount shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

(c) Weekly benefit rate.

(1) With respect to an individual whose benefit year commences after September 30, 1984, his weekly benefit rate under each determination shall be 60% of his average weekly wage, subject to a maximum of 56 2/3 % of the Statewide average weekly remuneration paid to workers by employers subject to this chapter (R.S.43:21-1 et seq.), as determined and promulgated by the Commissioner of Labor; provided, however, that such individual's weekly benefit rate shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

(2) Dependency benefits.

(A) With respect to an individual whose benefit year commences after September 30, 1984, the individual's weekly benefit rate as determined in paragraph (1) of this subsection (c) will be increased by 7% for the first dependent and 4% each for the next two dependents (up to a maximum of three dependents), computed to the next lower multiple of \$1.00 if not already

a multiple thereof, except that the maximum weekly benefit rate payable for an individual claiming dependency benefits shall not exceed the maximum amount determined under paragraph (1) of this subsection (c).

(B) For the purposes of this paragraph (2), a dependent is defined as an individual's unemployed spouse or an unemployed unmarried child (including a stepchild or a legally adopted child) under the age of 19 or an unemployed unmarried child, who is attending an educational institution as defined in subsection (y) of R.S.43:21-19 on a full-time basis and is under the age of 22. If an individual's spouse is employed during the week the individual files an initial claim for benefits, this paragraph (2) shall not apply. If both spouses establish a claim for benefits in accordance with the provisions of this chapter (R.S.43:21-1 et seq.), only one shall be entitled to dependency benefits as provided in this paragraph (2).

(C) Any determination establishing dependency benefits under this paragraph (2) shall remain fixed for the duration of the individual's benefit year and shall not be increased or decreased unless it is determined by the division that the individual wrongfully claimed dependency benefits as a result of false or fraudulent representation.

(D) Notwithstanding the provisions of any other law, the division shall use every available administrative means to insure that dependency benefits are paid only to individuals who meet the requirements of this paragraph (2). These administrative actions may include, but shall not be limited to, the following:

(i) All married individuals claiming dependents under this paragraph (2) shall be required to provide the social security number of the individual's spouse. If the individual indicates that the spouse is unemployed, the division shall match the social security number of the spouse against available wage records to determine whether earnings were reported on the last quarterly earnings report filed by employers under R.S.43:21-14. If earnings were reported, the division shall contact in writing the last employer to determine whether the spouse is currently employed.

(ii) Where a child is claimed as a dependent by an individual under this paragraph (2), the individual shall be required to provide to the division the most recent federal income tax return filed by the individual to assist the division in verifying the claim.

(3) For the purposes of this subsection (c), the "Statewide average weekly remuneration paid to workers by employers" shall be computed and determined by the Commissioner of Labor on or before September 1 of each year on the basis of one-fifty-second of the total remuneration reported for the preceding calendar year by employers subject to this chapter, divided by the average of the number of workers reported by such employers, and shall be effective

as to benefit determinations in the calendar year following such computation and determination.

(d) Maximum total benefits.

(1) (A) (Deleted by amendment, P.L.2003, c.107).

(B) (i) With respect to an individual for whom benefits shall be payable for benefit years commencing on or after July 1, 1986, and before July 1, 2003, and on or after July 1, 2005, as provided in this section, the individual shall be entitled to receive a total amount of benefits equal to three-quarters of the individual's base weeks with all employers in the base year multiplied by the individual's weekly benefit rate; but the amount of benefits thus resulting under that determination shall be adjusted to the next lower multiple of \$1.00 if not already a multiple thereof. With respect to an individual for whom benefits shall be payable for benefit years commencing on or after July 1, 2003 and before July 1, 2005, as provided in this section, the individual shall be entitled to receive a total amount of benefits equal to the number of the individual's base weeks with all employers in the base year multiplied by the individual's weekly benefit rate; but the amount of benefits thus resulting under that determination shall be adjusted to the next lower multiple of \$1.00 if not already a multiple thereof.

(ii) Except as provided pursuant to paragraph (1) of subsection (c) of R.S.43:21-7, benefits paid to an individual for benefit years commencing on or after July 1, 1986 shall be charged against the accounts of the individual's base year employers in the following manner:

Each week of benefits paid to an eligible individual shall be charged against each base year employer's account in the same proportion that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during the base year.

(iii) (Deleted by amendment, P.L.1997, c.255.)

(2) No such individual shall be entitled to receive benefits under this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly benefit rate in any benefit year under either of subsections (c) and (f) of R.S. 43:21-4. In the event that any individual qualifies for benefits under both of said subsections during any benefit year, the maximum total amount of benefits payable under said subsections combined to such individual during the benefit year shall be one and one-half times the maximum amount of benefits payable under one of said subsections.

(3) (Deleted by amendment, P.L.1984, c.24.)

3. R.S.43:21-7 is amended to read as follows:

**Contributions.**

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346

(C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first \$4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessors, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first \$4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor on or before September 1 of the preceding year and shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Federal Unemployment Tax Act, Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C.s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the Federal Unemployment Tax Act for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall



identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base year, base week wages paid to the claimant by that employer, then such employer shall have canceled from his account such excess benefit charges as specified above.

Each employer shall be furnished an annual summary statement of benefits charged to his account.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.s.3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1) 2 5/10%, if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S.43:21-19);

(2) 2 2/10%, if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 6/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5)  $1\frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2)  $4\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3)  $4\frac{6}{10}\%$ , if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates. If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows:

(i) if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and (ii) if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by  $\frac{3}{10}$  of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds  $2\frac{1}{2}\%$  but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for

a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42

U.S.C.s.1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

(E) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2001, c.152).

(iii) (Deleted by amendment, P.L.2003, c.107).

(iv) With respect to the experience rating year beginning on July 1, 2002, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE  
Fund Reserve Ratio<sup>1</sup>

Employer Reserve Ratio <sup>2</sup>	3.50% and Over A	3.00% to 3.49% B	2.50% to 2.99% C	2.00% to 2.49% D	1.99% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3

-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00%to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00%to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00%to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00%to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

<sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(v) With respect to experience rating years beginning on or after July 1, 2003, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

#### EXPERIENCE RATING TAX TABLE

##### Fund Reserve Ratio<sup>1</sup>

Employer Reserve Ratio <sup>2</sup>	2.50% and Over A	2.00% to 2.49% B	1.50% to 1.99% C	1.00% to 1.49% D	0.99% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2

-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

<sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) With respect to experience rating years beginning on or after July 1, 1997, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.00%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On or after January 1, 1993 until December 31, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 52.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1994 until December 31, 1995, except as provided pursuant to subparagraph (I) of this paragraph (5), notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 36.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after April 1, 1996 until December 31, 1996, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 25.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1997 until December 31, 1997, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 10.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2004, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;

From January 1, 1999 until December 31, 1999, a factor of 10%;

From January 1, 2000 until December 31, 2000, a factor of 7%;

From January 1, 2002 until March 31, 2002, a factor of 36%;

From April 1, 2002 until June 30, 2002, a factor of 85%;

From July 1, 2002 until June 30, 2003, a factor of 15%; and

From July 1, 2003 until June 30, 2004, a factor of 15%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) If the fund reserve ratio decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subparagraph (H) of this paragraph (5) shall cease to be in effect as of July 1 of that calendar year.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, March 31, 1998 or March 31, 1999, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 1997, March 31, 1998 or March 31, 1999, as applicable, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of at least 3.00%.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 2000, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of



3.00%. The State Treasurer shall, prior to March 31, 2000, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 2000 of at least 3.00%.

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made. Any such additional contribution shall be made during the 30-day period following the date of the mailing to the employer of the notice of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, a penalty of 5% thereof or \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Unless the predecessor employer was owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice protesting the transfer of the employment experience of the predecessor employer.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(d) Contributions of workers to the unemployment compensation fund and the State disability benefits fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-37 et seq.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) (i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under

section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(ii) (Deleted by amendment, P.L.1995, c.422.)

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending March 31, 1996, contribute to the unemployment compensation fund 0.60% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2000 until December 31, 2001, contribute to the unemployment compensation fund 0.20% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing

or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2004, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(G) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental

employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that law (C.43:21-31) or any other provision of that law.

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) (Deleted by amendment, P.L.1994, c.112.)

(D) (Deleted by amendment, P.L.1994, c.112.)

(E) (i) (Deleted by amendment, P.L.1994, c.112.)

(ii) (Deleted by amendment, P.L.1996, c.28.)

(iii) (Deleted by amendment, P.L.1994, c.112.)

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law," such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer

with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute  $\frac{1}{2}$  of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be  $\frac{1}{10}$  of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than  $\frac{1}{10}$  of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole



or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by subparagraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in subparagraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be 1/2 of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has

paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than \$500.00, such preliminary rate shall be as follows:

(i)  $2/10$  of 1% if such excess over \$500.00 exceeds 1% but is less than  $1\frac{1}{4}\%$  of his average annual payroll (as defined in this chapter (R.S.43:21-1 et seq.);

(ii)  $15/100$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{4}\%$  but is less than  $1\frac{1}{2}\%$  of his average annual payroll;

(iii)  $1/10$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{2}\%$  of his average annual payroll.

(3) If the minimum requirements in (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than \$500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than \$500.00, the preliminary rate shall be  $1/4$  of 1%.

(4) If the minimum requirements in (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than \$500.00, such preliminary rate shall be as follows:

(i)  $35/100$  of 1% if such excess over \$500.00 is less than  $1/4$  of 1% of his average annual payroll;

(ii)  $45/100$  of 1% if such excess over \$500.00 equals or exceeds  $1/4$  of 1% but is less than  $1/2$  of 1% of his average annual payroll;

(iii)  $55/100$  of 1% if such excess over \$500.00 equals or exceeds  $1/2$  of 1% but is less than  $3/4$  of 1% of his average annual payroll;

(iv)  $65/100$  of 1% if such excess over \$500.00 equals or exceeds  $3/4$  of 1% but is less than 1% of his average annual payroll;

(v)  $75/100$  of 1% if such excess over \$500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in (2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than  $1/10$  of 1% of wages or increased by more than  $2/10$  of 1% of wages from the preliminary rate determined for the preceding year in accordance with (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the

amount at the end of such preceding calendar year of the unemployment disability account (as defined in section 22 of said law (C.43:21-46), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in (D) hereof, as follows:

(i) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds  $1\frac{1}{4}\%$ , the final employer rates shall be the preliminary rates determined as provided in (D) hereof, except that if the employer's preliminary rate is determined as provided in (D)(2) or (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest  $\frac{5}{100}$  of 1%, but in no case shall such final rate be less than  $\frac{1}{10}$  of 1%.

(ii) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds  $\frac{3}{4}$  of 1% and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with paragraph (E)(1) of this subsection is less than  $\frac{3}{4}$  of 1%, but in excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the preliminary employer rates determined as provided in (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however, that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, nor more than  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in paragraph (E)(1) of this subsection is equal to or less than  $\frac{1}{4}$  of 1%, then the final rate shall be  $\frac{2}{5}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof,  $\frac{7}{10}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

4. Section 29 of P.L.1992, c.160 (C.43:21-7b) is amended to read as follows:

**C.43:21-7b Contributions to Health Care Subsidy Fund.**

29. a. Beginning January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages.

Beginning April 1, 1996 through December 31, 1996, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages, except that the total amount contributed to the fund when combined with the employee's contribution made pursuant to R.S.43:31-7(d)(1)(D) for the period January 1, 1996 through March 31, 1996, shall not exceed 0.6% of the employee's taxable wages for the 1996 calendar year.

Beginning January 1, 1997 through December 31, 1997, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.5% of the employee's taxable wages.

Beginning on January 1, 1998 until December 31, 1998, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.30% of the employee's taxable wages.

Beginning on January 1, 1999 until December 31, 1999, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.25% of the employee's taxable wages.

Beginning on January 1, 2000 until June 30, 2004, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.20% of the employee's taxable wages.

Also beginning on January 1, 1993 until December 31, 1995 and beginning April 1, 1996 until December 31, 1997, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

Also beginning on January 1, 1998 until December 31, 2000, and beginning on January 1, 2002 and ending June 30, 2004, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

b. If the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to a level

of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subsection a. of this section shall cease to be in effect as of July 1 of that calendar year and each employer who would be subject to making the contributions pursuant to subsection a. of this section if that subsection were in effect shall, beginning on July 1 of that calendar year, contribute to the fund an amount equal to 0.62% of the total wages paid by the employer and shall continue to contribute that amount until December 31, 1995.

c. If the total amount of contributions to the fund pursuant to this section during the calendar year 1993 exceeds \$600 million, all contributions which exceed \$600 million shall be deposited in the unemployment compensation fund. If the total amount of contributions to the fund pursuant to this section during calendar year 1994 or calendar year 1995 exceeds \$500 million, all contributions which exceed \$500 million shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1996 or 1997 exceeds \$330 million, all contributions which exceed \$330 million in calendar year 1996 or 1997 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1998 exceeds \$288 million, all contributions which exceed \$288 million in the calendar year 1998 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1999 exceeds \$233.9 million, all contributions which exceed \$233.9 million in the calendar year 1999 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2000 exceeds \$178.6 million, all contributions which exceed \$178.6 million in the calendar year 2000 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2001 exceeds \$94.9 million, all contributions which exceed \$94.9 million in the calendar year 2001 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the period beginning January 1, 2002 and ending June 30, 2002 exceeds \$516.5 million, all contributions which exceed \$516.5 million in the period beginning January 1, 2002 and ending June 30, 2002 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2003 or fiscal year 2004 exceeds \$325 million, all contributions which exceed \$325 million in the fiscal year 2003 or fiscal year 2004 shall be deposited in the unemployment compensation fund.

d. All necessary administrative costs related to the collection of contributions pursuant to this section shall be paid from the contributions.

5. Section 4 of P.L.1971, c.346 (C.43:21-7.3) is amended to read as follows:

**C.43:21-7.3 Governmental entities.**

4. (a) Notwithstanding any other provisions of the "unemployment compensation law" for the payment of contributions, benefits paid to individuals based upon wages earned in the employ of any governmental entity or instrumentality which is an employer defined under R.S.43:21-19(h)(5) shall, to the extent that such benefits are chargeable to the account of such governmental entity or instrumentality in accordance with the provisions of R.S.43:21-1 et seq., be financed by payments in lieu of contributions.

(b) Any governmental entity or instrumentality may, as an alternative to financing benefits by payments in lieu of contributions, elect to pay contributions beginning with the date on which its subjectivity begins by filing written notice of its election with the department no later than 120 days after such subjectivity begins, provided that such election shall be effective for at least two full calendar years; or it may elect to pay contributions for a period of not less than two calendar years beginning January 1 of any year if written notice of such election is filed with the department not later than February 1 of such year; provided, further, that such governmental entity or instrumentality shall remain liable for payments in lieu of contributions with respect to all benefits paid based on base year wages earned in the employ of such entity or instrumentality in the period during which it financed its benefits by payments in lieu of contributions.

(c) Any governmental entity or instrumentality may terminate its election to pay contributions as of January 1 of any year by filing written notice not later than February 1 of any year with respect to which termination is to become effective. It may not revert to a contributions method of financing for at least two full calendar years after such termination.

(d) Any governmental entity or instrumentality electing the option for contributions financing shall report and pay contributions in accordance with the provisions of R.S.43:21-7 except that, notwithstanding the provisions of that section, the contribution rate for such governmental entity or instrumentality shall be 1% for the entire calendar year 1978 and the contribution rate for any subsequent calendar years shall be the rate established for governmental entities or instrumentalities under subsection (e) of this section.

(e) On or before September 1 of each year, the Commissioner of Labor shall review the composite benefit cost experience of all governmental entities and instrumentalities electing to pay contributions and, on the basis of that experience, establish the contribution rate for the next following calendar year which can be expected to yield sufficient revenue in combination with

worker contributions to equal or exceed the projected costs for that calendar year.

(f) Any covered governmental entity or instrumentality electing to pay contributions shall each year appropriate, out of its general funds, moneys to pay the projected costs of benefits at the rate determined under subsection (e) of this section. These funds shall be held in a trust fund maintained by the governmental entity for this purpose. Any surplus remaining in this trust fund may be retained in reserve for payment of benefit costs for subsequent years either by contributions or payments in lieu of contributions.

(g) Any governmental entity or instrumentality electing to finance benefit costs with payments in lieu of contributions shall pay into the fund an amount equal to all benefit costs for which it is liable pursuant to the provisions of the "unemployment compensation law." Each subject governmental entity or instrumentality shall require payments from its workers in the same manner and amount as prescribed under R.S.43:21-7(d) for governmental entities and instrumentalities financing their benefit costs with contributions. No such payment shall be used for a purpose other than to meet the benefits liability of such governmental entity or instrumentality. In addition, each subject governmental entity or instrumentality shall appropriate out of its general funds sufficient moneys which, in addition to any worker payments it requires, are necessary to pay its annual benefit costs estimated on the basis of its past benefit cost experience; provided that for its first year of coverage, its benefit costs shall be deemed to require an appropriation equal to 1% of the projected total of its taxable wages for the year. These appropriated moneys and worker payments shall be held in a trust fund maintained by the governmental entity or instrumentality for this purpose. Any surplus remaining in this trust fund shall be retained in reserve for payment of benefit costs in subsequent years. If a governmental entity or instrumentality requires its workers to make payments as authorized herein, such workers shall not be subject to the contributions required in R.S.43:21-7(d).

(h) Notwithstanding the provisions of the above subsection (g), commencing July 1, 1986 worker contributions to the unemployment trust fund with respect to wages paid by any governmental entity or instrumentality electing or required to make payments in lieu of contributions, including the State of New Jersey, shall be made in accordance with the provisions of R.S.43:21-7(d)(1)(C) or R.S.43:21-7(d)(1)(D), as applicable, and, in addition, each governmental entity or instrumentality electing or required to make payments in lieu of contributions shall, except during the period starting January 1, 1993 and ending December 31, 1995 and the period starting April 1, 1996 and ending December 31, 1998, require payments from its workers at the following rates of wages paid, which amounts are to be held in the trust fund maintained by the governmental entity or instrumentality for payment of benefit

costs: for the calendar year 1999, 0.05%; for each calendar year from 2000 to 2002, and the period from January 1, 2003 to June 30, 2004, 0.10%; and each fiscal year thereafter, 0.30%.

6. Section 1 of P.L.1952, c.282 (C.43:21-20.1) is amended to read as follows:

**C.43:21-20.1 Individuals employed part time; eligibility for benefits.**

1. Notwithstanding any other provision of R.S.43:21-1 et seq. to the contrary, no individual, who is otherwise eligible, shall be deemed unavailable for work or ineligible for benefits solely for the reason that the individual is available for, seeks, applies for, or accepts only part-time work, instead of full-time work, if the claim is based on part-time employment and the individual is actively seeking and is willing to accept work under essentially the same conditions as existed in connection with the employment from which the individual became eligible for benefits.

7. This act shall take effect immediately.

Approved July 1, 2003.

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CHAPTER 108

AN ACT concerning the funding of the Public Employees' Retirement System of New Jersey, the funding and special retirement allowance of the Police and Firemen's Retirement System, amending P.L.1954, c.84, P.L.1964, c.241 and P.L.1944, c.255 and supplementing P.L.1976, c.68 (C.40A:4-45.1 et seq.).

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

1. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to read as follows:

**C.43:15A-24 Contingent reserve fund.**

24. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of March 31, 1992, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service



rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. With respect to employers other than the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute the amount of the accrued liability of the retirement system as of March 31, 1992 under the projected unit credit method, excluding the liability for pension adjustment benefits for active employees funded pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. Using the total amount of this unfunded accrued liability, the actuary shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 40 years on initial application of this section as amended by this act, P.L.1994, c.62. This shall be known as the "accrued liability contribution." Any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for the 10 valuation years following valuation year 1992 shall serve to increase or decrease, respectively, the unfunded accrued liability contribution. Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

With respect to the State, upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period

of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the commission and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending March 31, 1996 shall be the full market value of the assets as of that date and, with respect to the valuation assets allocated to the State, shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system. Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1999 shall be the full market value of the assets as of that date.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to the State:

- (1) the valuation assets allocated to the State; less
- (2) the actuarial accrued liability of the State for basic benefits and pension adjustment benefits under the retirement system; less
- (3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less

(4) the post retirement medical premium fund, created pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by section 8 of P.L.1994, c.62; less

(5) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the State authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to other employers:

(1) the valuation assets allocated to the other employers; less

(2) the actuarial accrued liability of the other employers for basic benefits and pension adjustment benefits under the retirement system, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other than the State; less

(3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less

(4) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the other employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

If there are excess valuation assets allocated to the State or to the other employers for the valuation period ending March 31, 1996, the normal contributions payable by the State or by the other employers for the valuation periods ending March 31, 1996 and March 31, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets allocated to the State or to the other employers, respectively, provided that with respect to the excess valuation assets allocated to the State, the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in Abbott v. Burke. If there are excess valuation assets allocated to the State or to the other employers for a valuation period ending after March 31, 1996, the State

Treasurer may reduce the normal contribution payable by the State or by the other employers for the next valuation period as follows:

(1) for valuation periods ending March 31, 1997 through March 31, 2001, to the extent possible by up to 100% of the excess valuation assets allocated to the State or to the other employers, respectively;

(2) for the valuation period ending March 31, 2002, to the extent possible by up to 84% of the excess valuation assets allocated to the State or to the other employers, respectively;

(3) for the valuation period ending March 31, 2003, to the extent possible by up to 68% of the excess valuation assets allocated to the State or to the other employers, respectively; and

(4) for valuation periods ending on or after March 31, 2004, to the extent possible by up to 50% of the excess valuation assets allocated to the State or to the other employers, respectively.

For calendar years 1998 and 1999, the rate of contribution of members of the retirement system under section 25 of P.L. 1954, c.84 (C.43:15A-25) shall be reduced by 1/2 of 1% from excess valuation assets and for calendar years 2000 and 2001, the rate of contribution shall be reduced by 2% from excess valuation assets. Thereafter, the rate of contribution of members of the retirement system under that section for a calendar year shall be reduced equally with normal contributions to the extent possible, but not by more than 2%, from excess valuation assets if the State Treasurer determines that excess valuation assets shall be used to reduce normal contributions by the State and local employers for the fiscal year beginning immediately prior to the calendar year, or for the calendar year for local employers whose fiscal year is the calendar year, and excess valuation assets above the amount necessary to fund the reduction for that calendar year in the member contribution rate plus an equal reduction in the normal contribution shall be available for the further reduction of normal contributions, subject to the limitations prescribed by this subsection.

If there are excess valuation assets after reductions in normal contributions and member contributions as authorized in the preceding paragraphs for a valuation period beginning with the valuation period ending June 30, 1999, an amount of excess valuation assets not to exceed the amount of the member contributions for the fiscal year in which the normal contributions are payable shall be credited to the benefit enhancement fund. The amount of excess valuation assets credited to the benefit enhancement fund shall not exceed the present value of the expected additional normal contributions attributable to the provisions of P.L. 2001, c. 133 payable on behalf of the active members over the expected working lives of the active members in accordance with the tables of actuarial assumptions for the valuation period. No additional excess valuation assets shall be credited to the benefit enhancement fund after

the maximum amount is attained. Interest shall be credited to the benefit enhancement fund as provided under section 33 of P.L.1954, c.84 (C.43:15A-33).

The normal contribution for the increased benefits for active employees under P.L.2001, c.133 shall be paid from the benefit enhancement fund. If assets in the benefit enhancement fund are insufficient to pay the normal contribution for the increased benefits for a valuation period, the State shall pay the amount of normal contribution for the increased benefits not covered by assets from the benefit enhancement fund.

c. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section.

The State Treasurer shall reduce the normal and accrued liability contributions payable by employers other than the State, excluding the contribution payable from the benefit enhancement fund, to a percentage of the amount certified annually by the retirement system, which percentage shall be: for payments due in the State fiscal year ending June 30, 2005, 20%; for payments due in the State fiscal year ending June 30, 2006, not more than 40%; for payments due in the State fiscal year ending June 30, 2007, not more than 60%; and for payments due in the State fiscal year ending June 30, 2008, not more than 80%.

The State shall pay into the contingent reserve fund during the ensuing year the amount so determined. The death benefits, payable as a result of contribution by the State under the provisions of this chapter upon the death of an active or retired member, shall be paid from the contingent reserve fund.

d. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contributions of the State and other employers.

2. Section 16 of P.L.1964, c.241 (C.43:16A-11.1) is amended to read as follows:

**C.43:16A-11.1 Special retirement; resignation with 25 years of creditable service; allowance; death benefit.**

16. a. Should a member resign after having established 25 years of creditable service, he may elect "special retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in section 11, a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions, and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 65% of his final compensation, plus 1% of his final compensation multiplied by the number of years of creditable service over 25 but not over 30; or, beginning in the fiscal year immediately following the adoption of the valuation report by the retirement system board of trustees in which the funded level is in excess of 104%, a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 70% of final compensation, plus 1% of final compensation multiplied by the number of years of creditable service over 25 but not over 30; provided, however, that any member who has earned, prior to July 1, 1979, more than 30 years of creditable service, shall receive an additional 1% of his final compensation for each year of his creditable service over 30.

The board of trustees shall retire him at the time specified or at such other time within one month after the date so specified as the board finds advisable.

Upon the receipt of proper proofs of the death of such a retired member, there shall be paid to his beneficiary an amount equal to one-half of the final compensation received by the member.

b. The "special retirement" allowance payable under subsection a. of this section to any person who retired under the retirement system prior to December 20, 1989 shall be increased by an amount equal to 5% of the person's final compensation or by such lesser amount as would, if added to the allowance payable at the time of retirement, provide a total retirement allowance of 70% of final compensation, except that in the case of such a retirant who retired on or after July 1, 1979 and had earned prior to that date more than 30 years of creditable service, the amount of the increase shall be equal to 5% of the person's final compensation irrespective of the total retirement allowance which such an increase would provide. The provisions of this subsection shall not be construed either to require a reduction in the retirement allowance payable to any retirant or to provide for the payment of any adjustment in such an allowance with respect to any period of time prior to the first day of the month following that effective date.

3. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to read as follows:

**C.43:16A-15 Contributions, expenses of administration.**

15. (1) The contributions required for the support of the retirement system shall be made by members and their employers.

(2) The uniform percentage contribution rate for members shall be 8.5% of compensation.

(3) (Deleted by amendment, P.L.1989, c.204).

(4) Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1991, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

(5) (Deleted by amendment, P.L.1989, c.204).

(6) (Deleted by amendment, P.L.1994, c.62.)

(7) Each employer shall cause to be deducted from the salary of each member the percentage of earnable compensation prescribed in subsection (2) of this section. To facilitate the making of deductions, the retirement system may modify the amount of deduction required of any member by an amount not to exceed 1/10 of 1% of the compensation upon which the deduction is based.

(8) The deductions provided for herein shall be made notwithstanding that the minimum salary provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The chief fiscal officer of each employer shall certify to the retirement system in such manner as the retirement system may prescribe, the amounts deducted; and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose salary said deduction was made.

(9) With respect to employers other than the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute the amount of the accrued liability as of June 30, 1991 under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. Using the total amount of this unfunded accrued liability, the actuary shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 40 years on initial application of this section as amended by this act, P.L.1994, c.62. This shall be known as the "accrued liability contribution." Any increase or decrease in the unfunded accrued liability as

a result of actuarial losses or gains for the 10 valuation years following valuation year 1991 shall serve to increase or decrease, respectively, the unfunded accrued liability contribution. Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

With respect to the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the



benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1995 shall be the full market value of the assets as of that date and, with respect to the valuation assets allocated to the State, shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system. Notwithstanding the first sentence of this paragraph, the percentage of the difference between the expected value and the full market value of the assets to be added to the expected value of the assets for the valuation period ending June 30, 1998 for the State shall be 100% and for other employers shall be 57% plus such additional percentage as is equivalent to \$150,000,000. Notwithstanding the first sentence of this paragraph, the amount of the difference between the expected value and the full market value of the assets to be added to the expected value of the assets for the valuation period ending June 30, 1999 shall include an additional amount of the market value of the assets sufficient to fund (1) the unfunded accrued liability for the supplementary "special retirement" allowances provided under subsection b. of section 16 of P.L.1964, c.241 (C.43:16A-11.1) and (2) the unfunded accrued liability for the full credit toward benefits under the retirement system for service credited in the Public Employees' Retirement System and transferred pursuant to section 1 of P.L.1993, c.247 (C.43:16A-3.8) and the reimbursement of the cost of any credit purchase pursuant to section 3 of P.L.1993, c.247 (C.43:16A-3.10) provided under section 1 of P.L.2001, c.201 (C.43:16A-3.14).

"Excess valuation assets" means, with respect to the valuation assets allocated to the State, the valuation assets allocated to the State for a valuation period less the actuarial accrued liability of the State for the valuation period, and beginning with the valuation period ending June 30, 1998, less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.1999, c.428 (C.43:16A-15.8 et al.) payable on behalf of the active members employed by the State as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable to the valuation period, and less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.2003, c.108 as amending section 16 of P.L.1964, c.241 (C.43:16A-11.1) payable on behalf of the active members employed by the State as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable

to the valuation period, if the sum is greater than zero. "Excess valuation assets" means, with respect to the valuation assets allocated to other employers, the valuation assets allocated to the other employers for a valuation period less the actuarial accrued liability of the other employers for the valuation period, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1993, c.99 for the other employers, and beginning with the valuation period ending June 30, 1998, less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.1999, c.428 (C.43:16A-15.8 et al.) payable on behalf of the active members employed by other employers as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable to the valuation period, and less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.2003, c.108 as amending section 16 of P.L.1964, c.241 (C.43:16A-11.1) payable on behalf of the active members employed by other employers as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable to the valuation period, if the sum is greater than zero.

If there are excess valuation assets allocated to the State or to the other employers for the valuation period ending June 30, 1995, the normal contributions payable by the State or by the other employers for the valuation periods ending June 30, 1995, and June 30, 1996 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets allocated to the State or to the other employers, respectively, provided that with respect to the excess valuation assets allocated to the State, the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in *Abbott v. Burke*.

If there are excess valuation assets allocated to the other employers for the valuation period ending June 30, 1998, the accrued liability contributions payable by the other employers for the valuation period ending June 30, 1997 shall be reduced to the extent possible by the excess valuation assets allocated to the other employers.

If there are excess valuation assets allocated to the State or to the other employers for a valuation period ending after June 30, 1998, the State Treasurer may reduce the normal contribution payable by the State or by other employers for the next valuation period as follows:

(1) for valuation periods ending June 30, 1996 through June 30, 2000, to the extent possible by up to 100% of the excess valuation assets allocated to the State or to the other employers, respectively;

(2) for the valuation period ending June 30, 2001, to the extent possible by up to 84% of the excess valuation assets allocated to the State or to the other employers, respectively;

(3) for the valuation period ending June 30, 2002, to the extent possible by up to 68% of the excess valuation assets allocated to the State or to the other employers, respectively; and

(4) for valuation periods ending on or after June 30, 2003, to the extent possible by up to 50% of the excess valuation assets allocated to the State or to the other employers, respectively.

Notwithstanding the discretion provided to the State Treasurer in the previous paragraph to reduce the amount of the normal contribution payable by employers other than the State, the State Treasurer shall reduce the amount of the normal contribution payable by employers other than the State by \$150,000,000 in the aggregate for the valuation period ending June 30, 1998, and then the State Treasurer may reduce further pursuant to the provisions of the previous paragraph the normal contribution payable by such employers for that valuation period.

As of the valuation report in which the funded level is in excess of 104%, an amount equal to the present value of the future normal contributions for the benefits provided by P.L.2003, c.108 as amending section 16 of P.L.1964, c.241 (C.43:16A-11.1), shall be credited to the benefit enhancement fund. If there are excess valuation assets after reductions in normal contributions as authorized in the preceding paragraphs, for a valuation period beginning with the valuation period in which the benefits provided by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.2003, c.108 apply, an amount of excess valuation assets not to exceed the amount of the member contributions for the fiscal year in which the normal contributions are payable shall be credited to the benefit enhancement fund. The amount of excess valuation assets credited to the benefit enhancement fund shall not exceed the present value of the expected additional normal and accrued liability contributions attributable to the provisions of section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.2003, c.108, payable on behalf of the active members over the expected working lives of the active members in accordance with the tables of actuarial assumptions for the valuation period. No additional excess valuation assets shall be credited to the benefit enhancement fund after the maximum amount is attained. Interest shall be credited to the benefit enhancement fund.

The normal and accrued liability contributions for the increased benefits for active employees under section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.2003, c.108, shall be paid from the benefit enhancement fund. If assets in the benefit enhancement fund are insufficient to pay the normal and accrued liability contributions for the increased benefits for a valuation

period, the retirement system shall pay the amount of normal and accrued liability contributions for the increased benefits not covered by assets from the benefit enhancement fund.

The normal and accrued liability contributions shall be certified annually by the retirement system and shall be included in the budget of the employer and levied and collected in the same manner as any other taxes are levied and collected for the payment of the salaries of members.

Notwithstanding the preceding sentence, the normal and accrued liability contributions to be included in the budget of and paid by the employer other than the State shall be as follows: for the payment due in the State fiscal year ending on June 30, 2004, 20% of the amount certified by the retirement system; for the payment due in the State fiscal year ending on June 30, 2005, a percentage of the amount certified by the retirement system as the State Treasurer shall determine but not more than 40%; for the payment due in the State fiscal year ending on June 30, 2006, a percentage of the amount certified by the retirement system as the State Treasurer shall determine but not more than 60%; and for the payment due in the State fiscal year ending on June 30, 2007, a percentage of the amount certified by the retirement system as the State Treasurer shall determine but not more than 80%.

(10) The treasurer or corresponding officer of the employer shall pay to the State Treasurer no later than April 1 of the State's fiscal year in which payment is due the amount so certified as payable by the employer, and shall pay monthly to the State Treasurer the amount of the deductions from the salary of the members in the employ of the employer, and the State Treasurer shall credit such amount to the appropriate fund or funds, of the retirement system.

If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by this act, interest at the rate of 10% per annum shall commence to run against the unpaid balance thereof on the first day after such 30th day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 10% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such 15th day.

(11) The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employer bears to the total number of members in the system. The pro rata share of the cost of administrative expense shall be

included with the certification by the retirement system of the employer's contribution to the system.

(12) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pension or other benefits on account of the employees or beneficiaries of any employer participating in the retirement system, for which reserves have not been previously created from funds, contributed by such employer or its employees for such benefits.

(13) (Deleted by amendment, P.L. 1992, c. 125.)

(14) Commencing with valuation year 1991, with payment to be made in Fiscal Year 1994, the Legislature shall annually appropriate and the State Treasurer shall pay into the pension accumulation fund of the retirement system an amount equal to 1.1% of the compensation of the members of the system for the valuation year to fund the benefits provided by section 16 of P.L. 1964, c. 241 (C.43:16A-11.1), as amended by P.L. 1979, c. 109.

(15) If the valuation assets are insufficient to fund the normal and accrued liability costs attributable to P.L. 1999, c. 428 (C.43:16A-15.8 et al.) as provided hereinabove, the normal and unfunded accrued liability contributions required to fund these costs for the State and other employers shall be paid by the State.

(16) The savings realized as a result of the amendments to this section by P.L. 2001, c. 44 in the payment of normal contributions computed by the actuary for the valuation periods ending June 30, 1998 for employers other than the State shall be used solely and exclusively by a county or municipality for the purpose of reducing the amount that is required to be raised by the local property tax levy by the county for county purposes or by the municipality for municipal purposes, as appropriate. The Director of the Division of Local Government Services in the Department of Community Affairs shall certify for each year that each county or municipality has complied with the requirements set forth herein. If the director finds that a county or municipality has not used the savings solely and exclusively for the purpose of reducing the amount that is required to be raised by the local property tax levy by the county for county purposes or by the municipality for municipal purposes, as appropriate, the director shall direct the county or municipal governing body, as appropriate, to make corrections to its budget.

4. Section 16 of P.L. 1944, c. 255 (C.43:16A-16) is amended to read as follows:

**C.43:16A-16 Funds to be established.**

16. (1) All the assets of the retirement system shall be credited according to the purpose for which they are held to one of five funds, namely, the annuity savings fund, the pension accumulation fund, the retirement reserve fund, the special reserve fund, and the benefit enhancement fund.

(2) The annuity savings fund shall be a fund in which shall be credited accumulated contributions by members or on their behalf to provide for their allowances. The aggregate contributions of a member withdrawn by him or paid to his estate or his designated beneficiary in event of his death as provided in this act shall be paid from the annuity savings fund. Upon the retirement of a member where the aggregate contributions of the member are to be provided in the form of an annuity, the aggregate contributions of the member shall be transferred from the annuity savings fund to the retirement reserve fund.

(3) The pension accumulation fund shall be the fund in which shall be credited contributions made by employers. Upon the death of a member either before or after retirement any lump sum benefit payable shall be charged to the pension accumulation fund. Upon the retirement or death of a member the reserve of any pension payable to or on his account shall be transferred to the retirement reserve fund. The retirement system at the end of each fiscal year shall allow interest on the balance of the retirement reserve fund as of the beginning of said fiscal year at the regular interest rate applicable thereto to cover the interest creditable for the year. The amount so allowed shall be due and payable and shall be credited annually. All other income received on the securities, funds and investments of the retirement system shall be credited to the pension accumulation fund, except as provided by subsection (5) of this section. The retirement system, upon the advice of the actuary, shall transfer to and from the pension accumulation fund any surplus or deficit in the retirement reserve fund.

(4) The retirement reserve fund shall be the fund from which all retirement allowances and benefits in lieu thereof shall be paid. If the retirement allowance of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the pension accumulation fund and the annuity savings fund.

(5) The special reserve fund shall be the fund to which any earnings in excess of the amounts annually allowed under the provisions of subsection (3) of this section shall be transferred. No additional amounts shall be credited to the special reserve fund at any time when the total accumulations in such fund equal 1% of the book value of the investments of the retirement system. In this event, any such excess shall be credited to the pension accumulation fund. All losses from the sale of securities shall be charged against the special reserve fund. The special reserve fund shall be considered for valuation purposes by the actuary as an asset of the retirement system.

**C.40A:4-45.43 Exemption on limits on increases for certain appropriations for pension contributions.**

5. In addition to the exceptions to the limits on increases to municipal appropriations set forth in section 3 of P.L.1976, c.68 (C.40A:4-45.3) and

to the county tax levy set forth in section 4 of P.L. 1976, c.68 (C.40A:4-45.4), appropriations that represent expenditures made by a municipality or county for the purpose of funding normal and accrued liability contributions to the Public Employees' Retirement System of New Jersey due in the State fiscal years 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09, or to the Police and Firemen's Retirement System due in the State fiscal years 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08, shall be exempt from the limits on increases to municipal appropriations and to the limits on increases to the county tax levy in county budgets, respectively, for the local budget year in which those contributions are due.

6. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 109

AN ACT authorizing the withdrawal of \$30 million from the State disability benefits fund and amending P.L. 1948, c. 110.

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

1. Section 23 of P.L. 1948, c. 110 (C.43:21-47) is amended to read as follows:

**C.43:21-47 Withdrawal from federal treasury.**

23. Withdrawal from Federal Treasury. (a) The State Treasurer is hereby authorized and directed to requisition and withdraw on or before December 31, 1948, the sum of \$50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (42 U.S.C. s. 1104), and to deposit such sums in the State disability benefits fund, established under the "Temporary Disability Benefits Law." The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations relating thereto as may be prescribed by the United States Secretary of the Treasury. No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the "Temporary Disability Benefits Law."

(b) The State Treasurer is hereby authorized and directed to requisition and withdraw within 90 days of this enactment, an additional sum of

\$50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (42 U.S.C. s. 1104), and to deposit such sums in the State disability benefits fund, established under the "Temporary Disability Benefits Law." The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations relating thereto as may be prescribed by the United States Secretary of the Treasury. If the balance in the State disability benefits fund as of December 31 of any calendar year, increased by the contributions credited thereto on or before, or as of January 31 immediately thereafter is in excess of \$75,000,000.00, the excess shall be withdrawn from the State disability benefits fund and deposited to the account of this State in the unemployment trust fund until the entire \$50,000,000.00 requisitioned and withdrawn under this subsection (b) has been returned and deposited to the account of this State in the unemployment trust fund pursuant to the provisions of this subsection (b) and subsection (c) hereof. Such repayment to the unemployment trust fund shall be considered in determining contribution rates by employers to the State disability benefits fund under R.S.43:21-7(e). No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the "Temporary Disability Benefits Law."

(c) The State Treasurer shall transfer from the State disability benefits fund to the clearing account of the unemployment compensation fund, as established under R.S.43:21-9, the sum of \$25,000,000.00. Such transfer may be made at such times and in such installments as the State Treasurer may deem proper, except that the total sum shall have been transferred by no later than April 30, 1971. Amounts transferred to the clearing account of the unemployment compensation fund under this subsection shall be cleared immediately and shall be deposited with the Secretary of the Treasury of the United States of America in accordance with the provisions of R.S.43:21-9(b).

(d) The State Treasurer is hereby authorized and directed to requisition and withdraw on or before December 31, 1985 a minimum of \$50,000,000.00, at the discretion of the Commissioner of Labor, from the State disability benefits fund established under section 22 of P.L. 1948, c. 110 (C.43:21-46) and to deposit such sum in the clearing account of the State unemployment compensation fund established under R.S.43:21-9. The amount transferred under this subsection (d) shall be cleared immediately and shall be deposited with the Secretary of the Treasury of the United States of America, in accordance with the provisions of R.S.43:21-9(b).

(e) The State Treasurer is hereby authorized and directed to requisition and withdraw on or after July 1, 1992 an amount not greater than \$25,000,000



from revenues received pursuant to paragraph (1) of subsection (e) of R.S.43:21-7, at the discretion of the Commissioner of Labor, from the State disability benefits fund established pursuant to section 22 of P.L.1948, c.110 (C.43:21-46) and to deposit that amount in the New Jersey Workforce Development Partnership Fund created pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9).

(f) The State Treasurer, in consultation with the Commissioner of Labor, is hereby authorized and directed to requisition and withdraw on or after July 1, 1994 from revenues received pursuant to paragraph (1) of subsection (e) of R.S.43:21-7, an amount from the State disability benefits fund not greater than 25% of the balance in that fund as of June 30, 1994 and to deposit that amount in the clearing account of the unemployment compensation fund established under R.S.43:21-9. The amount transferred under this subsection (f) shall be cleared immediately and shall be deposited with the Secretary of the Treasury of the United States of America, in accordance with the provisions of R.S.43:21-9(b).

(g) To the extent that funds from the General Fund are also deposited into the clearing account subsequent to July 1, 1994 but before October 2, 1994, such amount shall be reimbursed to the General Fund from amounts collected pursuant to R.S.43:21-7(d)(1)(G) and R.S.43:21-7(e) for quarterly periods ending on or after September 30, 1994.

(h) The amount transferred from the State disability benefits fund to the clearing account of the unemployment compensation fund under subsection (f) of this section plus any amount reimbursed to the General Fund in accordance with subsection (g) shall be repaid to the State disability benefits fund from general State revenues with interest at the rate earned by the investments made with moneys remaining in the State disability benefits fund. The repayment period shall not exceed ten years. The amount repaid each year shall be not less than one tenth of the total amount transferred from the State disability benefits fund to the clearing account of the unemployment compensation fund under subsection (f) of this section, plus not less than one tenth of the amount reimbursed to the General Fund in accordance with subsection (g), plus accrued interest. The State Treasurer shall, on or before the thirty-first day of January in 1995 and in each subsequent year determine what amount shall be repaid to the State disability benefits fund in the next commencing fiscal year, which amount shall be consistent with the provisions of this subsection (h). The Legislature shall appropriate that amount from the General Fund to the State disability benefits fund. For purposes of determining the balance in the State disability benefits fund as prescribed pursuant to subparagraph (1) of subparagraph (E) of paragraph (3) of subsection (e) of R.S.43:21-7, the amount transferred from the State disability benefits fund to the unemployment compensation fund pursuant to subsection (f) of this section and reimbursed

to the General Fund pursuant to subsection (g) of this section less repayments or other reductions, plus accrued interest shall be included therein.

(i) The State Treasurer is hereby authorized and directed to requisition and withdraw on or after July 1, 1996 an amount not greater than \$250,000,000 from the State disability benefits fund and to deposit that amount in the General Fund. For purposes of determining the balance in the State disability benefits fund as prescribed pursuant to subparagraph (1) of subparagraph (E) of paragraph (3) of subsection (e) of R.S.43:21-7, the amount transferred from the State disability benefits fund to the General Fund pursuant to this subsection (i) shall be included therein.

(j) To ensure that the provisions of subsection (i) of this section do not reduce or delay benefits payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), whenever the amount in the State disability benefits fund is less than the amount required to pay the benefits provided under that law and the necessary costs of administering those benefits, the additional amount required to pay the benefits and the administrative costs shall be paid from the General Fund. The amounts paid from the General Fund for benefits and administrative costs pursuant to this subsection shall be repaid to the General Fund from the State disability benefits fund at such time as the Treasurer determines that the repayment may be made without reducing or delaying benefits payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.). The repayment to the General Fund from the State disability benefits fund pursuant to this subsection (j) shall not effect an increase in employee or employer contributions under subsection (d) or (e) of R.S.43:21-7.

(k) The State Treasurer is hereby authorized and directed to requisition and withdraw, in addition to the \$33,000,000 appropriated from the State disability benefits fund pursuant to section 61 of P.L.2001, c.130 for transfer to the General Fund, before July 1, 2002 an amount not greater than \$50,000,000 from the State disability benefits fund and to deposit that amount in the General Fund, and in addition, is hereby authorized and directed to requisition and withdraw on or after July 1, 2003 an amount not greater than \$30,000,000 from the State disability benefits fund and to deposit that amount in the General Fund. For purposes of determining the balance in the State disability benefits fund as prescribed pursuant to subparagraph (1) of subparagraph (E) of paragraph (3) of subsection (e) of R.S.43:21-7, the amount transferred from the State disability benefits fund to the General Fund pursuant to this subsection (k) shall be regarded as being included in the State disability benefits fund.

(l) The State Treasurer is authorized to utilize funds from the State disability benefits fund to purchase insurance, excess insurance or reinsurance for the fund and to enter into whatever contracts are needed to ensure that the provisions of subsection (k) of this section do not reduce or delay benefits

payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

2. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 110

AN ACT concerning certain motor vehicle surcharges, and supplementing Title 17 of the Revised Statutes.

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

1. a. In addition to the provisions of the New Jersey Merit Rating Plan established pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and notwithstanding the provisions of any other law to the contrary, there is established a motor vehicle surcharge amnesty period. This period, which shall begin on the 60th day following the enactment of this act, shall be for a period of 60 days in duration. During this amnesty period, a driver who has failed to pay any motor vehicle surcharges levied pursuant to paragraph (1) or (3) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) may pay the full principal amount of any such surcharges to the Chief Administrator of the New Jersey Motor Vehicle Commission without any interest that otherwise may be due and without any costs of collection that otherwise may be due.

Notwithstanding the provisions of any other law to the contrary, no person shall be entitled to a waiver of any interest or cost of collection afforded under this subsection unless full payment of the motor vehicle surcharges due is made in accordance with rules and procedures established by the Chief Administrator. Full payment of the surcharges due shall constitute satisfaction of the applicable surcharge obligation. A driver who has been authorized by the Chief Administrator to pay a surcharge levied pursuant to paragraph (1) or (3) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) on an installment basis may participate in the amnesty established pursuant to this subsection. The amnesty afforded under this subsection shall not apply to surcharges levied pursuant to paragraph (2) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) nor shall any driver who has any outstanding surcharges levied pursuant to that paragraph be eligible to participate in this amnesty.

b. There shall be imposed a penalty equal to 5% of the principal outstanding upon any motor vehicle surcharges which are eligible to be satisfied during the amnesty period established pursuant to subsection a. of this section, but which are not so satisfied during that amnesty period. This penalty shall be in addition to all other penalties, interest or costs of collection otherwise authorized by law upon those unsatisfied surcharges; provided, however, this 5% penalty shall not be assessed against any person who:

(1) prior to the effective date of this act, was authorized by the Chief Administrator to pay a surcharge on an installment basis; or

(2) during the 60-day amnesty period established under subsection a. of this section, was a member of the United States Armed Forces engaged in active military duty and provides documentation of such service to the Chief Administrator.

2. a. Except as otherwise provided in subsection b. of this section, all monies collected pursuant to the provisions of section 1 of this act shall be remitted to the Division of Motor Vehicles Surcharge Fund established pursuant to section 12 of P.L.1994, c.57 (C.34:1B-21.12).

b. From the monies collected pursuant to subsection a. of section 1 of this act, there is appropriated to the New Jersey Motor Vehicle Commission an amount not to exceed \$250,000 to implement and administer the surcharge amnesty program established under this act.

3. This act shall take effect immediately

Approved July 1, 2003

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## CHAPTER 111

AN ACT concerning the calculation of certain surcharges pursuant to Title 34 of the Revised Statutes and amending R.S.34:15-94.

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

1. R.S.34:15-94 is amended to read as follows:

**Annual surcharge for Second Injury Fund.**

34:15-94. a. (Deleted by amendment, P.L.1999, c.408).

b. Commencing January 1, 1989 and on the first day of each year thereafter, the Commissioner of Labor shall levy an annual surcharge upon all policyholders and self-insured employers for the purpose of providing moneys to the Second Injury Fund. Each policyholder and self-insured employer shall

be liable for payment of the annual surcharge in accordance with the provisions of this section and all regulations promulgated pursuant hereto. The annual surcharge levied under this section shall be applied to all workers' compensation and employer's liability insurance policies providing coverage on or after January 1, 1989 and, in the case of self-insured employers, to coverage provided on or after January 1, 1989. Notwithstanding any law to the contrary, the surcharge levied pursuant to this section shall not apply: to any reinsurance or retrocessional transaction; to the State or any political subdivision thereof which acts as a self-insured employer; or to any workers' compensation endorsement required pursuant to section 1 of P.L.1979, c.380 (C.17:36-5.29).

c. On or before July 31 of 1988 and of each year thereafter:

(1) Each insurer and self-insured employer shall submit to the Commissioner of Labor, in a form and manner prescribed by the Commissioner of Labor, a report of the total compensation payments made by the insurer or self-insured employer during the 12-month period ending on the immediately preceding June 30th;

(2) Each insurer shall submit to the Commissioner of Banking and Insurance, in a form and manner prescribed by the Commissioner of Banking and Insurance, a report of the total earned premiums collected by the insurer on all workers' compensation or employer's liability policies written on risks located in this State pursuant to the provisions of R.S.17:17-1 et seq., during the 12-month period ending on the immediately preceding June 30th;

(3) The Commissioner of Labor shall estimate the amount of special adjustment and supplemental benefits payable by each insurer writing workers' compensation or employer's liability insurance in the State and by each self-insured employer pursuant to R.S.34:15-95 during the then current fiscal year;

(4) The Commissioner of Labor shall make a determination of the aggregate annual surcharge to be levied upon policyholders and self-insured employers during the next following calendar year, which shall be an amount equal to (a) 150%, in the case of any calendar year commencing prior to January 1, 2000, and (b) 125%, in the case of any calendar year commencing after December 31, 1999, of the compensation and benefits estimated by the Commissioner of Labor to be payable from the Second Injury Fund during the next following calendar year plus 100% of the amount estimated by the Commissioner of Labor to be necessary for the cost of administration of the Division of Workers' Compensation in the Department of Labor, less the estimated amount of net assets exceeding \$5,000,000.00 which will remain in the Second Injury Fund on December 31st of the then current calendar year, and the Commissioner of Labor shall submit an informational copy to the Joint Budget Oversight Committee. For the purpose of determining the annual surcharge to be levied upon policyholders and self-insured employers as

prescribed herein, any amount transferred from the Second Injury Fund to the General Fund pursuant to P.L.2002, c.12 and pursuant to P.L.2002, c.38 shall be added back to the Second Injury Fund for computational purposes only;

(5) The Commissioner of Labor shall apportion the aggregate annual surcharge calculated pursuant to paragraph (4) of this subsection among policyholders as a group and self-insured employers as a separate group. Policyholders shall be liable to pay that portion of the aggregate annual surcharge that is equal to the proportion that the compensation payments made by all policyholders during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all policyholders and self-insured employers during the 12-month period ending on the immediately preceding June 30th. Self-insured employers shall be liable to pay that portion of the aggregate annual surcharge that is equal to the proportion that the compensation payments made by all self-insured employers during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all policyholders and self-insured employers during the 12-month period ending on the immediately preceding June 30th; and

(6) The Commissioner of Labor shall notify the Commissioner of Banking and Insurance of the aggregate annual surcharge amount applicable to policyholders during the next following calendar year.

d. On or before September 15 of 1988 and of each year thereafter:

(1) In consultation with the Commissioner of Labor, the Commissioner of Banking and Insurance shall determine the annual policyholder surcharge rate to be applied to each workers' compensation and employer's liability policy during the next following calendar year, and shall notify insurers of the annual policyholder surcharge rate to be applied to policy premiums during the next following calendar year. The annual policyholder surcharge rate shall be established as a percentage, which shall be equal to the percentage relationship that the annual surcharge amount which is applicable to all policyholders bears to the total earned premiums for workers' compensation and employer's liability coverage written on risks located in this State for the 12-month period ending on the immediately preceding June 30th.

(2) The Commissioner of Labor shall notify each self-insured employer of the amount of the annual surcharge applicable to that self-insured employer during the next following calendar year. The net annual surcharge for each self-insured employer shall be established as a pro rata portion of the annual surcharge applicable to all self-insured employers, which shall be chargeable to the self-insured employer in the proportion that the self-insured employer's compensation payments during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all

self-insured employers during the 12-month period ending on the immediately preceding June 30th, less the estimated amount of special adjustment and supplemental benefits payable by that self-insured employer pursuant to R.S.34:15-95 during the then current fiscal year.

e. (1) Every insurer providing workers' compensation and employer's liability insurance shall collect from each of its policyholders, on behalf of the Commissioner of Labor and in accordance with subsections b., c. and d. of this section, an amount equal to the annual policyholder surcharge rate established by the Commissioner of Banking and Insurance pursuant to subsection d. of this section, multiplied by the amount of the policyholder's premium. The surcharge to be collected from the policyholder shall be stated separately on the policy or billing statement and be collected at the same time and in the same manner that the premium or other charges for the coverage are collected. On or before the 30th day after the end of the calendar quarter commencing January 1, 1989, and on or before the 30th day following the end of each calendar quarter thereafter, each insurer shall report to the Commissioner of Labor, on forms as the commissioner may require, the total amount of its workers' compensation and employer's liability insurance earned premiums for the preceding quarterly accounting period, and remit the surcharge collected from policyholders on those premiums, less special adjustment and supplemental benefits paid during the preceding calendar quarter by the insurer pursuant to the workers' compensation law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to any portion of any surcharge imposed pursuant to this section as a fee or commission for its collection nor shall that surcharge be subject to any taxes, licenses or fees.

(2) On or before the 30th day after the end of each calendar quarter commencing January 1, 1989, and on or before the 30th day following the end of each calendar quarter thereafter, each self-insured employer shall remit to the Commissioner of Labor an amount equal to one-fourth of the effective net annual surcharge as established for that self-insured employer during the then current calendar year pursuant to subsection d. of this section, less special adjustment and supplemental benefits paid during the preceding calendar quarter by the self-insured employer pursuant to the workers' compensation law, R.S.34:15-1 et seq.

f. The Commissioner of Labor shall promulgate within 180 days of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations as may be necessary for the apportionment and collection of annual surcharges from policyholders and self-insured employers covered by this section.

g. The Commissioner of Banking and Insurance shall promulgate within 180 days of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any

rules and regulations as may be necessary for the collection, and provision to the Commissioner of Labor, of information with respect to earned premiums of insurers and the establishment of the annual surcharge rate for policyholders.

h. For each 30-day period or part thereof during which a policyholder, self-insured employer, or insurer fails to make a payment or transfer of payment as required by this section or regulations promulgated pursuant hereto, a penalty of one-half of one percent (0.5%) of the amount of delinquent payment or transfer of payment shall be assessed against the delinquent policyholder, self-insured employer or insurer. In no case of single failure, however, shall penalties assessed under this section exceed five percent (5.0%) of the amount of surcharge unpaid or untransferred. Penalties assessed under this subsection shall be collected in a civil action by a summary proceeding brought by the Commissioner of Labor pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be deposited by the commissioner in the Second Injury Fund.

i. For each 30-day period during which an insurer or self-insured employer fails to file a report as required by this section, the Commissioner of Labor shall assess a penalty of \$100.00 against the insurer or self-insured employer and, upon collection thereof, shall deposit those moneys in the "uninsured employer's fund." As a result of any single failure, however, no such penalty shall exceed a total of \$500.00. During the period of any such failure to file this report, the estimate by the Department of Labor of the amounts of such compensation payments or earned premiums shall be used for the purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

j. The Commissioner of Labor may, with the authorization of and appropriation by the Legislature, transfer from the Second Injury Fund an amount necessary for the cost of administration of the Division of Workers' Compensation in the Department of Labor.

k. As used in this section, "policyholder" means a holder of a policy of workers' compensation or employer's liability insurance issued by an insurer. "Insurer" means a domestic, foreign or alien mutual association or stock company writing workers' compensation or employer's liability insurance on risks located in this State and subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.). "Self-insured employer" means an employer which self-insures for workers' compensation or employer's liability insurance pursuant to the provisions of R.S.34:15-77.

2. This act shall take effect immediately.

Approved July 1, 2003.



## CHAPTER 112

AN ACT concerning the collection of unpaid hospital accounts and supplementing Title 17B of the New Jersey Statutes.

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

**C.17B:30-41 Findings, declarations relative to collection of unpaid hospital accounts.**

1. The Legislature finds and declares that:
  - a. The rising cost of hospital-based health care in this State impedes the ability of the State and insurers to provide reasonably priced, comprehensive health insurance to the citizens of the State.
  - b. Hospitals located within the State report more than \$1 billion annually in debts that they are unable to collect.
  - c. The cost of covering the unpaid care represented by the debt is spread among citizens, private insurers, hospitals and the State in the form of higher bills for hospital-based care.
  - d. A significant portion of the uncollected debt is related to copayments and deductibles that are difficult for hospitals to collect efficiently.
  - e. The State's Set off of Individual Liability (SOIL) program has proven to be an administratively efficient means of collecting debts owed to State agencies.
  - f. It is, therefore, in the public interest to create a New Jersey Hospital Care Payment Commission, the duties of which would include, but not be limited to, creating a system for using the State's SOIL program to collect valid hospital debts.

**C.17B:30-42 Definitions relative to collection of unpaid hospital accounts.**

2. As used in this act:
  - "Coinsurance" means the percentage of a charge covered by a health plan that must be paid by a person covered under the health plan.
  - "Collection agency" means the Department of the Treasury and any company, agency or law firm engaged in collecting debts that the Department of the Treasury may determine to engage to assist it in collecting debts.
  - "Commission" means the Hospital Care Payment Commission created pursuant to this act.
  - "Debt" means money owed by a patient to a hospital, or by someone who is legally responsible for payment for a patient, and includes late payment penalties and interest thereon. It does not include monies owed to a hospital by a health plan for services provided by the hospital to a person with coverage under that plan, or amounts subject to dispute between a health plan and a hospital.

"Debtor" means an individual owing money to or having a delinquent account with a hospital, which obligation has not been adjudicated, satisfied by court order, set aside by court order or discharged in bankruptcy.

"Deductible" means the amount of covered charges under a health plan that an individual must pay for a services before a health plan begins to pay on a covered charge.

"General Hospital" and "hospital" have the meanings set forth in N.J.A.C.8:43G-1.2.

"Health plan" means an individual or group health benefits plan that provides or pays the cost of hospital and medical expenses, dental or vision care, or prescription drugs, and is provided by or through an insurer, health maintenance organization, the Medicaid program, the Medicare program, a Medicare+Choice provider or Medicare supplemental insurer, an employer-sponsored group health benefits plan, government or church-sponsored health benefits plan or a multi-employer welfare arrangement.

"Medicaid" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Medicare" means the program established by Pub.L.89-97 (42 U.S.C. s.1395 et seq.) as amended, or its successor plan or plans.

"Patient" means a person who receives services in a hospital on an inpatient or outpatient basis.

**C.17B:30-43 "Hospital Care Payment Commission."**

3. a. There is established, within the Department of Banking and Insurance, a "Hospital Care Payment Commission." The commission is constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the commission of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The commission shall consist of the Commissioners of Banking and Insurance, Health and Senior Services and Human Services and the State Treasurer, who shall serve ex officio, and a representative of the hospital community appointed by the Governor for a term of three years. The Commissioner of Banking and Insurance shall serve as chair of the commission.

The powers of the commission shall be vested in the members thereof, and a majority of the total authorized membership of the commission shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commission at any meeting of the commission by the affirmative vote of a majority of the members present. A vacancy in the membership of the commission shall not impair the right of a quorum of the members to exercise all the powers and perform all the duties of the commission.

c. Each ex officio member may designate an officer or employee of the member's department to serve as the member's representative at meetings of the commission, and each such designee may lawfully vote and otherwise act on behalf of the member. Any such designation shall be in writing delivered to the commission, and shall continue in effect until revoked or amended by a writing delivered to the commission.

d. On or before March 31 in each year, the commission shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each report shall set forth at least the following: the number of hospitals participating in the program; the number and value of the debts processed; the number of challenges received by the commission; the number of debts returned to hospitals for incomplete information or a finding of lack of validity of the debt; the total level of funds recovered; and the total funds returned to hospitals. The commission shall also report at least quarterly to each participating hospital on the results regarding debts assigned by that hospital.

e. The director of the Division of Budget and Accounting in the Department of the Treasury is authorized to provide all necessary accounting services to the commission, and to maintain the books, records and accounts of the commission, including receipts, disbursements, contracts and any other matter related to its financial standing.

**C.17B:30-44 "New Jersey Hospital Care Payment Fund."**

4. a. There is established the "New Jersey Hospital Care Payment Fund" in the Department of the Treasury.

b. The fund shall be comprised of monies collected from debtors of hospitals pursuant to this act, and any other monies appropriated thereto to carry out the purposes of this act.

c. The fund shall be a nonlapsing fund, from which costs shall be paid in the following order, for each hospital participating:

- (1) administrative costs of the commission;
- (2) administrative fees to the collection agency;
- (3) 50% of the remainder, but only from monies collected from debtors of hospitals pursuant to this act after paragraphs (1) and (2) of this subsection are paid, shall be payable to the hospital from which the debt originated within 90 days of receipt of monies related to discharge of the assigned debt into the fund; and

- (4) the remainder, after paragraphs (1), (2) and (3) of this subsection are paid, shall be deposited into the General Fund.

**C.17B:30-45 Authority of commission.**

5. The commission is authorized to:

a. Accept assignment of debts from hospitals which have followed the procedures outlined in section 7 of this act, or such other procedures as the commission shall adopt.

b. Pursue collection of debts pursuant to this act. The commission shall initiate the program in phases. The first phase may involve acceptance of assignment of debt that:

- (1) derives from a limited number of hospitals;
- (2) consists of coinsurance and deductibles that remain payable after adjudication by a health plan;
- (3) is assigned by a general hospital;
- (4) is less than two years old at the date of assignment to the commission, as determined by the date of discharge for inpatient services and date of service for outpatient services;
- (5) involves any of the above or any combination of the above, or includes such other limitations as the commission determines are desirable to smooth implementation of the program created by this act.

After the first phase, the commission may expand acceptance of assignments as it shall determine pursuant to this act.

c. Test assignment data received from the hospitals to determine whether the records are sufficient to make set-off practicable, and return records that do not pass the test to the hospitals.

d. Conduct such fact-finding, as is necessary, in preparation for making a determination as to the validity of debts.

e. Make final determinations as to the validity of debts.

f. Determine the payment to be collected from the debtor, based upon a "fairness formula" to be determined by the commission. For debt processed by the commission during the fiscal year starting on July 1, 2003, the fairness formula shall be based upon the Department of Health and Senior Services' report entitled "Net Patient Revenue to Charge Ratio," for the most recent year available. For debt processed by the commission during the fiscal year starting on July 1, 2004 and thereafter, the fairness formula shall be based upon the most recent available "Net Patient Revenue to Charge Ratio" report, or such other measure as the commission determines would most fairly reimburse hospitals for treatment.

g. Offset liability for the hospital debts against the New Jersey Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive an NJ SAVER rebate or a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a et al.), and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and including any other financial resource authorized as a source

capable of offset for any reason by section 1 of P.L. 1981, c.239 (C.54A:9-8.1 et seq.).

h. Adjudicate the validity of all set-off challenges pursuant to N.J.A.C. 18:35-10.1 et seq.

i. Make such decisions as to compromise and waiver of interest, penalties, post-judgment interest and write-off as it shall deem prudent.

j. Refer assigned debts under section 7 of this act to a collection agency in the event that offsetting is not practical or is not successful in fully resolving the debt.

k. Create standards for settlement of debts through the collection agency process.

l. Determine to cease accepting debt from a hospital until such time as the hospital can demonstrate to the satisfaction of the commission that its accuracy has improved to acceptable levels where the commission determines that data forwarded by a hospital to the commission has an unacceptable level of inaccuracies regarding validity or quality of the debt forwarded to the commission.

m. Contract with other State agencies for services, including administrative services necessary to carry out the duties of the commission.

n. Fund the cost of its operations from the fund created by section 4 of this act.

o. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act; except that, notwithstanding any provision of P.L. 1968, c.410 to the contrary, the commission may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commission deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the commission in accordance with the requirements of P.L. 1968, c.410.

**C.17B:30-46 Decisions of commission constitute final agency action.**

6. Decisions of the commission, regarding the fairness formula, the validity of debts, the adequacy of data provided to the commission by hospitals for use in the program, and other such matters as shall arise concerning the administration of the program, shall constitute final agency action.

**C.17B:30-47 Procedures for participating hospitals.**

7. a. The following procedures shall apply for those hospitals that wish to participate in the voluntary assignment program created by this act.

b. The hospital shall file with the commission a notice signifying its intent to participate voluntarily and certifying the following:

(1) the hospital has determined that the patient is not eligible for charity care under the New Jersey Hospital Care Payment Assistance Program

established by the Department of Health and Senior Services pursuant to section 10 of P.L. 1992, c.160 (C.26:2H-18.60);

(2) the hospital has submitted a "clean claim" pursuant to P.L. 1999, c.154 (C.17B:30-23 et al.) and P.L. 1999, c.155 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid, Medicare or a health plan, as applicable, within a reasonable time following the patient's discharge, or in the case of outpatient service, the date of service;

(3) the claims have been fully adjudicated by a health plan, Medicare or Medicaid, where applicable, and a debt remains outstanding;

(4) the hospital has not initiated collection procedures against the patient or responsible party while a claim was pending adjudication with Medicare or a health plan, for which a debt remains outstanding;

(5) the hospital has notified the patient of the hospital's intention, if the account is not paid in full, or alternatively through a payment plan with the hospital, to proceed with legal action, or to turn the bill over to the State Hospital Care Payment Commission for collection.

c. Nothing herein shall be deemed to create any new right to collection of hospital debts by hospitals beyond existing law; nor shall it be deemed to preclude any existing right to collection.

d. The commission may determine the content of the notice required by paragraph (5) of subsection b. of this section to the patient concerning the likelihood that the account will be turned over to the commission for collection.

e. The minimum amount of an unpaid bill that may be assigned to the commission by a hospital is \$100, or such other minimum as the commission shall determine by regulation.

f. Upon receipt of the voluntary assignment, the Department of the Treasury shall send, on behalf of the commission, a notice to the person named as a debtor of the hospital, notifying the person as to receipt of the assignment by the commission, providing the person with 30 days to challenge the validity of the debt, and providing notice that in the absence of such challenge, a Certificate of Debt will be filed with the Superior Court of New Jersey. The notice shall also include a statement on the commission's intention to take action to set off the liability against any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" including an earned income tax credit, a NJ SAVER rebate or a homestead rebate, or other such funds as may be authorized by law.

g. If the person named as a debtor responds within the 30-day period, the person shall be provided with an opportunity to present, either in writing or in person, evidence as to why the person does not believe he is responsible for the debt. The commission shall provide written notice to both the person and the hospital as to its determination regarding the validity of the debt, including the imposition of collection fees and interest, if applicable.

h. If the person fails to respond within 30 days to the commission, the commission may utilize the provisions of the Set off of Individual Liability (SOIL) program established pursuant to P.L. 1981, c.239 (C.54A:9-8.1 et seq.), to collect any surcharge levied under this section that is unpaid on or after the effective date of this act.

As additional remedies, the commission may utilize the services of a collection agency to settle the debt and may also issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this law in such amount as shall be stated in the certificate. The certificate shall reference this act. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments: the name of the person as debtor; the State as creditor; the address of the person, if shown in the certificate; the amount of the debt so certified; a reference to this act under which the debt is assessed; and the date of making the entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate; however, payment of the interest may be waived by the commission.

i. Any collection efforts undertaken pursuant to this act shall be undertaken in accordance with the "Health Insurance Portability and Accountability Act of 1996," Pub.L. 104-191 and 45 C.F.R. 160.101 to 164.534, or any other similar law. The commission and any other entity performing collection activities pursuant to this act is authorized to enter into any agreements required to comply with such laws, including, but not limited to, entering into agreements with the hospitals and collection agencies to provide for appropriate safeguarding of information.

8. This act shall take effect on the 30th day after enactment.

Approved July 1, 2003.

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## CHAPTER 113

AN ACT establishing a supplemental realty transfer fee, amending and supplementing P.L.1968, c.49 and amending P.L.1975, c.176.

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

1. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read as follows:

**C.46:15-6 Requirements for recording of deed evidencing transfer of title.**

2. In addition to other prerequisites for recording, no deed evidencing transfer of title to real property shall be recorded in the office of any county recording officer unless it satisfies one of the following requirements:

- a. If the transfer is subject to the additional fee as provided in section 3 of P.L.1968, c.49 (C.46:15-7) or to the supplemental fee as provided in section 2 of P.L.2003, c.113 (C.46:15-7.1), a statement of the true consideration for the transfer is contained in (1) the deed, or (2) the acknowledgment, or (3) the proof of the execution, or (4) an appended affidavit by one of the parties to the deed or that party's legal representative.

- b. If the transfer is exempt from the additional fee required by section 3 of P.L.1968, c.49 (C.46:15-7), or from the supplemental fee as provided in section 2 of P.L.2003, c.113 (C.46:15-7.1), an affidavit stating the basis for the exemption is appended to the deed.

**C.46:15-7.1 Supplemental fee for conveyance, transfer of property.**

2. a. For each conveyance or transfer of property, the grantor shall pay a supplemental fee of:

- (1) (a) \$0.25 for each \$500.00 of consideration or fractional part thereof not in excess of \$150,000.00 recited in the deed;
  - (b) \$0.85 for each \$500.00 of consideration or fractional part thereof in excess of \$150,000.00 but not in excess of \$200,000.00 recited in the deed; and
  - (c) \$1.40 for each \$500.00 of consideration or fractional part thereof in excess of \$200,000.00 recited in the deed, plus
  - (2) for a transfer described in subsection (b) of section 4 of P.L.1975, c.176 (C.46:15-10.1), an additional \$1.00 for each \$500.00 of consideration or fractional part thereof not in excess of \$150,000.00 recited in the deed

which fee shall be collected by the county recording officer at the time the deed is offered for recording, except as provided by subsection b. of this section.

- b. The supplemental fee imposed by subsection a. of this section shall not be imposed on a conveyance or transfer that is made by a deed described in section 6 of P.L.1968, c.49 (C.46:15-10) or on a transfer described in paragraph (1) or paragraph (2) of subsection (a) of section 4 of P.L.1975, c.176 (C.46:15-10.1).

- c. The proceeds of the supplemental fees collected by the county recording officer pursuant to subsection a. of this section shall be accounted for and remitted to the county treasurer. An amount equal to \$0.25 of the supplemental



fee for each \$500.00 of consideration or fractional part thereof recited in the deed so collected pursuant to this section shall be retained by the county treasurer for the purposes set forth in subsection d. of this section, and the balance shall be remitted to the State Treasurer for deposit to the Extraordinary Aid Account, which shall be established as an account in the General Fund. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection.

d. From the proceeds of the supplemental fees collected by the county recording officer pursuant to subsection a. of this section and retained by the county treasurer pursuant to subsection c. of this section, a county that received funding in State fiscal year 2003 for the support of public health services pursuant to the provisions of the Public Health Priority Funding Act of 1977, P.L.1966, c.36 (C.26:2F-1 et seq.) shall, at a minimum, fund its priority health services under that act in subsequent years at the same level as the level at which those services were funded in State fiscal year 2003 pursuant to the annual appropriations act for that fiscal year as the Commissioner of the Department of Health and Senior Services shall determine. In any county, amounts of supplemental fees retained that are in excess of the amounts required to be used for the funding of the county's priority health services under this subsection shall be used by the county for general county purposes.

e. The Legislature shall annually appropriate the entire balance of the Extraordinary Aid Account for the purposes of providing extraordinary special education aid pursuant to section 19 of P.L.1996, c.138 (C.18A:7F-19) and "Municipal Property Tax Relief Act" extraordinary aid pursuant to section 4 of P.L.1991, c.63 (C.52:27D-118.35).

f. Every deed subject to the supplemental fee required by this section, which is in fact recorded, shall be conclusively deemed to have been entitled to recording, notwithstanding that the amount of the consideration shall have been incorrectly stated, or that the correct amount of the supplemental fee, if any, shall not have been paid, and no such defect shall in any way affect or impair the validity of the title conveyed or render the same unmarketable; but the person or persons required to pay that supplemental fee at the time of recording shall be and remain liable to the county recording officer for the payment of the proper amount thereof.

3. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as follows:

**C.46:15-8 County, State sharing of fee proceeds.**

4. The proceeds of the fees collected by the county recording officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be accounted for and remitted to the county treasurer. An amount equal to 28.6% of the proceeds from the first \$1.75 for each \$500.00 of consideration or fractional part thereof recited in the deed collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7)

shall be retained by the county treasurer for the use of the county and the balance shall be paid to the State Treasurer for the use of the State; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), 100.0% of the proceeds from the first \$0.50 for each \$500.00 of consideration or fractional part thereof recited in the deed so collected shall be retained by the county treasurer for the use of the county and no amount shall be paid to the State Treasurer for the use of the State. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection. Amounts, not in excess of \$25,000,000, paid during the State fiscal year to the State Treasurer from the payment of fees collected by the county recording officer other than the additional fee of \$0.75 for each \$500.00 of consideration or fractional part thereof recited in the deed in excess of \$150,000.00 collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under that section. All amounts paid to the State Treasurer in payment of the additional fee of \$0.75 for each \$500.00 of consideration or fractional part thereof recited in the deed in excess of \$150,000.00 collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established under section 20 thereof (C.52:27D-320).

4. Section 4 of P.L.1975, c.176 (C.46:15-10.1) is amended to read as follows:

**C.46:15-10.1 Partial fee exemptions.**

4. a. The following transfers of title to real property shall be exempt from payment of \$1.25 per \$500.00 of consideration or fractional part thereof of the fee imposed upon grantors by section 3 of P.L.1968, c.49 (C.46:15-7):

(1) The sale of any one- or two-family residential premises which are owned and occupied by a senior citizen, blind person, or disabled person who is the seller in such transaction; provided, however, that except in the instance of a husband and wife no exemption shall be allowed if the property being sold is jointly owned and one or more of the owners is not a senior citizen, blind person, or disabled person.

(2) The sale of low and moderate income housing.

b. Transfers of title to real property upon which there is new construction shall be exempt from payment of \$1.00 for each \$500.00 of consideration or fractional part thereof not in excess of \$150,000.00 of the fee imposed upon grantors by section 3 of P.L.1968, c.49 (C.46:15-7).

c. The director shall promulgate rules, regulations and forms of certification or otherwise necessary to carry out the provisions of this section. No transfer shall be eligible for more than one exemption under this section. All fees imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) collected on transfers subject to exemption under subsection a. of this section shall be retained by the county treasurer for the use of the county. An amount equal to  $66 \frac{2}{3}\%$  of the proceeds from the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) upon the consideration not in excess of \$150,000.00 for transfers of real property upon which there is new construction, and an amount equal to 20% of the proceeds of the \$2.50 total fees imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) upon each \$500.00 of consideration or fractional part thereof in excess of \$150,000.00 for transfers of real property upon which there is new construction, shall be retained by the county treasurer for the use of the county.

d. The balance of the fees collected on transfers subject to exemption under subsection b. of this section shall be remitted to the State Treasurer and shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), to be spent in the manner established under section 20 thereof (C.52:27D-320).

e. Subsections a. through d. of this section shall be without effect on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2).

5. This act shall take effect July 1, 2003.

Approved July 1, 2003.

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## CHAPTER 114

AN ACT imposing a State hotel and motel occupancy fee and authorizing imposition of a municipal hotel and motel occupancy tax by certain municipalities, supplementing Titles 54 and 40 of the Revised Statutes.

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

**C.54:32D-1 State hotel and motel occupancy fee.**

1. a. In addition to any other tax, assessment or use fee authorized by law, there is imposed and shall be paid a hotel and motel occupancy fee of 7% for occupancies on and after August 1, 2003 but before July 1, 2004, and of 5% for occupancies on and after July 1, 2004, upon the rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to subsection (d)

of section 3 of P.L.1966, c.30 (C.54:32B-3), which every person required to collect tax shall collect from the customer when collecting the rent to which it applies; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection d. of section 2 of P.L.2003, c.114 (C.54:32D-2), no such fee shall be paid or collected; and provided further that:

(1) the combined rates of the fee imposed under this section, plus the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947, c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 13%, and to the extent that the total combined rate of taxation for the listed fees and taxes would exceed 13%, the fee imposed under this section shall be reduced so that the total combined rate equals 13%;

(2) the combined rates of the fee imposed under this section, plus the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a total rate of 13%, and to the extent that the total combined rate of taxation for the listed fees and taxes would exceed 13%, the fee imposed under this section shall be reduced so that the total combined rate equals 13%; and

(3) the fee imposed under this section shall be at the rate of 1% in a city in which the tax authorized under P.L.1981, c. 77 (C.40:48E-1 et seq.) is imposed.

b. The hotel and motel occupancy fee imposed by subsection a. of this section shall not be imposed on the rent for an occupancy if the purchaser, user or consumer is an entity exempt from the tax imposed on an occupancy under the "Sales and Use Tax Act" pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9).

c. Terms used in this section shall have the meaning given those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

**C.54:32D-2 Collection, administration of fee.**

2. a. The Director of the Division of Taxation shall collect and administer the fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1). The fees collected shall be deposited to the General Fund, and shall be allocated as follows:

(1) of the fees collected for occupancies during State Fiscal Year 2004: \$16,000,000 shall be allocated for appropriation to the New Jersey State Council on the Arts for cultural projects; \$2,700,000 shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated for appropriation to the New Jersey Commerce and Economic Growth

Commission for tourism advertising and promotion; and \$500,000 shall be allocated for appropriation to the New Jersey Cultural Trust; and

(2) of the fees collected for occupancies during State Fiscal Year 2005 and thereafter: 22.68 percent shall be annually allocated for appropriation to the New Jersey State Council on the Arts for cultural projects, provided that the amount allocated shall not be less than \$22,680,000; 3.84 percent shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3), provided that the amount allocated shall not be less than \$3,840,000; 12.76 percent shall be allocated for appropriation to the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion, provided that the amount allocated shall not be less than \$12,760,000; and .72 percent shall be allocated for appropriation to the New Jersey Cultural Trust, provided that the amount allocated shall not be less than \$720,000.

b. In carrying out the provisions of section 1 of P.L.2003, c.114 (C.54:32D-1) and this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be filed and paid in a manner prescribed by the Director of the Division of Taxation. The director shall promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of section 1 of P.L.2003, c.114 (C.54:32D-1) and this section.

c. The annual appropriations act for each State Fiscal Year, commencing with fiscal year 2005, shall appropriate and distribute during that fiscal year amounts not less than the amounts otherwise specified for State Fiscal Year 2004 in paragraph (1) of subsection a. of this section for the purposes specified in paragraph (1) of subsection a. of this section.

d. If the provisions of subsection c. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate the provisions of subsection c. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates the provisions of subsection c. of this section, certify to the Director of the Division of Taxation that the requirements of subsection c. of this section have not been met.

e. The Director of the Division of Taxation shall, no later than five days after certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection d. of this section that the provisions of subsection c. of this section have not been met or have been violated by an amendment or supplement to the annual appropriations

act, notify each person required to collect tax of the certification and that the fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1) shall no longer be paid or collected.

**C.40:48F-1 Hotel, motel tax authorized, certain.**

3. The governing body of a municipality, other than a city of the first class or a city of the second class in which the tax authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a city of the fourth class in which the tax authorized under P.L.1947, c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which the tax and assessment authorized under section 4 of P.L.1992, c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a tax, at a uniform percentage rate not to exceed 1% on charges of rent for every occupancy on or after July 1, 2003 but before July 1, 2004, and not to exceed 3% on charges of rent for every occupancy on or after July 1, 2004, of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3).

A tax imposed under this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption or amendment to the State Treasurer. An ordinance so adopted or any amendment thereto shall provide that the tax provisions of the ordinance or any amendment to the tax provisions shall take effect on the first day of the first full month occurring 30 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2003 and on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2004 and thereafter.

**C.40:48F-2 Provisions contained in ordinance.**

4. An ordinance imposing a tax adopted pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) shall contain the following provisions:

- a. All taxes imposed by the ordinance shall be paid by the purchaser;
- b. A vendor shall not assume or absorb any tax imposed by the ordinance;
- c. A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.
- d. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense; and

e. Penalties as fixed in the ordinance, for violation of the foregoing provisions.

**C.40:48F-3 Collection of tax.**

5. a. A tax imposed pursuant to a municipal ordinance adopted under the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) shall be collected on behalf of the municipality by the person collecting the rent from the hotel customer.

b. Each person required to collect a tax imposed by the ordinance shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the tax.

**C.40:48F-4 Forwarding of tax collected.**

6. a. A person required to collect a tax imposed pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) shall, on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the Director of the Division of Taxation in the Department of the Treasury the tax collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the director shall prescribe as necessary to determine liability for the tax in the preceding month during which the person was required to collect the tax.

b. The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of tax liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the director may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

**C.40:48F-5 Collection, administration, distribution of tax collected.**

7. a. The Director of the Division of Taxation shall collect and administer any tax imposed pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1). In carrying out the provisions of this section, the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of revenues collected in each municipality pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1).

c. The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a quarterly or more frequent basis, as prescribed by the State Treasurer, to each municipality the amount of revenues determined and certified under subsection b. of this section.

d. A tax imposed pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

8. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 115

AN ACT concerning the taxation of cigarettes, amending P.L.1997, c.264 and amending and supplementing P.L.1948, c.65.

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

1. Section 301 of P.L.1948, c.65 (C.54:40A-8) is amended to read as follows:

**C.54:40A-8 Tax imposed; rate.**

301. Tax imposed; rate. A tax is hereby imposed on the sale, use or possession for sale or use within this State of all cigarettes at the rate of \$0.1025 for each cigarette.

2. a. Each retail licensee under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2003, c.115, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the retail licensee's possession in the State at 12:01 a.m. on the effective date of P.L.2003, c.115, and shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse



for the failure to make a return containing the information required by the director.

b. Notwithstanding the provisions of section 401 of P.L.1948, c.65 (C.54:40A-11) to the contrary, each licensed distributor and wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2003, c.115, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the dealer's or wholesaler's possession in the State at the close of business prior to the effective date of P.L.2003, c.115. An amount of tax shall be due equal to the additional tax on the number of cigarettes bearing stamps, and unaffixed stamps on hand. Each licensed distributor and wholesale dealer shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse for the failure to make a return containing the information required by the director.

3. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to read as follows:

**C.26:2H-18.58g Disposition of revenue collected from cigarette tax.**

4. Notwithstanding the provisions of any other law to the contrary, commencing July 1, 1998: after the deposit required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected annually from the "Tobacco Products Wholesale Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually for health programs, and the next \$50,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually to the New Jersey Economic Development Authority for payment of debt service incurred by the authority for school facilities projects and in fiscal years commencing July 1, 2002 and July 1, 2003, the next \$30,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the Department of Health and Senior Services to fund anti-smoking initiatives, except that the amount shall be \$40,000,000 in the fiscal year commencing July 1, 2004 and \$45,000,000 in fiscal years commencing July 1, 2005 and thereafter.

4. This act shall take effect July 1, 2003.

Approved July 1, 2003.

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## CHAPTER 116

AN ACT concerning the Casino Control Act and certain agreements and taxes and fees concerning casinos, amending P.L.1993, c.159 and amending and supplementing P.L.1977, c.110.

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

1. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

**C.5:12-82 Casino licence -- applicant eligibility.**

82. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the casino hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved casino hotel or owns or has a contract to purchase or construct a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(2) Any person who, whether as lessor or lessee, either leases an approved casino hotel or leases or has an agreement to lease a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino and, if applicable, any authorized games in a casino simulcasting facility; and

(4) Any other person who has control over either an approved casino hotel or the land thereunder or the operation of a casino.

c. Prior to the operation of a casino and, if applicable, a casino simulcasting facility, every agreement to lease an approved casino hotel or the land thereunder and every agreement for the management of the casino and, if applicable, any authorized games in a casino simulcasting facility, shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved casino hotel or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved casino hotel or the land thereunder who does not own or lease the entire approved casino hotel shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved casino hotel or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry license and that such an agreement be for a durational term exceeding 30 years, concern 100% of the entire approved casino hotel or of the land upon which same is located, and include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved casino hotel the absolute right to purchase for an expressly set forth fixed sum the entire interest of the lessor or any person associated with the lessor in the approved casino hotel or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved casino hotel or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the

party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved casino hotel or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino gaming operations own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of all casino space in the casino hotel and, if applicable, all authorized games in a casino simulcasting facility, provide for the sole and unrestricted power to direct the casino gaming operations of the casino hotel which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino gaming operations, provided that the provisions of this paragraph shall not apply to agreements relating to the operation of a multi-casino progressive slot machine system between a group of casino licensees and a casino service industry licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, and that, with regard to such agreements, the casino service industry licensee or applicant may operate and administer the multi-casino progressive slot machine system, including, but not limited to, the operation of a monitor room and the payment of the progressive jackpots from a fund of contributions from participating casino licensees, provided that the consideration charged to the casino licensees for the operation and administration of the monitor room shall not exceed the actual direct costs of operating and administering the monitor room;

(8) The commission may permit an agreement for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility to provide for the payment to the managing party of an interest, percentage or share of money gambled at all authorized games or derived from casino gaming activity or of revenues or profits of casino gaming operations;

(9) Notwithstanding any other provision of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, the commission may permit an agreement between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) for

the conduct of casino simulcasting in a simulcasting facility or for the operation of a multi-casino progressive slot machine system, to provide for the payment to the casino service industry of an interest, percentage or share of the money derived from the casino licensee's share of proceeds from simulcast wagering activity or the operation of a multi-casino progressive slot machine system; and

(10) As to agreements to lease an approved casino hotel or the land thereunder, agreements to jointly own an approved casino hotel or the land thereunder and agreements for the management of casino gaming operations or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the casino hotel licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey, except that a casino licensee may establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the commission such adopted corporate charter provisions as may be

necessary to establish the right of prior approval by the commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

Notwithstanding the foregoing, any corporation or company which had bylaw provisions approved by the commission prior to the effective date of this 1987 amendatory act shall have one year from the effective date of this 1987 amendatory act to adopt appropriate charter provisions in accordance with the requirements of this subsection.

The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of a casino license if the issuance or the holding results in undue economic concentration in Atlantic City casino operations by that person. The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the commission will use in determining what constitutes undue economic concentration. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to

such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

2. Section 104 of P.L.1977, c.110 (C.5:12-104) is amended to read as follows:

**C.5:12-104 Casino licensee leases and contracts.**

104. a. Unless otherwise provided in this subsection, no agreement shall be lawful which provides for the payment, however defined, of any direct or indirect interest, percentage or share of: any money or property gambled at a casino or simulcasting facility; any money or property derived from casino gaming activity or wagering at a simulcasting facility; or any revenues, profits or earnings of a casino or simulcasting facility. Notwithstanding the foregoing:

(1) Agreements which provide only for the payment of a fixed sum which is in no way affected by the amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subsection; and receipts, rentals or charges for real property, personal property or services shall not lose their character as payments of a fixed sum because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(2) Agreements between a casino licensee and a junket enterprise or junket representative licensed, qualified or registered in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations of the commission which provide for the compensation of the junket enterprise or junket representative by the casino licensee based upon the actual casino gaming or simulcast wagering activities of a patron procured or referred by the junket enterprise or junket representative shall be lawful if filed with the division prior to the conduct of any junket that is governed by the agreement.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing shall be lawful if the agreement is in writing and filed with the commission prior to its effective date. Such agreements may be reviewed by the commission under any relevant provision of P.L.1977, c.110 (C.5:12-1 et seq.).

(4) Agreements to lease an approved casino hotel or the land thereunder and agreements for the complete management of all casino gaming operations in a casino hotel shall not be subject to the provisions of this subsection but shall rather be subject to the provisions of subsections b. and c. of section 82 of this act.

(5) Agreements which provide for percentage charges between the casino licensee and a holding company or intermediary company of the casino licensee shall be in writing and filed with the commission but shall not be subject to the provisions of this subsection.

(6) Agreements relating to simulcast racing and wagering between a casino licensee and an in-State or out-of-State sending track licensed or exempt from licensure in accordance with subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the parimutuel pool wagered at a simulcasting facility to be paid to the sending track shall not be subject to the provisions of this subsection.

(7) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) as a hub facility, as defined in joint regulations of the Casino Control Commission and the New Jersey Racing Commission, shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the hub facility shall not be subject to the provisions of this subsection.

(8) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to conduct casino simulcasting in a simulcasting facility shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the casino service industry shall not be subject to the provisions of this subsection.

(9) Written agreements relating to the operation of multi-casino progressive slot machine systems between one or more casino licensees and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, which provide for an interest, percentage or share of the casino licensee's revenues, profits or earnings from the operation of such multi-casino progressive slot machines to be paid to the casino service industry licensee or applicant shall not be subject to the provisions of this subsection if the agreements are filed with and approved by the commission.



b. Each casino applicant or licensee shall maintain, in accordance with the rules of the commission, a record of each written or unwritten agreement regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility. The foregoing obligation shall apply regardless of whether the casino applicant or licensee is a party to the agreement. Any such agreement may be reviewed by the commission on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the owners, officers, employees, and directors of any enterprise involved in the agreement, which qualifications shall be reviewed according to the standards enumerated in section 86 of this act. If the commission disapproves such an agreement or the owners, officers, employees, or directors of any enterprise involved therein, the commission may require its termination.

Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if the commission shall require termination of an agreement pursuant to this subsection, such termination shall occur without liability on the part of the casino applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with commission regulations, or the disapproved agreement is not terminated, the commission may pursue any remedy or combination of remedies provided in this act.

For the purposes of this subsection, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the commission for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

c. Nothing in this act shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

**C.5:12-148.1 Tax on certain comps provided by casinos at no cost, reduced price.**

3. a. There is imposed on each casino licensee a tax on the value of rooms, food, beverages, or entertainment provided at no cost or at a reduced price, as required to be reported to the Casino Control Commission pursuant to section 102 of P.L.1977, c.110 (C.5:12-102), which tax shall be computed as follows:

(1) if rooms, food, beverages or entertainment are provided at no cost, the tax shall be at a rate of 4.25% on the value of rooms, food, beverages and entertainment;

(2) if rooms, food, beverages or entertainment are provided at reduced cost, the tax shall be at a rate of 4.25% on the value, which taxable value shall

be reduced by any consideration paid by the person to whom the rooms, food, beverages or entertainment are provided; provided however, that the imposition of the excise tax as provided in this section is in addition to any tax due under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), on the receipts from the sale of food and beverages, or from amounts paid as a charge for entertainment, or the rents for occupancy of hotel rooms, at reduced cost;

(3) no excise tax shall be imposed on the value of any service or property upon which a sales or use tax has been paid by a casino licensee;

(4) for the purpose of computing the tax, the value of a room complimentary shall be \$67, provided that the commission shall review the room value within 90 days of the effective date of this act, and shall adjust the statutory room value to a rate that, along with the tax imposed pursuant to this section on food, beverages and entertainment, is sufficient to generate \$26 million in State fiscal year 2004, and the commission's review and adjustment shall take into account tax paid under this section by a casino licensee commencing operations in calendar year 2003 in determining whether the adjusted statutory room value would generate \$26 million in State fiscal year 2004, and in addition, the commission shall establish an inflation factor for the room value and the amount raised in each State fiscal year by the tax imposed pursuant to this section;

(5) for the purpose of computing the tax, the value of food, beverages and entertainment complimentaries shall be determined pursuant to section 2 of P.L.1983, c.41 (C.5:12-14a), provided that the value of a beverage complimentary served in a casino room shall be the cost to the casino licensee of providing the beverage; and

(6) for each casino licensee, the amount of tax imposed by this section shall not be less than the tax that the licensee would have paid if the tax had been in effect for calendar year 2002.

b. Each casino licensee shall file a return, on a form as prescribed by the Director of the Division of Taxation in the Department of the Treasury, and pay the amount of tax due pursuant to this section in the manner and at a frequency as the Director of the Division of Taxation prescribes, but no more frequently than monthly. In prescribing the periods to be covered by the return or intervals or classifications for payment of tax liability, the Director of the Division of Taxation may take into account the dollar volume of tax involved, as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The Director of the Division of Taxation shall determine

and certify to the State Treasurer on at least a quarterly basis the amount of tax collected pursuant to this section. The Director of the Division of Taxation may promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of this act.

d. The tax imposed by this section shall be governed in all respects by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq, except only to the extent that a specific provision of this section may be in conflict therewith.

e. The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

**C.5:12-148.2 Tax of 8% imposed on multi-casino progressive slot machine revenue.**

4. a. A tax at the rate of 8% is imposed on casino service industry multi-casino progressive slot machine revenue. The tax shall not be considered a tax collectable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section, "casino service industry multi-casino progressive slot machine revenue" means sums received by a casino service industry, licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, net of any money accrued for return to patrons in the form of jackpots, that are directly or indirectly related to: (1) the conduct of multi-casino progressive slot machine system operations in a casino; or (2) the sale, lease, servicing or management of a multi-casino progressive slot machine system. Notwithstanding the foregoing, "casino service industry multi-casino progressive slot machine revenue" shall not be construed to apply to revenue derived from transactions between a casino licensee and its holding company or intermediary companies or their affiliates.

c. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. A casino service industry licensee or applicant required to pay the tax imposed pursuant to this section shall, on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the Director of the Division of Taxation the tax owed on casino service industry multi-casino

progressive slot machine revenue received by the casino service industry licensee or applicant in the preceding month and make and file a return for the preceding month with the Director of the Division of Taxation on any form and containing any information as the Director of the Division of Taxation shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to pay the tax.

e. The Director of the Division of Taxation may permit or require returns to be made covering other periods and upon any dates as the Director of the Division of Taxation may specify. In addition, the Director of the Division of Taxation may require payments of tax liability at any intervals and based upon any classifications as the Director of the Division of Taxation may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the Director of the Division of Taxation may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

f. The Director of the Division of Taxation may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

g. The tax imposed under this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

**C.5:12-148.3 Tax of 7.5% imposed on certain adjusted net income of casino licensees.**

5. a. In State fiscal years 2004 through 2006, a tax at the rate of 7.5% is imposed on the adjusted net income of a casino licensee in calendar year 2002, determined pursuant to information provided by casino licensees to the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70) and published on April 2, 2003 in the commission's statement of casino licensee income for the twelve-month period ending on December 31, 2002, without regard to subsequent adjustment to such filing. For a casino licensee that was not in operation in calendar year 2002, the amount of the tax shall be 7.5% of its adjusted net income in State fiscal year 2004, as filed by the licensee with the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70). As used in this section, "adjusted net income" means annual net income plus management fees.

The aggregate amount of tax imposed by this section shall not exceed \$10 million annually for a holder of more than one casino license, and for each casino licensee the tax imposed by this section shall not be less than \$350,000 annually.

b. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all of the powers granted in P.L. 1945, c.162 (C.54:10A-1 et seq.). For a casino licensee that was in operation in calendar year 2002, the tax shall be due and payable in four equal payments on September 15, December 15, March 15, and June 15 of each State fiscal year. For a casino licensee that was not in operation in calendar year 2002, the tax in State fiscal year 2004 shall be due and payable in four quarterly estimated payments on the basis of adjusted net income in the current quarter, and the licensee shall file an annual return for State fiscal year 2004 no later than October 15, 2004. In State fiscal years 2005 and 2006 for such casino licensee, the tax shall be due and payable in four equal payments on September 15, December 15, March 15 and June 15.

c. The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation in the Department of the Treasury relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L. 1977, c.110 (C.5:12-145).

d. The Director of the Division of Taxation in the Department of the Treasury shall certify on September 30, 2003 and annually thereafter the amount of tax collected pursuant to this section. The Director of the Division of Taxation may promulgate such rules and regulations as the Director of the Division of Taxation determines are necessary to effectuate the provisions of this section.

e. The tax imposed under this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

**C.5:12-145.8 Fee of \$3.00 imposed daily on occupied hotel rooms in casino hotel facility.**

6. Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. The amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L. 1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, \$2.00 of the fee shall be deposited by the State Treasurer into the Casino Revenue Fund and \$1.00 shall be transferred by the State Treasurer to the Casino Reinvestment Development Authority established pursuant to section 5 of P.L. 1984, c.218 (C.5:12-153) for its purposes pursuant to law, as approved by the membership of the authority.

7. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read as follows:

**C.5:12-145 Casino revenue fund.**

145. Casino revenue fund. a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Revenue Fund," into which shall be deposited all revenues from the tax imposed by section 144 of this act; the investment alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-144.1); the taxes and fees imposed by sections 3, 4 and 6 of P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and any interest and penalties collected by the Director of the Division of Taxation in the Department of the Treasury in addition to those taxes; and all penalties levied and collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first \$600,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health and Senior Services, \$500,000 of which is to provide funds to the Council on Compulsive Gambling of New Jersey and \$100,000 of which is to provide funds for compulsive gambling treatment programs in the State. In the event that less than \$600,000 in penalties are collected, the Department of Health and Senior Services shall determine the allocation of funds between the Council and the treatment programs eligible under the criteria developed pursuant to section 2 of P.L.1993, c.229 (C.26:2-169).

b. The commission shall require at least monthly deposits by the licensee of the tax established pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer. The deposits shall be deposited to the credit of the Casino Revenue Fund. The commission may require a monthly report and reconciliation statement to be filed with it on or before the 10th day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

c. Moneys in the Casino Revenue Fund shall be appropriated exclusively for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the Casino Revenue Fund and the specific amounts of money appropriated therefrom

for specific expenditures during the preceding six months ending December 31 and June 30.

8. Section 1 of P.L.1993, c.159 (C.5:12-173.1) is amended to read as follows:

**C.5:12-173.1 Findings, declarations relative to redevelopment in Atlantic City.**

1. The Legislature finds that the single most significant factor contributing to the cost of constructing, maintaining, operating and supporting highways, roads and infrastructure, in Atlantic City, and particularly in the "corridor" region of the city, is the heavy volume of motor vehicular traffic occasioned by the attraction of casino gambling in Atlantic City. This traffic is encouraged by the provision of free parking by casino operations, by the relative underdevelopment of public transportation services, and by the shortage of hotel accommodations in the city. While the Legislature has taken various measures, most notably the "South Jersey Transportation Authority Act," P.L.1991, c.252 (C.27:25A-1 et al.), to provide and improve public transportation services in the South Jersey region as an alternative to the use of motor vehicles, the heavy capital costs associated with reconstruction of the corridor region's infrastructure require a continuous source of public funding. The Legislature declares, therefore, that it is in the public interest to require a standard minimum charge for casino parking within Atlantic City, and to impose fees on amounts received from those charges, with the proceeds of those fees to be used by the Casino Reinvestment Development Authority for projects which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of the city, or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. It is also in the public interest to establish a special temporary fund for the use of existing moneys of the authority for the provision of financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City.

The Legislature declares that it is the public purpose of this amendatory act, P.L.1996, c.118 (C.5:12-173.3a et al.), that financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City shall be determined after excluding costs reasonably related to space used for the conduct of casino gaming. It was, and continues to be, the public purpose of P.L.1993, c.159 (C.5:12-173.1 et seq.) that financial assistance may be provided to a project which includes, incorporates, facilitates or supports space used for the conduct of casino gaming in a casino hotel facility, but only for costs reasonably related to hotel rooms and their appurtenant facilities in the project.

The Legislature declares that it is the public purpose of this amendatory and supplementary act, P.L.2003, c.116 (C.5:12-148.1 et al.), that the proceeds of the increase in the fee imposed on the minimum charge for casino hotel parking within Atlantic City be deposited into the Casino Revenue Fund in State fiscal years 2004 through 2006, in order to assist the Casino Revenue Fund, and thereafter for use for the purposes specified.

9. Section 2 of P.L.1993, c.159 (C.5:12-173.2) is amended to read as follows:

**C.5:12-173.2 Minimum charge of \$3.00 imposed for use of casino parking facility.**

2. On and after July 1, 1993, there is established a minimum amount which shall be charged in the City of Atlantic City for the use of a parking space for the purpose of parking, garaging or storing a motor vehicle in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The charge shall be not less than \$3.00 per day for each motor vehicle parked, garaged or stored in the parking space. The charge shall be made for all motor vehicles so parked, garaged or stored, except for motor vehicles owned or leased by the owner or operator of the parking facility or property, or by an employee of the casino hotel which owns or leases the parking facility or property. A parking space is considered to be that of a licensed casino hotel if the facility or property in which the space is located is owned, wholly or in part, or leased by the casino hotel, and is utilized in whole or in part in conjunction with the operations of the casino hotel. A parking space shall be considered to be on behalf of a casino hotel if spaces within the facility or property are kept under lease or contract for the use of visitors or guests of the casino hotel. No motor vehicle shall be required, upon proof of payment of the \$3.00 charge, to pay the charge again in the same calendar day, either for use of a parking space in the same parking facility or property, or for use of a parking space in another casino hotel parking facility or property.

10. Section 3 of P.L.1993, c.159 (C.5:12-173.3) is amended to read as follows:

**C.5:12-173.3 Minimum fee of \$3.00 imposed for use of casino parking space.**

3. On and after July 1, 1993, there is imposed in the City of Atlantic City a fee upon the use of spaces for the parking, garaging or storing of motor vehicles in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The fee so imposed is \$3.00



of the amount received by the casino hotel or person from each charge made for the use of a parking space; provided, however, that if the casino hotel or person shall fail to collect, or shall rebate, all or a portion of the charge required herein to be imposed for the use of any parking space, the full amount of the fee shall be payable by the casino hotel or person.

11. Section 4 of P.L.1993, c.159 (C.5:12-173.4) is amended to read as follows:

**C.5:12-173.4 Special fund, use of fees.**

4. a. The State Treasurer shall deposit the first \$1.50 of the fee collected pursuant to section 3 of this act, P.L.1993, c.159 (C.5:12-173.3) into a special fund established and held by the State Treasurer and made available for the exclusive use of the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153), and shall deposit the remaining \$1.50 of the fee into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, the State Treasurer shall deposit the remaining \$1.50 of the fee as follows: \$0.50 into the Casino Revenue Fund and \$1.00 to the authority for its purposes pursuant to law, as approved by the membership of the authority, provided that the authority shall use the portion of this \$1.00 that is necessary to carry out the purpose of section 13 of P.L.2003, c.116 (C.5:12-173.22).

b. Amounts in the special fund shall be expended by the authority for eligible projects in the corridor region of the City of Atlantic City in Atlantic County as defined by regulation of the authority, which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of that city or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. The State Treasurer may require that a financial plan demonstrating the need, schedule and use for moneys placed in the special fund be approved by the State Treasurer prior to allocation. Pending application of moneys held in this special fund for these purposes, the moneys shall be invested in accordance with applicable law and income therefrom shall be credited exclusively to the special fund.

12. Section 5 of P.L.1993, c.159 (C.5:12-173.5) is amended to read as follows:

**C.5:12-173.5 Responsibility for collection of fees.**

5. Each person subject to the provisions of section 3 of P.L.1993, c.159 (C.5:12-173.3) shall be responsible for the collection of the fees imposed pursuant thereto, which shall be collected as part of the charge made for the use of a parking space. Amounts so collected shall be forwarded to the Director

of the Division of Taxation in the Department of the Treasury. The director, in administering the provisions of P.L.1993, c.159, shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected by the director pursuant to this section which are payable as directed by section 4 of P.L.1993, c.159 (C.5:12-173.4). The State Treasurer, upon certification of the director and upon warrant of the State Comptroller, and subject to the pertinent requirements of section 4 of P.L.1993, c.159 (C.5:12-173.4) shall pay and distribute on a monthly basis pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4) the amount so certified.

**C.5:12-173.22 Issuance of bonds by CRDA, establishment of Casino Capital Construction Fund.**

13. a. Notwithstanding any other law to the contrary, the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) shall issue bonds sufficient to generate \$30 million for deposit into the Casino Capital Construction Fund created by this section, so that \$10 million shall be available in each State fiscal year for designation and reserve pursuant to subsection d. of this section, except that the authority shall issue bonds to generate an amount greater than \$30 million and make available more than \$10 million annually as may be necessary to ensure that for each casino licensee there is designated and reserved the maximum share provided for in subsection d. of this section. The principal and interest of such bonds shall be repaid exclusively from the revenue dedicated to the authority for this purpose pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4), as amended by section 11 of P.L.2003, c.116.

b. The authority shall establish a Casino Capital Construction Fund, into which the authority shall hold and make available for the exclusive use of casino licensees for eligible projects approved by the authority, the amount directed to be deposited into the fund pursuant to subsection a. of this section.

c. Amounts in this fund shall be distributed to a casino licensee for eligible capital construction projects approved by the membership of the authority for the following types of expansion: to increase the square footage of retail space, parking spaces or casino hotel rooms or to create a significant physical amenity or improvement. The authority shall promulgate regulations establishing criteria governing the approval of eligible projects.

d. Of the amounts available in the fund in each State fiscal year pursuant to subsection a. of this section, the authority shall designate and reserve in State fiscal years 2004 through 2006 for each casino licensee a maximum share of the available \$10 million or such greater amount as may be necessary, which maximum share shall be calculated as follows: the greater of (1) the casino licensee's total payment of the adjusted net income tax imposed pursuant to section 5 of P.L.2003, c.116 (C.5:12-148.3) in State fiscal year 2004, 2005

or 2006, as appropriate, divided by the sum of payments by all casino licensees of that tax in State fiscal year 2004, 2005 or 2006, as appropriate, or (2) an amount equal to one half of the amount of tax paid in State fiscal year 2004, 2005, or 2006 as appropriate. A casino licensee may receive a distribution up to the licensee's maximum share in each State fiscal year and the share of the fund so designated and reserved for a casino licensee that has not been distributed by June 30, 2014 shall be forfeited to the authority for use for its purposes pursuant to law for projects located within the boundaries of the City of Atlantic City, County of Atlantic, as approved by the membership of the authority.

e. Notwithstanding any provisions of P.L.1984, c.218 (C.5:12-153 et seq.) or any other law to the contrary, the authority shall issue bonds, the principal, interest or redemption premiums on which are to be payable in all from amounts to be deposited in the fund established pursuant to this section in the manner provided in sections 6 and 7 of P.L.1993, c.159 (C.5:12-173.6 and 173.7)

14. Section 24 of P.L.1977, c.110 (C.5:12-24) is amended to read as follows:

**C.5:12-24 "Gross revenue."**

24. "Gross Revenue"--The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons; provided, however, that the cash equivalent value of any merchandise or thing of value included in a jackpot or payout shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenue. "Gross Revenue" shall not include any amount received by a casino from casino simulcasting pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.).

For the purposes of this section, any check which is invalid and unenforceable pursuant to subsection f. of section 101 of P.L.1977, c.110 (C.5:12-101) shall be treated as cash received by the casino licensee from gaming operations.

15. This act shall take effect immediately.

Approved July 1, 2003.

## CHAPTER 117

AN ACT establishing and increasing certain fees imposed by and on behalf of the State and providing for the use of certain fees, amending and supplementing various parts of the statutory law.

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

1. R.S.34:7-3 is amended to read as follows:

**Fees; revocation or suspension of license.**

34:7-3. Each application for examination and for any license issued by the bureau shall be accompanied by fees as set forth in this section. The fees, established hereunder pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05. Thereafter, such fees may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation. Such fees shall be made payable to the Commissioner of Labor. There shall be no other charge for the initial examination or for one re-examination taken within six months of the original examination. Failure to appear for examination or to obtain a passing grade shall not entitle the applicant to a refund of any fee.

Original application .....	\$50
Raise of grade or additional classification application .....	\$40
Additional examinations, in excess of 2, on any application .....	\$20
Annual license renewal if requested no later than expiration date .....	\$20
License renewal for 3 years if requested no later than expiration date .....	\$40
Application for renewal, if made not more than 3 years after expiration and if all penalties lawfully imposed upon the applicant by the Mechanical Inspection Bureau have been paid	
1 year .....	\$30
3 years .....	\$60

Upon failure to so renew a license for a period of 3 years and 1 day after expiration date all records pertaining to such license may be destroyed pursuant to the "Destruction of Public Records Law (1953)," P.L.1953, c.410 (C.47:3-15 et seq.) and any application for renewal of the license will be treated as an

original application for examination. All fees collected under this article shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

Any license may be revoked or suspended by the commissioner upon receiving evidence of incompetence, negligence, intoxication while on duty or other reason establishing that the licensee is unfit to hold a license, after notice is given to the licensee and a hearing afforded him before one or more members of the examining board. In case revocation or suspension is recommended by the member or members conducting the hearing, it shall not be acted upon by the commissioner until at least 15 days' notice of the recommendation shall be given to the licensee and an opportunity afforded him within that time period to ask for a rehearing before the commissioner. After rehearing, if requested, the commissioner may affirm, modify or dismiss such recommendation. Pending a hearing or rehearing as provided in this paragraph, the commissioner may authorize the suspension of a license in the interest of health and safety.

2. R.S.34:7-6 is amended to read as follows:

**Penalties.**

34:7-6. Any person who shall violate any of the provisions of this article shall be liable to a penalty of not less than \$500 nor more than \$5,000 per day for each violation, to be collected by suit or compromise. An officer of a corporation violating any of the provisions of this article shall be personally liable, for the violation by such corporation. Any manager, superintendent or other person in charge of any building or other places in which this article is violated shall be liable for such violation. Any sum collected as a penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

3. R.S.34:7-14 is amended to read as follows:

**Inspection of boilers.**

34:7-14. a. All steam or hot water boilers or similar equipment potentially capable of generating steam, except steam boilers having adequate relief devices set to discharge at a pressure not greater than 15 pounds per square inch, gage, or hot water boilers having adequate relief devices set to discharge at a pressure not greater than 160 pounds per square inch, gage, and which hot water boilers are reliably limited to temperatures not exceeding 250 degrees Fahrenheit, when such steam or hot water boilers serve dwellings of less than six-family units or other dwellings with accommodations for less than 25 persons, shall be inspected and be subject to a hydrostatic test, if necessary, at least once in each year, at 12-month intervals, by an inspector of the Division of Workplace

Standards, excepting, however, such as may be insured after having been regularly inspected in accordance with the terms of this article by insurance companies, whose inspectors shall have satisfactorily passed an examination or received certificates of competency approved by the commissioner. Such inspection shall be as completely internal and external as construction permits, except that in the case of a steam or hot water boiler or similar equipment, the operation of which is an integral part of or necessary to a continuous processing operation, internal inspections may, at the discretion of the commissioner, be performed at intervals in excess of 12 months as permitted by the shutting down of the processing operation. The inspection of any equipment described in this chapter by a certified inspector of an insurance company shall be acceptable in lieu of State inspection. This article shall not apply to any boiler having less than 10 square feet of heating surface or a heat input of less than 10 kilowatts or 40,000 British Thermal Units per hour or to equipment under the jurisdiction and control of the United States Government, the inspection of which is actively regulated by a federal agency, or to equipment used solely for the propulsion of motor vehicles regulated by Title 39 of the Revised Statutes.

b. All other pressure vessels may be inspected and be subject to test after installation and periodically at such intervals as the commissioner may by rule establish. Inspection and test shall be performed by an inspector of the Division of Workplace Standards excepting, however, such as may be insured after having been regularly inspected in accordance with the terms of this article, by insurance companies, whose inspectors shall have satisfactorily passed an examination or received certificates of competency approved by the commissioner, or such as may be regularly inspected by a certified user-inspector of a registered inspection agency approved by the commissioner. Such user-inspection shall have passed an examination or received a certificate of competency from the commissioner, and the inspection shall be conducted in such manner as the commissioner may by rule provide. The inspection of any equipment described in this subsection by a certified inspector of an insurance company or a certified user-inspector of a registered inspection agency shall be acceptable in lieu of State inspection where such inspections are recorded with the Division of Workplace Standards accompanied by fees in accordance with the following schedule; the fees established hereunder pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05, after which such fees may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation: one to 25 vessels, \$15.00 each; 26 to 100 vessels, \$7.50 each; 101 to 500 vessels, \$6.00 each; and over 500 vessels, \$4.50 each. These fees are to be collected from the owner or user but payable by the inspection agency to the Department of Labor.

This subsection shall not apply to any pressure vessels:

- (1) Subject to internal or external pressure not exceeding 15 psig; or
- (2) Having inside diameter not exceeding 6 inches; or
- (3) Used for water storage purposes serving dwellings of less than six-family units or other dwellings with accommodations for less than 25 persons, when none of the following limitations is exceeded:
  - (a) 200 degrees Fahrenheit
  - (b) 120 gallons water containing capacity
  - (c) 160 psig; or
- (4) Under the jurisdiction and control of the United States Government, the inspection of which is actively regulated by a federal agency; or to equipment used solely for the propulsion of motor vehicles regulated by Title 39 of the Revised Statutes.

4. R.S.34:7-15 is amended to read as follows:

**Fee for inspecting and testing; inspection of new vessels or vessels under construction.**

34:7-15. a. For each internal and external inspection of vessels specified in subsection a. of R.S.34:7-14, which shall include hydrostatic test if found necessary, the owner, lessee or operator of the vessel shall pay to the Department of Labor a fee of \$40 for vessels having 10 and not over 60 square feet of heating surface, \$55 for vessels over 60 and not over 1,000 square feet of heating surface and \$75 for vessels over 1,000 square feet of heating surface; plus the actual travel expenses of the inspector. The fees established under this subsection pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05, and thereafter may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation.

b. For each inspection of vessels specified in subsection b. of R.S.34:7-14, the owner, lessee or operator of the vessel shall pay to the Department of Labor a fee of \$10.00 for vessels not over 30 square feet size, \$20.00 for vessels over 30 but not over 60 square feet size, \$30.00 for vessels over 60 but not over 100 square feet size, \$40.00 for vessels over 100 square feet. In determining size rating, the extreme diameter multiplied by the vessel length, or equivalent dimensions, shall be used. The fees established under this subsection pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05, and thereafter may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation.

c. The Division of Workplace Standards shall maintain an inspection service for the purpose of providing shop inspection of those vessels regulated by Chapter 7 of Title 34 of the Revised Statutes, which are under construction or new, or which are to be used for a purpose other than that for which originally

approved, or which have never been subject to a previous inspection in New Jersey. This service shall be provided for New Jersey builders, owners or users of such vessels upon their request only. The fees for this service shall be set by the commissioner and shall be: (1) not more than \$50.00 for each vessel inspected, provided that he may establish a charge for each visit, for the purpose of inspection, of not less than \$100.00 nor more than \$300; (2) for construction review of vessel not designed in accordance with standards set by the Board of Boiler, Pressure Vessel and Refrigeration Rules, not less than \$500 nor more than \$1,500. The fees established under this subsection pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05 and thereafter may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation.

5. R.S.34:7-16 is amended to read as follows:

**Additional external inspection; fee.**

34:7-16. In addition to the annual internal and external inspection, there may be an external inspection if found necessary of each vessel specified in subsection a. of R.S.34:7-14, which shall be made as nearly as may be at the expiration of 6 months from each annual inspection and for which the owner, lessee or operator shall pay to the Department of Labor a fee of \$50. The fees established hereunder pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05 and thereafter may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation. Each vessel insured by an insurance company may also be given an external inspection by a certified inspector.

6. R.S.34:7-19 is amended to read as follows:

**Report by insurance company making inspection.**

34:7-19. An insurance company making an inspection of any vessel specified in R.S. 34:7-14 shall make a report of such inspection to the commissioner in such manner and at such intervals as he may by rules provide, and shall pay the commissioner a fee of \$20. The fee established hereunder pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05, and thereafter may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation.

The fees shall be payable by and collected from the owner, lessee or operator by the insurer or inspector at the time of inspection for each boiler insured within the State. It is further provided that payment of these fees may be made by the insurer through other methods when required or allowed by the commissioner, as provided in R.S.34:7-18.



7. R.S.34:7-25 is amended to read as follows:

**Refrigeration systems; inspection; fees; certificate.**

34:7-25. All refrigeration systems using flammable or toxic refrigerants of over three tons of refrigerating capacity or requiring over six driving horsepower, and all refrigeration systems using nonflammable and nontoxic refrigerants of over 18 tons of refrigerating capacity or requiring over 36 driving horsepower, having relief devices set over 15 pounds per square inch gage and used in a plant of any size or storage capacity, shall be inspected annually by an inspector of the Mechanical Inspection Bureau or of an insurance company, as provided in subsection a. of R.S.4:7-14; and the owner, lessee or operator shall comply with the recommendations of the inspector in conformity with the rules and regulations adopted by the Board of Boiler, Pressure Vessel and Refrigeration Rules of the Mechanical Inspection Bureau and approved by the commissioner.

The fees for such inspection by an inspector of the Mechanical Inspection Bureau shall be as follows:

- a. Refrigeration systems of 25 tons and over, but less than 300 tons of refrigerating capacity, the sum of \$75 for each inspection;
- b. Refrigeration systems under 25 tons and over 3 tons of refrigerating capacity, the sum of \$50 for each inspection;
- c. Refrigeration systems of 300 tons or over of refrigerating capacity, the sum of \$100 for each inspection.

The fees established hereinabove pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05, and thereafter may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation.

The annual inspection and inspection reports of refrigeration systems by insurance companies licensed to do business within this State and otherwise complying with this chapter shall be accepted in lieu of other inspections. Each insurance company shall file with the commissioner a report of each inspection and shall pay to him a fee of \$20 for each annual refrigeration system inspection, to be collected by the insurer from the owner or lessee of the plant inspected. Such fee as established pursuant to the amendatory provisions of P.L.2003, c.117 shall be in effect for State fiscal years 2003-04 and 2004-05, and thereafter may be adjusted by the Commissioner of Labor in accordance with fee schedules adopted by regulation. After the owner, lessee or operator has complied with the rules or regulations, a certificate shall be issued by the Mechanical Inspection Bureau, which certificate shall be valid for one year and be the authority for the operation of the refrigeration system during such time. Upon expiration, the certificate shall be renewed by the Mechanical Inspection Bureau if the refrigeration system is found to be in proper condition

for operation within the prescribed rules of the Mechanical Inspection Bureau. All fees collected under chapter 7 of Title 34 of the Revised Statutes shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

8. R.S.34:7-26 is amended to read as follows:

**Penalties; recovery.**

34:7-26. Any owner, lessee, seller or operator of any steam or hot water boiler or similar equipment specified in R.S.34:7-14, pressure vessel or refrigeration system who shall sell, use, cause or allow to be used such steam or hot water boiler or similar equipment specified in R.S.34:7-14, pressure vessel or refrigeration system in violation of any provision of this article shall be liable to a penalty of not less than \$500.00 nor more than \$10,000.00 for each first offense and not less than \$500.00 nor more than \$25,000.00 for each subsequent offense, to be collected by a civil action or, in the commissioner's discretion, to be imposed by the commissioner as a compromise. All civil actions shall be brought by the Department of Labor as plaintiff, and may be brought in the Special Civil Part, Law Division of the Superior Court of the county, or municipal court of the municipality, wherein such violation shall occur. Any sum collected as a penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

**C.24:2-9 Fees for issuance of "Certificate of Free Sale."**

9. The Department of Health and Senior Services may, pursuant to regulation adopted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establish and charge reasonable fees not to exceed \$100 to cover administrative costs associated with the issuance of a "Certificate of Free Sale." For the purpose of this act, a "Certificate of Free Sale" is defined as a certificate completed and issued by the department attesting that a specific food, drug, cosmetic, or medical device product regulated under Title 24 of the Revised Statutes, as amended and supplemented, and manufactured, distributed, and offered for sale in this State is labeled in conformance with the applicable food, drug, cosmetic, or medical device laws and rules of this State and further attests to the results of the most recently conducted sanitary inspection of the manufacturer or distributor of the subject product.

Further, the Department of Health and Senior Services may, pursuant to regulation adopted in accordance with the "Administrative Procedure Act," establish and charge reasonable fees not to exceed \$100 to cover administrative costs associated with the issuance of other certifications or affidavits related

to matters regulated by the department under Title 24 of the Revised Statutes, as amended and supplemented.

10. Section 10 of P.L.1971, c.136 (C.26:2H-10) is amended to read as follows:

**C.26:2H-10 Application for certificate of need; fee.**

10. Application for a certificate of need shall be made to the department, and shall be in such form and contain such information as the department may prescribe. The department shall charge a nonreturnable fee for the filing of an application for a certificate of need. The minimum fee for the filing of an application shall be \$7,500. For a project whose total cost is greater than \$1 million, the fee shall be \$7,500 plus 0.25% of the total project cost. Upon determination that an application is complete, copies thereof shall be referred by the department to the State Health Planning Board for review, when applicable.

The board shall provide adequate mechanisms for full consideration of each application submitted to the board and for developing recommendations thereon. Such recommendations, whether favorable or unfavorable, shall be forwarded to the commissioner within 90 days of the date of referral of the application. A copy of the recommendations made shall be forwarded to the applicant.

Recommendations concerning certificates of need shall be governed and based upon the principles and considerations set forth in section 8 of P.L.1971, c.136 (C.26:2H-8).

No member, officer or employee of the State Health Planning Board shall be subject to civil action in any court as the result of any act done or failure to act, or of any statement made or opinion given, while discharging his duties under this act as such member, officer, or employee, provided he acted in good faith with reasonable care and upon proper cause.

11. Section 3 of P.L.1997, c.399 (C.52:34-9.3) is amended to read as follows:

**C.52:34-9.3 Filing of current statement of qualifications, supporting data with agency; fee.**

3. A professional firm which wishes to be considered qualified to provide professional architectural, engineering, or land surveying services to an agency seeking to negotiate a contract or agreement for the performance of such services shall file or shall have filed with the agency a current statement of qualifications and supporting data. Such a statement may be filed at any time during a calendar year, and a \$100 fee shall be remitted to the State Treasurer by the professional firm at the time each statement is filed. The content of any such statement shall conform to such regulations with respect thereto as the State Treasurer,

in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), shall promulgate. For the purposes of this section and section 5 of this act, no statement which shall have been filed more than two years prior to the publication of an advertisement pursuant to the provisions of section 4 of this act shall be deemed to be a current statement with respect to qualification of the firm which shall have filed the statement to provide professional architectural, engineering, or land surveying services under any contract or agreement of which notice is given through that advertisement.

A statement of qualifications and supporting data filed with an agency under this section shall be a public record for all purposes of P.L.1963, c.73 (C.47:1A-1 et seq.).

The fee prescribed hereunder shall not apply to any statements filed before the effective date of P.L.2003, c.117.

12. R.S.52:35-2 is amended to read as follows:

**Statement required from prospective bidders; contents; fee.**

52:35-2. Officials of the State shall require of all persons proposing to submit bids on public work to be furnished for or on behalf of the State or any officer, board, commission, committee, department or other branch of the State government, a statement under oath in response to a questionnaire, standardized for like classes of work, to be submitted to such persons by such State official. The statement shall develop fully the financial ability, adequacy of plant and equipment, organization and prior experience of the prospective bidder, and also such other pertinent and material facts as may seem desirable. All persons shall remit a \$100 fee to the State Treasurer at the time each statement is filed. The fee shall not apply to any statements filed before the effective date of P.L.2003, c.117.

13. R.S.52:35-8 is amended to read as follows:

**Submission of statement required for bidder.**

52:35-8. No person shall be qualified to bid on any contract, who shall not have submitted a statement as required by R.S.52:35-2 within a period of 24 months preceding the date of opening of bids for such contract.

14. Section 3 of P.L.1966, c.185 (C.27:7-35.3) is amended to read as follows:

**C.27:7-35.3 Statement under oath; filing; contents; fee.**

3. Any person desiring such classification shall file with the department a statement under oath in response to a questionnaire, prepared and standardized for like classes of work, by the department. The statement shall develop fully

the financial ability, adequacy of plant and equipment, organization and prior experience of the prospective bidder, and also such other pertinent and material facts as may be deemed desirable. All persons shall remit a \$100 fee to the Department of the Treasury at the time each statement is filed. The fee shall be deposited in the general fund. The fee shall not apply to any statements filed before the effective date of P.L.2003, c.117 (C.24:2-9 et al.).

15. N.J.S.17B:23-5 is amended to read as follows:

**Retaliatory provision.**

17B:23-5. a. When by or pursuant to the laws of any other state or a province of Canada any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other obligations, prohibitions or restrictions are or would be imposed upon New Jersey insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers of such other state or province under the statutes of this State, so long as such laws of such other state or province continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other obligations, prohibitions, or restrictions of whatever kind shall be imposed by the commissioner upon the insurers or upon the agents or representatives of such insurers, of such other state or province doing business in New Jersey. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or province on New Jersey insurers or their agents or representatives shall be deemed to be imposed by such state or province within the meaning of this section and the commissioner may compute the burden of any such taxes on an aggregate basis as an addition to the rate of tax payable by similar New Jersey insurers in such state or province. The addition to the rate of tax payable by similar New Jersey insurers shall be determined by dividing (1) the aggregate of the tax obligations paid to such city, county or other political subdivisions of such state or province by such New Jersey insurers, by (2) the aggregate of the taxable premiums of such insurers under the premium taxing statute of such state or province. The commissioner may issue regulations to carry out the purpose of this section that may include identification of any specific obligation imposed by any other state or province, in order to ensure the ability of this State to calculate and collect all appropriate fees.

b. This section shall not apply to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations

or assessments imposed in connection with particular kinds of insurance; except that deductions, from premium taxes otherwise payable, allowed on account of real estate or personal property taxes shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.

c. For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada or a province thereof, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this State or within 6 months after the effective date of this code, whichever date is the later, and may be any one of the following states:

- (1) That in which the insurer was first authorized to transact insurance;
- (2) That in which is located the insurer's principal place of business in the United States;
- (3) That in which is held the larger deposit of trustee assets of the insurer for the protection of its policyholders and creditors in the United States;

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal place of business in the United States. In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

16. Section 2 of P.L.1971, c.158 (C.24:15-14) is amended to read as follows:

**C.24:15-14 Fee for license or inspection.**

2. Where no other fee is provided by law or regulation, the commissioner may in accordance with a fee schedule adopted by the department as a rule or regulation establish and charge reasonable fees for any service performed in the licensing and inspection of any premises coming within the provisions of this chapter. The fees charged as provided for by this section shall be no more than \$1,000 based on criteria set forth in the rule or regulation.

17. Section 2 of P.L.1985, c.69 (C.53:1-20.6) is amended to read as follows:

**C.53:1-20.6 Rules, regulations concerning dissemination of information; fees.**

2. a. The Superintendent of State Police, with the approval of the Attorney General, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations authorizing the dissemination, by the State Bureau of Identification, of criminal history record background information requested by State, county and local government agencies, including the Division of State Police, in noncriminal matters, or requested by individuals, nongovernmental entities or other governmental

entities whose access to such criminal history record background information is not prohibited by law. A fee not to exceed \$30 shall be imposed for processing fingerprint identification checks; a fee not to exceed \$18 shall be imposed for processing criminal history name search identification checks. These fees shall be in addition to any other fees required by law. In addition to any fee specified herein, a nonrefundable fee, the amount of which shall be determined by the Superintendent of State Police, with the approval of the Attorney General, shall be collected to cover the cost of securing and processing a federal criminal records check for each applicant.

b. State, county and local government agencies, including the Division of State Police, and nongovernmental entities are authorized to impose and collect the processing fee established pursuant to subsection a. of this section from the person for whom the criminal history record background check is being processed or from the party requesting the criminal history record background check. The Superintendent of State Police shall provide this processing service without the collection of fees from the applicants in processing background checks of prospective foster parents or members of their immediate families. In such cases, the Department of Human Services shall be responsible for paying the fees imposed pursuant to subsection a. of this section. Nothing in this section shall prohibit the Superintendent of State Police, with the approval of the Attorney General, from providing this processing service without the collection of fees from the applicant in other circumstances which in his sole discretion he deems appropriate, if the applicants would not receive a wage or salary for the time and services they provide to an organization or who are considered volunteers. In those circumstances where the Superintendent of State Police, with the approval of the Attorney General, determines to provide this processing service without the collection of fees to the individual applicants, the superintendent may assess the fees for providing this service on behalf of the applicants to any department of State, county or municipal government which is responsible for operating or overseeing that volunteer program. The agencies shall transfer all moneys collected for the processing fee to the Division of State Police.

18. Section 14 of P.L.1971, c.136 (C.26:2H-14) is amended to read as follows:

**C.26:2H-14 Unlicensed health care facility; rules; violations; penalties.**

14. Any person, firm, partnership, corporation or association who shall operate or conduct a health care facility without first obtaining the license required by this act, or who shall operate such health care facility after revocation or suspension of license, shall be liable to a penalty of not more than \$2,500 as provided for by regulation for each day of operation in violation

hereof for the first offense and \$5,000 for any subsequent offense. Any person, firm, partnership, corporation or association who violates any rule or regulation adopted in accordance with this act as the same pertains to the care of patients and physical plant standards shall be subject to a penalty of not more than \$5,000 as provided for by regulation for each day that he is in violation of such rule or regulation. Upon notification to the facility of such violations as pertain to the care of patients or to the hazardous or unsafe condition existing in or upon the structure in which the licensed facility is maintained, the commissioner shall allow the facility 72 hours in which to correct any such violation and if at the end of such period the violation is not corrected and it poses an imminent threat to the health, safety or welfare of the public or the residents of the facility, he may, in his discretion, summarily suspend the license of the facility without a hearing and may order immediate correction of such violation as a prerequisite of reinstatement of licensure. If a licensee that is subject to summary suspension shall deny that a violation exists or has occurred, he shall be have the right to apply to the commissioner for a hearing. Such hearing shall be held and a decision rendered within 48 hours of receipt of said request. If the commissioner shall rule against the licensee, the licensee shall have the right to apply for injunctive relief against the commissioner's order. Jurisdiction of such injunctive relief shall be in the Superior Court of New Jersey. Nothing herein shall be construed to prevent the commissioner from thereafter suspending or revoking the license in accordance with the procedure set forth in section 13. If, within one year after such violation such person, firm, partnership, corporation or association is found guilty of the same violation such penalties as hereinbefore set forth shall be doubled, and if there be a third violation within such time, such penalties shall be tripled. In addition thereto the department may, in its discretion, suspend the license for such time as it may deem proper or revoke said license.

Any person, firm, partnership, corporation or association who shall, except in cases of an emergency, maintain more patients in his premises than he is licensed so to do, shall be subject to a penalty, in accordance with the procedure set forth in section 13, in an amount equal to the daily charge collected from such patient or patients plus \$25.00 for each day each extra patient is so maintained.

19. Section 26 of P.L.1983, c.315 (C.34:5A-26) is amended to read as follows:

**C.34:5A-26 "Worker and Community Right to Know Fund."**

26. a. There is established in the Department of the Treasury a nonlapsing, revolving fund to be known as the "Worker and Community Right To Know Fund." The "Worker and Community Right To Know Fund" shall be credited



with all fees collected pursuant to paragraph (1) of subsection b. of this section and interest on moneys in the "Worker and Community Right To Know Fund" shall be credited to the "Worker and Community Right To Know Fund" and all moneys in the "Worker and Community Right To Know Fund" are appropriated for the purposes of the "Worker and Community Right To Know Fund", and no moneys shall be expended for those purposes without the specific appropriation thereof by the Legislature. The State Treasurer shall be the administrator of the "Worker and Community Right To Know Fund", and all disbursements from the "Worker and Community Right To Know Fund" shall be made by the State Treasurer upon the warrant of the Director of the Division of Budget and Accounting.

b. (1) The Department of Labor shall annually assess each employer a fee of not less than \$75.00 nor more than an amount equal to \$4.00 per employee to provide for the implementation of the provisions of this act. All fees collected by the department pursuant to this paragraph shall be deposited in the "Worker and Community Right To Know Fund".

(2) The Department of Labor shall annually assess each employer a fee of \$2.00 per employee for the implementation of P.L.1991, c.235 (C.13:1D-35 et seq.). All fees collected by the department pursuant to this paragraph shall be deposited in the "Pollution Prevention Fund" established pursuant to section 16 of P.L.1991, c.235 (C.13:1D-50), and shall be used only for the implementation of P.L.1991, c.235 (C.13:1D-35 et seq.).

c. The moneys in the "Worker and Community Right To Know Fund" shall be disbursed only for the following purposes:

(1) Expenses approved by the Director of the Division of Budget and Accounting and incurred by the Department of Health and Senior Services, the Department of Environmental Protection, the Department of Labor, the Department of the Treasury, and the county health departments in implementing the provisions of this act; and

(2) Repayment to the General Fund of any moneys appropriated by law in order to implement the provisions of this act.

d. The State Treasurer shall annually disburse the moneys in the "Worker and Community Right To Know Fund" for expenditures approved by the Director of the Division of Budget and Accounting pursuant to paragraph (1) of subsection c. of this section, but in no case in an amount to the several departments that is greater than the following percentages of the "Worker and Community Right To Know Fund" available in any one year: the Department of Health and Senior Services, 40%; the Department of Environmental Protection, 20%; the county health departments, 15%; the Department of Labor, 15%; and the Department of the Treasury, 10%.

e. Beginning two years after the effective date of this act, the State Treasurer shall make an annual audit of the "Worker and Community Right

To Know Fund" to determine the adequacy of moneys on deposit in the "Worker and Community Right To Know Fund" to support the implementation of the provisions of this act. If the State Treasurer, in consultation with the Department of Health and Senior Services, the Department of Environmental Protection, and the Department of Labor makes a determination that the revenues in the "Worker and Community Right To Know Fund" are sufficient to warrant a reduction in the fees imposed pursuant to paragraph (1) of subsection b. of this section for the ensuing year, he may reduce the amount of the fees imposed during that year by an amount warranted by the balance in the "Worker and Community Right To Know Fund" at the time of the determination.

20. R.S.43:21-14 is amended to read as follows:

**Periodic contribution reports.**

43:21-14. (a)(1) In addition to such reports as may be required under the provisions of subsection (g) of R.S.43:21-11, every employer shall file with the controller periodic contribution reports on such forms and at such times as the controller shall prescribe, to disclose the employer's liability for contributions under the provisions of this chapter (R.S.43:21-1 et seq.), and at the time of filing each contribution report shall pay the contributions required by this chapter (R.S.43:21-1 et seq.), for the period covered by such report. The controller may require that such reports shall be under oath of the employer. Any employer who shall fail to file any report, required by the controller, on or before the last day for the filing thereof shall pay a penalty of \$10.00 for each day of delinquency until and including the fifth day following such last day and for any period of delinquency after such fifth day, a penalty of \$10.00 a day or 25% of the amount of the contributions due and payable by the employer for the period covered by the report, whichever is the lesser; if there be no liability for contributions for the period covered by any contribution report or in the case of any report other than a contribution report, the employer or employing unit shall pay a penalty of \$10.00 a day for each day of delinquency in filing or \$50.00, whichever is the lesser; provided, however, that when it is shown to the satisfaction of the controller that the failure to file any such report was not the result of fraud or an intentional disregard of this chapter (R.S.43:21-1 et seq.), or the regulations promulgated hereunder, the controller, in his discretion, may remit or abate any unpaid penalties heretofore or hereafter imposed under this section. On or before October 1 of each year, the controller shall submit to the Commissioner of Labor a report covering the 12-month period ending on the preceding June 30, and showing the names and addresses of all employers for whom the controller remitted or abated any penalties, or ratified any remission or abatement of penalties, and the amount of such penalties with respect to each employer. Any employer

who shall fail to pay the contributions due for any period, on or before the date they are required by the controller to be paid, shall pay interest on the amount thereof from such date until the date of payment thereof, at the rate of 1% a month through June 30, 1981 and at the rate of 1 1/4% a month after June 30, 1981. Upon the written request of any employer or employing unit, filed with the controller on or before the due date of any report or contribution payment, the controller, for good cause shown, may grant, in writing, an extension of time for the filing of such report or the paying of such contribution, with interest at the applicable rate; provided no such extension shall exceed 30 days and that no such extension shall postpone payment of any contribution for any period beyond the day preceding the last day for filing tax returns under Title IX of the federal Social Security Act for the year in which said period occurs.

(2)(A) For the calendar quarter commencing July 1, 1984 and each successive quarter thereafter, each employer shall file a report with the controller within 30 days after the end of each quarter in a form and manner prescribed by the controller, listing the name, social security number and wages paid to each employee and the number of base weeks (as defined in subsection (t) of R.S.43:21-19) worked by the employee during the calendar quarter. (B) Any employer who fails without reasonable cause to comply with the reporting requirements of this paragraph (2) shall be liable for a penalty in the following amount for each employee with respect to whom the employer is required to file a report but who is not included in the report or for whom the required information is not accurately reported for each employee required to be included, whether or not the employee is included:

(i) For the first failure for one quarter in any eight consecutive quarters, \$5.00 for each employee;

(ii) For the second failure for any quarter in any eight consecutive quarters, \$10.00 for each employee; and

(iii) For the third failure for any quarter in any eight consecutive quarters, and for any failure in any eight consecutive quarters, which failure is subsequent to the third failure, \$25.00 for each employee.

(C) Information reported by employers as requested by this paragraph (2) shall be used by the Department of Labor for the purpose of determining eligibility for benefits of individuals in accordance with the provisions of R.S.43:21-1 et seq. Notwithstanding the provisions of subsection (g) of R.S.43:21-11, the Department of Labor is hereby authorized to provide the Department of Human Services and the Higher Education Assistance Authority with information reported by employers as required by this paragraph (2). For each fiscal year, the Director of the Division of Budget and Accounting of the Department of the Treasury shall charge the appropriate account of the Department of Human Services and the Higher Education Assistance

Authority in amounts sufficient to reimburse the Department of Labor for the cost of providing information under this subparagraph (C).

(D) For the purpose of administering the provisions of this paragraph (2), all appropriations, files, books, papers, records, equipment and other property, and employees currently assigned to the Division of Taxation for the implementation of the "Wage Reporting Act," P.L.1980, c.48 (C.54:1-55 et seq.), shall be transferred to the Department of Labor as of September 1, 1984 in accordance with the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

(b) The contributions, penalties, and interest due from any employer under the provisions of this chapter (R.S.43:21-1 et seq.), from the time they shall be due, shall be a personal debt of the employer to the State of New Jersey, recoverable in any court of competent jurisdiction in a civil action in the name of the State of New Jersey; provided, however, that except in the event of fraud, no employer shall be liable for contributions or penalties unless contribution reports have been filed or assessments have been made in accordance with subsection (c) or (d) of this section before four years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R.S.43:21-1 et seq.), nor shall any employer be required to pay interest on any such contribution unless contribution reports were filed or assessments made within such four-year period; provided further that if such contribution reports were filed or assessments made within the four-year period, no civil action shall be instituted, nor shall any certificate be issued to the Clerk of the Superior Court under subsection (e) of this section, except in the event of fraud, after six years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R.S.43:21-1 et seq.), or July 1, 1958, whichever is later. Payments received from an employer on account of any debt incurred under the provisions of this chapter (R.S.43:21-1 et seq.) may be applied by the controller on account of the contribution liability of the employer and then to interest and penalties, and any balance remaining shall be recoverable by the controller from the employer. Upon application therefor, the controller shall furnish interested persons and entities certificates of indebtedness covering employers, employing units and others for contributions, penalties and interest, for each of which certificates the controller shall charge and collect a fee of \$2.00 per name; no such certificate to be issued, however, for a fee of less than \$10.00. All fees so collected shall be paid into the unemployment compensation administration fund.

(c) If any employer shall fail to make any report as required by the rules and regulations of the division pursuant to the provisions of this chapter (R.S.43:21-1 et seq.), the controller may make an estimate of the liability of such employer from any information it may obtain, and, according to such

estimate so made, assess such employer for the contributions, penalties, and interest due the State from him, give notice of such assessment to the employer, and make demand upon him for payment.

(d) After a report is filed under the provisions of this chapter (R.S.43:21-1 et seq.) and the rules and regulations thereof, the controller shall cause the report to be examined and shall make such further audit and investigation as it may deem necessary, and if therefrom there shall be determined that there is a deficiency with respect to the payment of the contributions due from such employer, the controller shall assess the additional contributions, penalties, and interest due the State from such employer, give notice of such assessment to the employer, and make demand upon him for payment.

(e) As an additional remedy, the controller may issue to the Clerk of the Superior Court of New Jersey a certificate stating the amount of the employer's indebtedness under this chapter (R.S.43:21-1 et seq.) and describing the liability, and thereupon the clerk shall immediately enter upon his record of docketed judgments such certificate or an abstract thereof and duly index the same. Any such certificate or abstract, heretofore or hereafter docketed, from the time of docketing shall have the same force and effect as a judgment obtained in the Superior Court of New Jersey, and the controller shall have all the remedies and may take all the proceedings for the collection thereof which may be had or taken upon the recovery of such a judgment in a civil action upon contract in said court. Such debt, from the time of docketing thereof, shall be a lien on and bind the lands, tenements and hereditaments of the debtor.

The Clerk of the Superior Court shall be entitled to receive for docketing such certificate, \$0.50, and for a certified transcript of such docket, \$0.50. If the amount set forth in said certificate as a debt shall be modified or reversed upon review, as hereinafter provided, the Clerk of the Superior Court shall, when an order of modification or reversal is filed, enter in the margin of the docket opposite the entry of the judgment, the word "modified" or "reversed," as the case may be, and the date of such modification or reversal.

The employer, or any other party having an interest in the property upon which the debt is a lien, may deposit the amount claimed in the certificate with the Clerk of the Superior Court of New Jersey, together with an additional 10% of the amount thereof, or \$100.00, whichever amount is the greater, to cover interest and the costs of court, or in lieu of depositing the amount in cash, may give a bond to the State of New Jersey in double the amount claimed in the certificate, and file the same with the Clerk of the Superior Court. Said bond shall have such surety and shall be approved in the manner required by the Rules Governing the Courts of the State of New Jersey.

After the deposit of said money or the filing of said bond, the employer, or any other party having an interest in the said property, may, after exhausting all administrative remedies, secure judicial review of the legality or validity

of the indebtedness or the amount thereof, and the said deposit of cash shall be as security for, and the bond shall be conditioned to prosecute, the judicial review with effect.

Upon the deposit of said money or the filing of the said bond with the Clerk of the Superior Court, all proceedings on such judgment shall be stayed until the final determination of the cause, and the moneys so deposited shall be subject to the lien of the indebtedness and costs and interest thereon, and the lands, tenements, and hereditaments of said debtor shall forthwith be discharged from the lien of the State of New Jersey and no execution shall issue against the same by virtue of said judgment.

Notwithstanding the provisions of subsections (a) through (c) of this section, the Department of Labor may, with the concurrence of the State Treasurer, when all reasonable efforts to collect amounts owed have been exhausted, or to avoid litigation, reduce any liability for contributions, penalties and interest, provided no portion of those amounts represents contributions made by an employee pursuant to subsection (d) of R.S.43:21-7.

(f) If, not later than two years after the calendar year in which any moneys were erroneously paid to or collected by the controller, whether such payments were voluntarily or involuntarily made or made under mistake of law or of fact, an employer, employing unit, or employee who has paid such moneys shall make application for an adjustment thereof, the said moneys shall, upon order of the controller, be either credited or refunded, without interest, from the appropriate fund. For like cause and within the same period, credit or refund may be so made on the initiative of the controller.

(g) All interest and penalties collected pursuant to this section shall be paid into a special fund to be known as the unemployment compensation auxiliary fund; all moneys in this special fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury, and shall be expended, under legislative appropriation, for the purpose of aiding in defraying the cost of the administration of this chapter (R.S.43:21-1 et seq.); for the repayment of any interest bearing advances made from the federal unemployment account pursuant to the provisions of section 1202(b) of the Social Security Act, 42 U.S.C. s.1322; and for essential and necessary expenditures in connection with programs designed to stimulate employment, as determined by the Commissioner of Labor, except that any moneys in this special fund shall be first applied to aiding in the defraying of necessary costs of the administration of this chapter (R.S.43:21-1 et seq.) as determined by the Commissioner of Labor. The Treasurer of the State shall be ex officio the treasurer and custodian of this special fund and, subject to legislative appropriation, shall administer the fund in accordance with the directions of the controller. Any balances in this fund shall not lapse at any time, but shall

be continuously available, subject to legislative appropriation, to the controller for expenditure. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation auxiliary fund, in an amount to be fixed by the division, the premiums for such bond to be paid from the moneys in the said special fund.

21. R.S.33:1-10 is amended to read as follows:

**Class A licenses; subdivisions; fees.**

33:1-10. Class A licenses shall be subdivided and classified as follows:

Plenary brewery license. 1a. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$10,625.

Limited brewery license. 1b. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 300,000 barrels of 31 fluid gallons capacity per year and to sell and distribute this product to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so brew not more than 50,000 barrels of 31 fluid gallons capacity per annum, \$1,250; to so brew not more than 100,000 barrels of 31 fluid gallons capacity per annum, \$2,500; to so brew not more than 200,000 barrels of 31 fluid gallons capacity per annum, \$5,000; to so brew not more than 300,000 barrels of 31 fluid gallons capacity per annum, \$7,500.

Restricted brewery license. 1c. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in such license not in excess of 3,000 barrels of 31 fluid gallons capacity per year. Notwithstanding the provisions of R.S.33:1-26, the director shall issue a restricted brewery license only to a person or an entity which has identical ownership to an entity which holds a plenary retail consumption license issued pursuant to R.S.33:1-12, provided that such plenary retail consumption license is operated in conjunction with a restaurant regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities, and that the licensed restaurant premises is immediately adjoining the premises licensed as a restricted brewery. The holder of this license shall only be entitled to sell or deliver the

product to that restaurant premises. The fee for this license shall be \$1,250, which fee shall entitle the holder to brew up to 1,000 barrels of 31 fluid gallons per annum. The licensee also shall pay an additional \$625 for every additional 1,000 barrels of 31 fluid gallons produced. No more than two restricted brewery licenses shall be issued to a person or entity which holds an interest in a plenary retail consumption license. If the governing body of the municipality in which the licensed premises will be located should file a written objection, the director shall hold a hearing and may issue the license only if the director finds that the issuance of the license will not be contrary to the public interest. All fees related to the issuance of both licenses shall be paid in accordance with statutory law.

Plenary winery license. 2a. Provided that the holder is engaged in growing and cultivating grapes or fruit used in the production of wine on at least three acres on, or adjacent to, the winery premises, the holder of this license shall be entitled, subject to rules and regulations, to produce any fermented wines, and to blend, fortify and treat wines, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse, and to sell his products at retail to consumers on the licensed premises of the winery for consumption on or off the premises and to offer samples for sampling purposes only. The fee for this license shall be \$938. The holder of this license shall also have the right to sell such wine at retail in original packages in five salesrooms apart from the winery premises for consumption on or off the premises and for sampling purposes for consumption on the premises, at a fee of \$250 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and operated by at least two plenary or farm winery licensees for the sale of the products of any plenary or farm winery licensee for consumption on or off the premises and for consumption on the licensed premises for sampling purposes at an additional fee of \$625 per county salesroom. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

For the purposes of this subsection, "product" means any wine that is produced, blended, fortified, or treated by the licensee on its licensed premises situated in the State of New Jersey.

Any holder of a plenary winery license who sold wine which was produced, bottled, and labelled by that holder in a place other than its licensed New Jersey premises between July 1, 1992 and June 30, 1993, may continue to sell that wine provided no more than 25,000 cases, each case consisting of 12 750 milliliter bottles or the equivalent, are sold in any single license year. This



privilege shall terminate upon, and not survive, any transfer of the license to another person or entity subsequent to the effective date of this 1993 amendatory act or any transfer of stock of the licensed corporation other than to children, grandchildren, parents, spouses or siblings of the existing stockholders.

Farm winery license. 2b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell at retail to consumers for consumption on or off the licensed premises and to offer samples for sampling purposes only. The license shall be issued only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land exclusively under the control of the licensee, provided that the licensee is actively engaged in growing and cultivating an area of not less than three acres on or adjacent to the winery premises and on which are growing grape vines or fruit to be processed into wine or fruit juice; and provided, further, that for the first five years of the operation of the winery such fermented wines and fruit juices shall be manufactured from at least 51% grapes or fruit grown in the State and that thereafter they shall be manufactured from grapes or fruit grown in this State at least to the extent required for labeling as "New Jersey Wine" under the applicable federal laws and regulations. The containers of all wine sold to consumers by such licensee shall have affixed a label stating such information as shall be required by the rules and regulations of the Director of the Division of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: to so manufacture between 30,000 and 50,000 gallons per annum, \$375; to so manufacture between 2,500 and 30,000 gallons per annum, \$250; to so manufacture between 1,000 and 2,500 gallons per annum, \$125; to so manufacture less than 1,000 gallons per annum, \$63. No farm winery license shall be held by the holder of a plenary winery license or be situated on a premises licensed as a plenary winery.

The holder of this license shall also have the right to sell his products in original packages at retail to consumers in five salesrooms apart from the winery premises for consumption on or off the premises, and for sampling purposes for consumption on the premises, at a fee of \$250 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and operated by at least two plenary or farm winery licensees for the sale of the products of any plenary or farm winery licensee for consumption on or off the premises and for consumption on the licensed

premises for sampling purposes only, at an additional fee of \$625 per county salesroom. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

Unless otherwise indicated, for the purposes of this subsection, with respect to farm winery licenses, "manufacture" means the vinification, aging, storage, blending, clarification, stabilization and bottling of wine or juice from New Jersey fruit to the extent required by this subsection.

Wine blending license. 2c. The holder of this license shall be entitled, subject to rules and regulations, to blend, treat, mix, and bottle fermented wines and fruit juices with non-alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$625.

Plenary distillery license. 3a. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any distilled alcoholic beverages and rectify, blend, treat and mix, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$12,500.

Limited distillery license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture and bottle any alcoholic beverages distilled from fruit juices and rectify, blend, treat, mix, compound with wine and add necessary sweetening and flavor to make cordial or liqueur, and to sell and distribute to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution and to warehouse these products. The fee for this license shall be \$3,750.

Supplementary limited distillery license. 3c. The holder of this license shall be entitled, subject to rules and regulations, to bottle and rebottle, in a quantity to be expressed in said license, dependent upon the following fees, alcoholic beverages distilled from fruit juices by such holder pursuant to a prior plenary or limited distillery license, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so bottle and rebottle not more than 5,000 wine gallons per annum, \$313; to so bottle and rebottle not more than 10,000 wine gallons per annum, \$625; to so bottle and rebottle without limit as to amount, \$1,250.

Rectifier and blender license. 4. The holder of this license shall be entitled, subject to rules and regulations, to rectify, blend, treat and mix distilled alcoholic beverages, and to fortify, blend, and treat fermented alcoholic beverages, and prepare mixtures of alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$7,500.

Bonded warehouse bottling license. 5. The holder of this license shall be entitled, subject to rules and regulations, to bottle alcoholic beverages in bond on behalf of all persons authorized by federal and State law and regulations to withdraw alcoholic beverages from bond. The fee for this license shall be \$625. This license shall be issued only to persons holding permits to operate Internal Revenue bonded warehouses pursuant to the laws of the United States.

The provisions of section 21 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

22. R.S.33:1-11 is amended to read as follows:

**Class B alcoholic licenses; subdivisions, classifications; fees.**

33:1-11. Class B licenses shall be subdivided and classified as follows:

Plenary wholesale license. 1. The holder of this license shall be entitled, subject to rules and regulations, to sell and distribute alcoholic beverages to retailers and wholesalers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and salesroom; provided, however, that the delivery of such alcoholic beverages by the holder of this license to retailers licensed under this Title shall be from inventory in a warehouse located in New Jersey which is operated under a plenary wholesale license. The fee for this license shall be \$8,750.

Limited wholesale license. 2a. The holder of this license shall be entitled, subject to rules and regulations, to sell and distribute brewed malt alcoholic beverages and naturally fermented wines to retailers and wholesalers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and salesroom. The fee for this license shall be \$1,875.

Wine wholesale license. 2b. The holder of this license shall be entitled, subject to rules and regulations, to sell and distribute any naturally fermented, treated, blended, fortified and sparkling wines to retailers and wholesalers

licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and salesroom; provided, however, that the delivery of such wines by the holder of this license to retailers licensed under this Title shall be from inventory in a warehouse located in New Jersey which is operated under a wine wholesale license. The fee for this license shall be \$3,750.

State beverage distributor's license. 2c.(1) The holder of this license shall be entitled, subject to rules and regulations, to sell and distribute unchilled, brewed, malt alcoholic beverages in original containers only, in quantities of not less than 144 fluid ounces and chilled draught malt alcoholic beverages in kegs, barrels or other similar containers of at least one fluid gallon in capacity, to retailers licensed in accordance with this chapter, and to sell and distribute without this State to any person pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and salesroom. The holder of this license may sell unchilled, brewed, malt alcoholic beverages in original containers only, in quantities of not less than 144 fluid ounces and chilled draught malt alcoholic beverages in kegs, barrels or other similar containers of at least 7.75 fluid gallons in capacity, at retail; provided, however, that such sales shall be made only for consumption off the licensed premises. This license shall not be issued to any person holding a plenary or limited brewery license, nor shall it be issued to any person directly or indirectly interested in any brewery within or without this State. This license shall not be issued for premises in or upon which any retail business, except the sale of malt alcoholic beverages and nonalcoholic beverages, is carried on. The fee for this license shall be \$1,031.

(2) After the effective date of P.L.1995, c. 309 any license issued or transferred pursuant to this subsection for a premises located in a municipality in a county of the fifth or sixth class shall be limited to prohibit retail sales.

(3) The holder of a license issued pursuant to this subsection shall not be entitled to sell malt alcoholic beverages at retail as provided in paragraph (1) of this subsection, at hours of the day or on days of the week during which sales by holders of plenary retail distributors licenses are prohibited in the municipality in which the licensed premises is located or in a municipality which, in accordance with the provisions of this title, prohibits all retail sales of wine and malt alcoholic beverages in original bottle or can containers.

The provisions of section 22 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

23. R.S.33:1-12 is amended to read as follows:

**Class C licenses; classifications; fees.**

33:1-12. Class C licenses shall be subdivided and classified as follows:

Plenary retail consumption license. 1. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale, at an entertainment facility as defined in R.S. 33:1-1, having a seating capacity for no less than 4,000 patrons, of mercantile items traditionally associated with the type of event or program held at the site; the sale of distillers', brewers' and vintners' packaged holiday merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages; or, in commercial bowling establishments, the retail sale or rental of bowling accessories and the retail sale from vending machines of candy, ice cream and nonalcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than \$250 and not more than \$2,500. No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year or \$500.00, whichever is the lesser. The governing board or body of each municipality may, by ordinance, enact that no plenary retail consumption license shall be granted within its respective municipality.

The holder of this license shall be permitted to obtain a restricted brewery license issued pursuant to subsection 1c. of R.S. 33:1-10 and to operate a restricted brewery immediately adjoining the licensed premises in accordance with the restrictions set forth in that subsection. All fees related to the issuance of both licenses shall be paid in accordance with statutory law.

Seasonal retail consumption license. 2. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle,

and also to sell any alcoholic beverages in original containers for consumption off the licensed premises, during the summer season from May 1 until November 14, inclusive, or during the winter season from November 15 until April 30, inclusive; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale of distillers', brewers' and vintners' packaged holiday merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons; or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at 75% of the fee fixed by said board or body for plenary retail consumption licenses. The governing board or body of each municipality may, by ordinance, enact that no seasonal retail consumption license shall be granted within its respective municipality.

Plenary retail distribution license. 3. a. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption off the licensed premises, but only in original containers. The governing board or body of each municipality may, by ordinance, enact that this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which any other mercantile business is carried on, except that any such ordinance, heretofore or hereafter adopted, shall not prohibit the retail sale of distillers', brewers' and vintners' packaged holiday merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this act; cigars, cigarettes, packaged crackers, chips, nuts and similar snacks, ice, and nonalcoholic beverages as accessory beverages to alcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than \$125 and not more than \$2,500. No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year or \$500.00, whichever is the lesser. The governing board or body of each municipality may, by ordinance,

enact that no plenary retail distribution license shall be granted within its respective municipality.

Limited retail distribution license. 3. b. The holder of this license shall be entitled, subject to rules and regulations, to sell any unchilled, brewed, malt alcoholic beverages in quantities of not less than 72 fluid ounces for consumption off the licensed premises, but only in original containers; provided, however, that this license shall be issued only for premises operated and conducted by the licensee as a bona fide grocery store, meat market, meat and grocery store, delicatessen, or other type of bona fide food store at which groceries or other foodstuffs are sold at retail; and provided further that this license shall not be issued except for premises at which the sale of groceries or other foodstuffs is the primary and principal business and at which the sale of alcoholic beverages is merely incidental and subordinate thereto. The fee for this license shall be fixed by the governing body or board of the municipality in which the licensed premises are situated, by ordinance, at not less than \$31 and not more than \$63. The governing board or body of each municipality may, by ordinance, enact that no limited retail distribution license shall be granted within its respective municipality.

Plenary retail transit license. 4. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages, for consumption only, on railroad trains, airplanes, limousines and boats, while in transit. The fee for this license for use by a railroad or air transport company shall be \$375, for use by the owners of limousines shall be \$31 per vehicle, and for use on a boat shall be \$63 on a boat 65 feet or less in length, \$125 on a boat more than 65 feet in length but not more than 110 feet in length, and \$375 on a boat more than 110 feet in length; such boat lengths shall be determined in the manner prescribed by the Bureau of Customs of the United States Government or any federal agency successor thereto for boat measurement in connection with issuance of marine documents. A license issued under this provision to a railroad or air transport company shall cover all railroad cars and planes operated by any such company within the State of New Jersey. A license for a boat or limousine issued under this provision shall apply only to the particular boat or limousine for which issued, and shall permit the purchase of alcoholic beverages for sale or service in a boat or limousine to be made from any Class A and B licensee or from any Class C licensee whose license privilege permits the sale of alcoholic beverages in original containers for off-premises consumption. An interest in a plenary retail transit license issued in accordance with this section shall be excluded in determining the maximum number of retail licenses permitted under P.L. 1962, c.152 (C.33:1-12.31 et seq.).

Club license. 5. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages but only for immediate consumption on the licensed premises and only to bona fide club members

and their guests. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than \$63 and not more than \$188. The governing board or body of each municipality may, by ordinance, enact that no club licenses shall be granted within its respective municipality. Club licenses may be issued only to such corporations, associations and organizations as are operated for benevolent, charitable, fraternal, social, religious, recreational, athletic, or similar purposes, and not for private gain, and which comply with all conditions which may be imposed by the Commissioner of Alcoholic Beverage Control by rules and regulations.

The provisions of section 23 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

24. R.S.33:1-13 is amended to read as follows:

**Class D, transportation licenses; fees.**

33:1-13. Class D licenses shall be as follows:

Transportation license. The holder of this license shall be entitled, subject to rules and regulations, to transport alcoholic beverages into, out of, through and within the State of New Jersey and to maintain a warehouse. The fee for this license shall be \$625.

The provisions of section 24 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

25. R.S.33:1-14 is amended to read as follows:

**Class E licenses; subdivisions; fees.**

33:1-14. Class E licenses shall be subdivided and classified as follows:

Public warehouse license. 1. The holder of this license shall be entitled, subject to rules and regulations, to receive for purposes of storing and warehousing and to store and warehouse alcoholic beverages in the licensed public warehouse; but this license shall not authorize the transportation of alcoholic beverages. The fee for this license shall be \$500.

Broker's license. 2. The holder of this license shall be entitled, subject to rules and regulations, to act as a broker in the purchase and sale of alcoholic beverages for a fee or commission, for or on behalf of a person authorized to manufacture or sell at wholesale alcoholic beverages within or without the State. Such license shall not entitle the holder to buy or sell any alcoholic beverages for his own account, or take or deliver title to such alcoholic beverages, or receive or store any alcoholic beverages in his own name in this State, or offer, negotiate for the sale of or sell any alcoholic beverages



to any wholesaler or retailer within this State; but such licensee shall be permitted, subject to rules and regulations, to use samples of alcoholic beverages in connection with the exercise of the privileges of such license. Such licensee's activities hereunder shall not be deemed to constitute a sale within the meaning of paragraph "w" of section 33:1-1 of the Revised Statutes. The fee for this license shall be \$500.

The provisions of section 25 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

26. R.S.33:1-25 is amended to read as follows:

**Issuance of license, application, qualifications; fee.**

33:1-25. No license of any class shall be issued to any person under the age of 21 years or to any person who has been convicted of a crime involving moral turpitude.

In applications by corporations, except for club licenses, the names and addresses of, and the amount of stock held by, all stockholders holding 1% or more of any of the stock thereof, and the names and addresses of all officers and of all members of the board of directors must be stated in the application, and if one or more of the officers or members of the board of directors or one or more of the owners, directly or indirectly, of more than 10% of the stock would fail to qualify as an individual applicant in all respects, no license of any class shall be granted.

In applications for club licenses, the names and addresses of all officers, trustees, directors, or other governing official, together with the names and addresses of all members of the corporation, association or organization, must be stated in the application.

In applications by partnerships, the application shall contain the names and addresses of all of the partners. No license shall be issued unless all of the partners would qualify as individual applicants.

A photostatic copy of all federal permits necessary to the lawful conduct of the business for which a State license is sought and which relate to alcoholic beverages, or other evidence in lieu thereof satisfactory to the director, must accompany the license application, together with a deposit of the full amount of the required license fee, which deposit to the extent of 90% thereof shall be returned to the applicant by the director or other issuing authority if the application is denied, and the remaining 10% shall constitute an investigation fee and be accounted for as other license fees.

Every applicant for a license that is not a renewal of an annual license shall cause a notice of the making of the application to be published in a form prescribed by rules and regulations, once per week for two weeks successively

in a newspaper printed in the English language, published and circulated in the municipality in which the licensed premises are located; but if there shall be no such newspaper, then the notice shall be published in a newspaper, printed in the English language, published and circulated in the county in which the licensed premises are located. No publication shall be required with respect to applications for transportation or public warehouse licenses or with respect to applications for renewal of licenses.

The Division of Alcoholic Beverage Control shall cause a general notice of the making of annual renewal applications and the manner in which members of the public may object to the approving of the applications to be published in a form prescribed by rules and regulations, once per week from the week of April 1 through the week of June 1 in a newspaper printed in the English language published and circulated in the counties in which the premises of applicants for renewals of annual licenses are located. Any application for the renewal of an annual license shall be made by May 1, and none shall be approved before May 1.

Every person filing an application for license, renewal of license or transfer of license with a municipal issuing authority shall, within 10 days of such filing, file with the director a copy of the application together with a nonreturnable filing fee of \$200.

Applicants for licenses shall answer questions as may be asked and make declarations as shall be required by the form of application for license as may be promulgated by the director from time to time. All applications shall be duly sworn to by each of the applicants, except in the case of applicants in the military service of the United States whose applications may be signed in their behalf by an attorney-in-fact holding a power of attorney in form approved by the director, and except in cases of applications by corporations which shall be duly sworn to by the president or vice-president. All statements in the applications required to be made by law or by rules and regulations shall be deemed material, and any person who shall knowingly misstate any material fact, under oath, in the application shall be guilty of a misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for suspension or revocation of the license.

The provisions of section 26 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

27. R.S.33:1-72 is amended to read as follows:

**Sale of warehouse receipts; license required; fee.**

33:1-72. The sale of receipts, certificates, contracts or other documents given upon the storage of alcoholic beverages is prohibited, except under and pursuant to the provisions of a warehouse receipts license issued by the director. The holder of such license shall be entitled to sell such warehouse receipts subject to rules and regulations and the fee therefor shall be \$375. No publication shall be required with respect to applications for warehouse receipts licenses.

The provisions of section 27 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

28. R.S.33:1-74 is amended to read as follows:

**Temporary permits; fees.**

33:1-74. a. To provide for contingencies where it would be appropriate and consonant with the spirit of this chapter to issue a license but the contingency has not been expressly provided for, the director of the division may for special cause shown, subject to rules and regulations, issue temporary permits. The fee for a one-day permit authorizing the sale of alcoholic beverages for consumption on a designated premises by a civic, religious, educational or veterans organization shall be \$100 and for a one-day permit authorizing such sale by any other organization, \$150. The fee for any other type of temporary permit shall be determined in each case by the director of the division and shall not be less than \$10 nor more than \$2,000, payable to the director of the division and to be accounted for by the director as are license fees.

b. As to any designated premises such temporary permits shall not exceed in the aggregate 25 in any one calendar year, but the director of the division may by said rules and regulations provide for a lesser number in the aggregate for any such designated premises in any one calendar year.

c. The issuance of temporary permits to authorize the sale of alcoholic beverages by the glass or other open receptacle by civic, religious, educational, veterans or other qualified organizations shall be permissible, notwithstanding that the sale of alcoholic beverages has otherwise been prohibited by referendum under R.S.33:1-44 through R.S.33:1-47 or municipal ordinance or resolution.

29. If prior to the effective date of P.L.2003, c.117 (C.24:2-9 et al.), an applicant for a license or license renewal has submitted the license fee for an application for a license issued or transferred on or after July 1, 2003, or renewed for a license term commencing on or after July 1, 2003 pursuant to R.S.33:1-10, R.S.33:1-11, R.S.33:1-12, R.S.33:1-13, R.S.33:1-14, R.S.33:1-25, R.S.33:1-72 or R.S.33:1-74, the applicant shall submit immediately any outstanding portion of the total license fee as increased by P.L.2003, c.117.

If the increased portion of the license fee has not been paid in full by October 1, 2003, the applicant shall be deemed to be in violation of R.S.33:1-27 and the director may issue an ex parte order revoking the license or indefinitely suspending same until payment. The Division of Alcoholic Beverage Control may promulgate regulations to effectuate this section as well as the purposes of the amendatory provisions of sections 21 through 28 of P.L.2003, c.117. All such regulations shall be immediately effective for a period not to exceed six months upon their filing with the Office of Administrative Law, and thereafter may be amended, adopted or readopted in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

30. Section 6 of P.L.1979, c.111 (C.13:18A-6) is amended to read as follows:

**C.13:18A-6 Powers.**

6. The Pinelands Commission shall have the following powers:
  - a. To adopt and from time to time amend and repeal suitable bylaws for the management of its affairs;
  - b. To adopt and use an official seal and alter the same at its pleasure;
  - c. To maintain an office at such place or places in the pinelands area as it may designate;
  - d. To sue and be sued in its own name;
  - e. To appoint, retain and employ, without regard to the provisions of Title 11A of the New Jersey Statutes but within the limits of funds appropriated or otherwise made available for such purposes, such officers, agents, employees and experts as it may require, and to determine the qualifications, terms of office, duties, services and compensation therefor;
  - f. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the commission's authorized purposes;
  - g. To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the commission or to carry out any power expressly given in this act;
  - h. To conduct examinations and investigations, to hear testimony, taken under oath at public or private hearings, on any material matter, and to require attendance of witnesses and the production of books and papers;
  - i. To prepare and transmit to the Commissioner of Environmental Protection such recommendations for water quality standards for surface and ground waters in the pinelands area, or in tributaries and watersheds thereof, as the commission deems appropriate;

j. To prepare, promulgate, adopt, amend or repeal, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as are necessary in order to implement the provisions of this act;

k. To appoint advisory boards, commissions, or panels to assist in its activities;

l. To identify any lands in which the public acquisition of a fee simple or lesser interest therein is necessary or desirable in order to insure the preservation thereof, or to provide sites for public recreation, as well as any lands the beneficial use of which are so adversely affected by the restrictions imposed pursuant to this act as to require a guarantee of just compensation therefor, and to transmit such identifications to the affected local governments, the Commissioner of Environmental Protection and to the Secretary of the United States Department of Interior;

m. To call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, commission or agency as may be required and made available for such purposes;

n. To establish and change, in accordance with a fee schedule to be set forth by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees for services performed relating to development review applications filed with the commission as required by the Comprehensive Management Plan.

31. R.S.45:15-9 is amended to read as follows:

**Real estate licenses.**

45:15-9. All persons desiring to become real estate brokers, broker-salespersons or salespersons shall apply to the commission for a license under the provisions of this article. Every applicant for a license as a broker, broker-salesperson or salesperson shall be of the age of 18 years or over, and in the case of an association or a corporation the directors thereof shall be of the age of 18 years or over. Application for a license, whether as a real estate broker, broker-salesperson or a salesperson, shall be made to the commission upon forms prescribed by it and shall be accompanied by an application fee of \$50 which fee shall not be refundable. Every applicant for a license whether as a real estate broker, broker-salesperson or salesperson shall have the equivalent of a high school education. The issuance of a license to an applicant who is a nonresident of this State shall be deemed to be his irrevocable consent that service of process upon him as a licensee in any action or proceeding may be made upon him by service upon the secretary of the commission or the person in charge of the office of the commission. The applicant shall furnish evidence of good moral character, and in the case of an association, partnership

or corporation, the members, officers or directors thereof shall furnish evidence of good moral character. The commission may make such investigation and require such proof as it deems proper and in the public interest as to the honesty, trustworthiness, character and integrity of an applicant. Every applicant for a license as a broker or broker-salesperson shall have first been the holder of a New Jersey real estate salesperson's license and have been actively engaged on a full-time basis in the real estate brokerage business in this State for three years immediately preceding the date of application, which requirement may be waived by the commission where the applicant has been the holder of a broker's license in another state and actively engaged in the real estate brokerage business for at least three years immediately preceding the date of his application, meets the educational requirements and qualifies by examination. No license as a broker shall be granted to a general partnership or corporation unless at least one of the partners or officers of said general partnership or corporation qualifies as and holds a license as a broker to transact business in the name and on behalf of said general partnership or corporation as its authorized broker and no such authorized broker shall act as a broker on his own individual account unless he is also licensed as a broker in his individual name; the license of said general partnership or corporation shall cease if at least one partner or officer does not hold a license as its authorized broker at all times. A change in the status of the license of an authorized broker to an individual capacity or vice versa shall be effected by application to the commission accompanied by a fee of \$50. No license as a broker shall be granted to a limited partnership unless its general partner qualifies as and holds a license as a broker to transact business in the name of and on behalf of the limited partnership. In the event that a corporation is a general partner of a limited partnership, no license as a broker shall be granted to the limited partnership unless the corporation is licensed as a broker and one of the officers of the corporation qualifies as and holds a license as the corporation's authorized broker.

In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of more than two but less than five consecutive years after the expiration of the last license held, prior to issuing another broker or broker-salesperson license to the person, the commission shall require such person to work as a licensed salesperson on a full-time basis for one full year, to pass an examination, and to successfully complete a 90-hour general broker's pre-licensure course at a licensed real estate school, as the commission shall prescribe by regulation. In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued fails to maintain or renew the license or obtain a new license for a period of more than five consecutive years after the expiration of the last license held, prior to issuing

another broker or broker-salesperson license to the person the commission shall require the person to pass the salesperson's license examination and then to work as a licensed salesperson on a full-time basis for three years, to fulfill all of the educational requirements applicable to first time applicants for a broker or broker-salesperson license and to pass the broker's license examination. The commission may, in its discretion, approve for relicensure the former holder of a broker or broker-salesperson license who has not renewed the license or obtained a new license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All applicants so approved shall pass the broker's license examination prior to being relicensed. This paragraph shall not apply to a person reapplying for a broker's or broker-salesperson's license who was licensed as a broker or broker-salesperson and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

In the event that any person to whom a salesperson's license has been or shall have been issued shall fail to maintain or renew such license or obtain a new license for a period of two consecutive years or more after the expiration of the last license held, the commission shall require such person to attend a licensed school and pass the State examination prior to issuance of a further license. The commission may, in its discretion, approve for relicensure a salesperson applicant who has not renewed his license or obtained a new license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All salesperson applicants so approved shall pass the salesperson's license examination prior to being relicensed. This paragraph shall not apply to a person reapplying for a salesperson's license who was a licensed salesperson and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

32. Section 49 of P.L.1993, c.51 (C.45:15-10.6) is amended to read as follows:

**C.45:15-10.6 Application for, issuance of license as real estate school, fees.**

49. a. Every application for licensure as a real estate school shall be accompanied by an application fee of \$100 and a criminal history record check fee for all individual owners, members of a partnership, or officers, directors and owners of a controlling interest in a corporation, which fees shall be non-refundable.

b. All licenses issued to real estate schools shall expire on a date fixed by the commission which date shall not be more than two years from the date of issuance of the license. The license fee for each real estate school license issued in the first 12 months of any two-year real estate school license term established by the commission shall be \$400 for the first location and \$200 for each additional location licensed. The license fee for each real estate school license issued in the second 12 months of any two-year real estate school license term established by the commission shall be \$200 for the first location and \$100 for each additional location licensed. The fee for the renewal of each real estate school license for an additional two-year license term shall be \$400 for the first location and \$200 for each additional location.

c. Any accredited college or university located in this State or any public adult education program conducted by a board of education in this State which otherwise qualifies for licensure as a real estate school shall be issued a license without the payment of any license or license renewal fee.

33. Section 50 of P.L.1993, c.51 (C.45:15-10.7) is amended to read as follows:

**C.45:15-10.7 Application for, issuance of license as real estate instructor; fees.**

50. Every application for licensure as a real estate instructor shall be accompanied by an application fee of \$50 and a criminal history record check fee, which fees shall be non-refundable. All licenses issued to real estate instructors shall expire on a date fixed by the commission which shall be no more than two years from the date of issuance of the license. The license fee for each real estate instructor license issued in the first 12 months of any two-year real estate instructor license term established by the commission shall be \$200 and the fee for an instructor license issued in the second 12 months of the cycle shall be \$100. The fee for the renewal of each real estate instructor license for an additional two-year license term shall be \$100. Upon payment of the renewal fee and the submission of evidence of satisfactory completion of any continuing education requirements which the commission may by regulation prescribe, the commission shall renew the license of a real estate instructor for a two-year period.

34. R.S.45:15-12 is amended to read as follows:

**Broker to maintain office.**

45:15-12. Every real estate broker shall maintain a designated main office open to the public. A real estate broker's main office shall have prominently displayed therein the license certificate of the broker and all licensed persons in his employ and shall be deemed the business address of all licensed persons for all purposes under chapter 15 of Title 45 of the Revised Statutes. In case



a real estate broker maintains more than one place of business, a branch office license shall be issued to such broker for each branch office so maintained in this State; provided, however, that the said branch office or offices are under the direct supervision of a broker-salesperson. The branch office license or licenses shall be issued upon the payment of a fee of \$50 for each license so issued. Every place of business maintained by a real estate broker shall have conspicuously displayed on the exterior thereof the name in which the broker is authorized to operate and, in the case of a corporation or partnership, the name of the individual licensed as its authorized broker, and the words Licensed Real Estate Broker. A real estate broker whose main office is located in another state shall maintain a valid real estate broker's license in good standing in the state where the office is located.

35. R.S.45:15-13 is amended to read as follows:

**Form of license; change of broker's address.**

45:15-13. All licenses shall be issued by the commission in such form as it shall prescribe. Each license shall show the name and address of the licensee and shall have imprinted thereon the seal of the commission. Notice in writing shall be given to the commission by each licensed broker of any change of business address, whereupon the commission shall issue new licenses to the broker and to all persons licensed through the broker for the unexpired period, upon the payment of a fee of \$50 for the issuance of the new broker license and a fee of \$10 for each additional new license certificate so issued. A change of business address without notification to the commission, and without the issuance of a new broker's license, shall automatically cancel the license theretofore issued.

36. R.S.45:15-15 is amended to read as follows:

**License fees.**

45:15-15. The biennial fee for each real estate broker's license shall be \$200, the biennial fee for each real estate broker-salesperson's license shall be \$200 and the biennial fee for each real estate salesperson's license shall be \$100. The biennial fee for a branch office license shall be \$100. Each license granted under this article shall entitle the licensee to perform all of the acts contemplated herein during the period for which the license is issued, as prescribed by this article. If a licensee fails to apply for a renewal of his license prior to the date of expiration of such license, the commission may refuse to issue a renewal license except upon the payment of a late renewal fee in the amount of \$20 for a salesperson or broker-salesperson and \$40 for a broker; provided, however, the commission may, in its discretion, refuse to renew any license upon sufficient cause being shown. The commission

shall refuse to renew the license of any licensee convicted of any offense enumerated in section 6 of P.L.1953, c.229 (C.45:15-19.1) during the term of the last license issued by the commission unless the conviction was previously the subject of a revocation proceeding. Renewed licenses may be granted for each ensuing two years upon request of licensees and the payment of the full fee therefor as herein required. Upon application and payment of the fees provided herein, initial licenses and licenses reinstated pursuant to R.S.45:15-9 may be issued, but the commission may, in its discretion, refuse to grant or reinstate any license upon sufficient cause being shown. The license fees for initial or reinstated licenses shall be determined based upon the biennial fees established herein, with a full biennial fee payable for the license term in which application is received. The revocation or suspension of a broker's license shall automatically suspend every real estate broker-salesperson's and salesperson's license granted to employees of the broker whose license has been revoked or suspended, pending a change of employer and the issuance of a new license. The new license shall be issued without additional charge, if the same is granted during the license term in which the original license was granted. Any renewal fee in this section shall be billed by the commission on or after April 1 but before April 15, and such fees shall be paid on or before June 1, except that the fee increases imposed pursuant to the amendments made in this section pursuant to section 36 of P.L.2003, c.117 due for the first biennial renewal period ending after enactment of section 36 shall be paid on or before June 1, 2004.

A real estate broker who maintains a main office or branch office licensed by the commission which is located in another state shall maintain a valid real estate broker's license in good standing in the state where the office is located and shall maintain a real estate license in that other state for each office licensed by the commission. Upon request, the real estate broker shall provide a certification of his license status in the other state to the commission. Any license issued by the commission to a real estate broker for a main or branch office located outside this State shall be automatically suspended upon the revocation, suspension or refusal to renew the real estate broker's license issued by the state where the office is located. The licenses issued by the commission to every broker-salesperson or salesperson employed by the broker shall be automatically suspended pending a change of employer and the issuance of a new license. The new license shall be issued without additional charge if granted during the license term in which the original license was granted.

37. Section 2 of P.L.1995, c.321 (C.30:9A-19) is amended to read as follows:

**C.30:9A-19 License required for conducting, maintaining, operating mental health program; fees.**

2. a. A person shall not conduct, maintain or operate a mental health program unless: (1) the commissioner has issued a license to that person, in accordance with rules and regulations adopted by the commissioner which prescribe standards for the provision of services by a mental health program; and (2) that person has a purchase of service contract or an affiliation agreement with the Division of Mental Health Services in the Department of Human Services.

b. Application for a license to conduct, maintain or operate a mental health program shall be made upon forms prescribed by the commissioner. The commissioner shall charge such nonrefundable fees for the filing of an application for a license, and for any renewal thereof, as the commissioner shall from time to time fix by regulation.

38. Section 2 of P.L. 1965, c. 123 (C.22A:4-4.1) is amended to read as follows:

**C.22A:4-4.1 Fees for services of county clerks and registers.**

2. County clerks and registers of deeds and mortgages, in counties having such offices, shall charge for the services herein enumerated the following fees:

	Fee
For recording veteran's discharge papers . . . . .	No fee
For recording any instrument:	
First page . . . . .	\$30.00
Each additional page or part thereof . . . . .	\$10.00
Each rider, insertion, addition, or any map, plat or sketch filed or recorded pursuant to subsection (c) of section 2 of P.L. 1957, c. 130 (C.48:3-17.3) . . . . .	\$10.00
For entering the marginal notation of an order judgment, statement or warrant discharging, annulling a notice of lis pendens and for filing such order, judgment or statement . . . . .	\$10.00
For filing a lis pendens foreclosure . . . . .	\$30.00
Notation . . . . .	\$10.00
For preparing and transmitting to the assessor, collector, or other custodian of the assessment map of any taxing district, the abstract of an instrument evidencing title to realty . . . . .	\$10.00

**New Jersey State Library**

For entering the marginal notation of a discharge or release of a New Jersey building and loan or savings and loan mortgage and forwarding abstract .....	\$10.00
For entering the marginal notation of a discharge, assignment, postponement or release of a mortgage, other than building and loan and savings and loan mortgages .....	\$10.00
For the cancellation of any mortgage .....	\$20.00
For a marginal notation of the discharge of a mortgage in counties where mortgages are indexed under a system requiring a duplication of indices and description .....	\$10.00
For filing and recording notice of federal tax lien or other federal lien or certificate discharging such lien .....	\$25.00
For filing a notice of settlement .....	\$20.00
For filing each map, plat, plan or chart (except when presented by the State or its agencies or filed pursuant to subsection (c) of section 2 of P.L.1957, c.130 (C.48:3-17.3)) .....	\$55.00
For recording tax sale certificate, except by municipalities, or a redemption or assignment of tax sale certificate, first page .....	\$30.00
Each additional page or part thereof .....	\$10.00
Certified copy of veteran's discharge. ....	\$6.00
For indexing any recorded instrument in excess of 5 parties, per each name in excess of 5 .....	\$6.00
For recording tax sale certificate, lien, deed, or related instrument by a municipality .....	\$8.00
For recording vacations or dedications of roads, first page .....	\$30.00
Each additional page or part thereof. ....	\$10.00
For disclaimers .....	\$15.00
For reimbursement agreements .....	No fee

**C.22A:4-4.2 "New Jersey Public Records Preservation Account."**

39. a. There is established the "New Jersey Public Records Preservation Account," a dedicated account within the Department of the Treasury. Notwithstanding any other provision of law to the contrary, monies received by a county clerk attributable solely to the amount of increases to the fees imposed pursuant to section 2 of P.L.1965, c.123 (C.22A:4-4.1) shall be paid

by the county clerk to the Treasurer for deposit in the New Jersey Public Records Preservation Account, two dollars of which shall be allocated for grants to counties and municipalities for the management, storage and preservation of public records and three dollars of which shall be allocated to the Division of Archives and Records Management within the Department of State for the management, storage and preservation of public records.

b. The State Division of Archives and Records, in consultation with the State Records Committee, may, pursuant to the provisions of the Administrative Procedure Act, make, adopt, amend, or repeal such rules and regulations as the division finds necessary to carry out the provisions of this section.

**C.22A:4-21 Fees for services provided by Secretary of State.**

40. The Secretary of State is authorized to establish reasonable fees for the specialized research, reference, and reproduction services provided by the State Archives, Division of Archives and Records Management in the Department of State, involving permanent historical documents in any format or medium. Such fees shall be established pursuant to the provisions of the Administrative Procedure Act, and shall reflect the actual costs of the services, including labor and overhead. All fees collected by the State Archives for such services shall be paid into the existing nonlapsing "Archives User Fees Account" administered by the Division of Archives and Records Management.

41. N.J.S.22A:2-12 is amended to read as follows:

**Payment of fees in Chancery Division of Superior Court upon filing of first paper.**

22A:2-12. Upon the filing of the first paper in any action or proceeding in the Chancery Division of the Superior Court, there shall be paid to the clerk of the court, for the use of the State, the following fees, which, except as hereinafter provided, shall constitute the entire fees to be collected by the clerk for the use of the State, down to the final disposition of the cause:

Receivership and partition, \$200.00.

All other actions and proceedings except in probate cases and actions and proceedings for divorce, \$200.00.

Actions and proceedings for divorce, \$250.00, \$25.00 of which shall be forwarded by the Clerk of the Superior Court as provided in section 2 of P.L.1993, c.188 (C.52:27D-43.24a).

Any person filing a motion in any action or proceeding shall pay to the clerk \$30.00.

42. Section 2 of P.L.1993, c.188 (C.52:27D-43.24a) is amended to read as follows:

**C.52:27D-43.24a Forwarding of filing fee.**

2. The Clerk of the Superior Court shall forward \$25.00 of the \$250.00 filing fee for divorce provided for in N.J.S.22A:2-12 on a quarterly basis to the Department of Community Affairs.

**C.39:3-19.6 Fee imposed on limousine services.**

43. a. On or before October 1, 2003 and on or before each October 1 thereafter, or in the case of persons commencing transporting passengers after that date at least 10 business days before the commencement of transporting, a fee shall be due and payable pursuant to this section for the operating period from October 1 through September 30 for each limousine, as that term is defined pursuant to R.S.48:16-13, and any other vehicle for hire that is used to transport passengers, from or to a location in New Jersey if such vehicle is not registered in New Jersey. If the only use of the limousine or other vehicle for hire during the operating period is the transporting of passengers to or from an airport located in this State, the fee shall be \$100; in all other cases, the fee shall be \$250.

b. Upon payment of the fee pursuant to subsection a. of this section, the Chief Administrator of the New Jersey Motor Vehicle Commission shall issue a "for hire" permit, which permit shall be displayed in the vehicle at all times while the vehicle is within the State, in a manner prescribed by the Chief Administrator.

c. Failure to display the "for hire" permit is a motor vehicle violation, punishable by a fine of up to \$350 in addition to any other penalty otherwise authorized for motor vehicle violations. Failure to pay the fee due under this section is a separate motor vehicle violation and shall be punishable by a fine of not less than \$350, in addition to any other penalty authorized for motor vehicle violations. A vehicle failing to display a "for hire" permit may be impounded by a law enforcement agency, its agent, or any other appropriate authority, which may charge the owner or operator fees for the costs of towing and impoundment.

d. The Chief Administrator is authorized to promulgate rules and regulations necessary to effectuate the purposes of this section, including, but not limited to, regulations concerning the assessment of motor vehicle violation points for violation of the provisions of this section and fee collection and remittance methods and procedures, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and prescribe forms to administer the provisions of this section. Notwithstanding the provisions of P.L.1968, c.410 to the contrary, the Chief Administrator may adopt immediately upon filing with the Office of Administrative Law such regulations as the Chief Administrator deems necessary to implement the provisions of

this section, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The regulations may thereafter be amended, adopted or readopted by the Chief Administrator as the Chief Administrator deems necessary in accordance with the requirements of P.L.1968, c.410.

44. Section 6 of P.L.1977, c 44 (C.34:1B-27) is amended to read as follows:

**C.34:1B-27 Powers.**

6. The Motion Picture and Television Development Commission shall have the following powers:

a. To adopt such rules and regulations as it deems advisable with respect to the conduct of its own affairs.

b. To hold hearings, and to do or perform any acts which may be necessary, desirable or proper to carry out the purposes of this act.

c. To request and obtain from any department, division, board, bureau, commission, or other agency of the State or of any county, municipality, authority or other political subdivision within the State such assistance and data as will enable it properly to carry out its powers and duties hereunder.

d. To accept any federal funds granted, by act of Congress or by Executive Order, for all or any of the purposes of this act.

e. To accept any gifts, donations, bequests, or grants of funds from private and public agencies for all or any of the purposes of this act.

f. To coordinate the activities of similar councils or boards appointed by any city or county within the State for all or any of the purposes of this act.

g. To create advisory councils necessary for the performance of responsibilities pursuant to this act and to appoint members thereto.

h. To directly secure any and all location permits from any department, division, board, bureau, commission, or other agency of the State or from any county, municipality, authority, or other political subdivision within the State for applicants interested in motion picture and television production within the State.

i. to establish reasonable fees, pursuant to the provisions of the "Administrative Procedure Act," for the services provided by the commission.

45. This act shall take effect immediately.

Approved July 1, 2003.

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CHAPTER 118

AN ACT concerning the fund for the support of free public schools and amending N.J.S.18A:56-16 and P.L.1980, c.72.

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

1. N.J.S.18A:56-16 is amended to read as follows:

**Certification of anticipated default; purchase of bonds, payment of interest by trustees; State aid treatment.**

18A:56-16. In the event that a school district or a county or municipality anticipates that it will be unable to meet the payment of principal or interest on any of its bonds issued for school purposes after December 4, 1958, it shall certify such liability to the commissioner and the Director of the Division of Local Finance at least 10 days prior to the date any such payment is due. If the commissioner and director shall approve said certification, they shall immediately certify the same to the trustees of the fund for the support of public schools. Upon the receipt thereof, or in the event any such district, county or municipality fails to certify its anticipated inability to meet any such payments, upon notice and verification of such inability, the trustees shall, within the limits of the school bond guaranty reserve established within the fund purchase any such bonds at a price equivalent to the face amount thereof or pay to the holder of any such bond the interest due or to become due thereon, as the case may be, and such purchases and payments of interest may continue so long as the district, county or municipality remains unable to make such payments. Upon making any such payment of interest, the trustees of the fund shall be subrogated to all rights of the bondholder against the issuer in respect to the collection of such interest and if such interest is represented by a coupon such coupon shall be delivered to the trustees of the fund.

The State Treasurer shall act as agent of the trustees of the fund in making any such payments or purchases, and he shall prescribe, in consultation with the commissioner, such rules and regulations as may be necessary and proper to effectuate the purposes of this section.

The amount of any payment of interest or purchase price pursuant to this section shall be deducted from the appropriation or apportionment of State aid, other than any State aid which may be otherwise restricted pursuant to the provisions of P.L.1996, c.138 (C.18A:7F-1 et seq.), payable to the district, county or municipality and shall not obligate the State to make, nor entitle the district, county or municipality to receive, any additional appropriation or apportionment. Any amount so deducted shall be applied by the State Treasurer to satisfy the obligation of the district, county or municipality arising as a result of the payment of interest or purchase price pursuant to this section.

2. Section 5 of P.L.1980, c.72 (C.18A:56-19) is amended to read as follows:



**C.18A:56-19 School bond reserve accounts; establishment; composition; funding of accounts.**

5. a. There is established within the fund for the support of free public schools a school bond reserve. The school bond reserve shall consist of two accounts, the old school bond reserve account and the new school bond reserve account. The old school bond reserve account shall be funded in an amount equal to at least 1 1/2 % of the aggregate issued and outstanding bonded indebtedness of counties, municipalities or school districts for school purposes for all such indebtedness issued prior to the effective date of P.L.2003, c.118, exclusive of bonds the debt service for which is provided by State appropriations but not to exceed the moneys available in the account. The new school bond reserve account shall be funded in an amount equal to at least 1% of the aggregate issued and outstanding bonded indebtedness of counties, municipalities or school districts for school purposes for all such indebtedness issued on and after the effective date of P.L.2003, c.118, exclusive of bonds the debt service for which is provided by State appropriations. The school bond reserve shall be composed entirely of direct obligations of the United States Government or obligations guaranteed by the full faith and credit of the United States Government.

b. Securities representing at least one-third of the minimum market value to be held in the school bond reserve shall be due to mature within one year of the date of issuance or purchase. It shall be the duty of the trustees of the fund to determine that the school bond reserve is established at the proper level, based on the market value of the obligations on the effective date of this act, to ascertain annually on or before September 15 the aggregate amount of bonds issued and outstanding and to maintain the old school bond reserve account and the new school bond reserve account at the appropriate levels for the ensuing year based on annual market valuations of the obligations. The trustees are authorized to retain so much of the income earned by the fund in the preceding year as they may determine to be required to maintain each account in the reserve at the levels herein specified. The amount of the reserve held in the old school bond reserve account so established is pledged as security for prompt payment, in accordance with the provisions of N.J.S.18A:56-16, to holders of bonds issued prior to the effective date of P.L.2003, c.118, for school purposes by counties, municipalities or school districts of principal of and interest on the bonds in the event of the inability of the issuer to make payment. The amount of the reserve held in the new school bond reserve account so established is pledged as security for prompt payment, in accordance with the provisions of N.J.S.18A:56-16, to holders of bonds issued on and after the effective date of P.L.2003, c.118, for school purposes by counties, municipalities or school districts of principal of and interest on the bonds in the event of the inability of the issuer to make payment. In the event the amount held in the old school bond reserve account exceeds the amount required to

be held pursuant to subsection a. of this section, the excess may be transferred by the State Treasurer to the new school bond reserve account. In the event the amounts in either the old school bond reserve account or the new school bond reserve account fall below the amount required to make payments on bonds, the amounts in both the old school and new school bond reserve accounts shall be available to make payments for bonds secured by the reserve.

c. Beginning with the fiscal year ending on June 30, 2003 and continuing on each June 30 thereafter, the State Treasurer shall calculate the amount necessary to fully fund the old school bond reserve account and the new school bond reserve account as required pursuant to subsection a. of this section. To the extent moneys available under P.L.1967, c.271 (C.18A:56-1 et seq.) are insufficient to maintain each account in the reserve at the required levels, the State hereby agrees that the State Treasurer shall, no later than September 15 of the fiscal year following the June 30 calculation date, pay to the trustees for deposit in the school bond reserve such amounts as may be necessary to maintain the old school bond reserve account and the new school bond reserve account at the levels set forth in subsection a. of this section. No moneys may be borrowed from the fund to provide liquidity to the State unless the 1 1/2% and 1% accounts are at the levels certified as full funding on the most recent June 30 calculation date.

3. Section 6 of P.L.1980, c.72 (C.18A:56-20) is amended to read as follows:

**C.18A:56-20 School bond legend.**

6. a. Bonds issued for school purposes by counties, municipalities or school districts subsequent to the effective date of P.L.1980, c.72 (C.18A:56-17 et seq.) and prior to the effective date of P.L.2003, c.118, shall bear the following legend: "Payment of this obligation is secured under the provisions of the 'New Jersey School Bond Reserve Act' in accordance with which an amount equal to 1 1/2 % of the aggregate outstanding bonded indebtedness (but not to exceed the moneys available in the fund), of New Jersey counties, municipalities and school districts for school purposes as of September 15 of each year, is held within the State Fund for the Support of Free Public Schools as a school bond reserve pledged by law to secure payments of principal and interest due on such bonds in the event of the inability of the issuer to make payment."

b. Bonds issued for school purposes by counties, municipalities or school districts on and after the effective date of P.L.2003, c.118, shall bear the following legend: "Payment of this obligation is secured under the provisions of the 'New Jersey School Bond Reserve Act' in accordance with which an amount equal to 1% of the aggregate outstanding bonded indebtedness (but

not to exceed the moneys available in the fund), of New Jersey counties, municipalities and school districts for school purposes as of September 15 of each year, is held within the State Fund for the Support of Free Public Schools as a school bond reserve pledged by law to secure payments of principal and interest due on such bonds in the event of the inability of the issuer to make payment."

4. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 119

AN ACT concerning State employee benefits under the New Jersey State Health Benefits Program Act and the New Jersey Employer-Employee Relations Act and amending P.L.1961, c.49 and P.L.1968, c.303.

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

1. Section 4 of P.L.1961, c.49 (C.52:14-17.28) is amended to read as follows:

**C.52:14-17.28 Purchase of contracts.**

4. The commission shall negotiate with and arrange for the purchase, on such terms as it deems to be in the best interests of the State and its employees, from carriers licensed to operate in the State, contracts providing hospital, surgical, obstetrical, medical and major medical expense benefits covering employees of the State and their dependents, and shall execute all documents pertaining thereto for and on behalf and in the name of the State. The commission shall not enter into a contract under this act unless the benefits provided thereunder equal or exceed the minimum standards specified in section 5 for the particular coverage which such contract provides; and unless coverage is available to all eligible employees and their dependents on the basis specified by section 7, except that a State employee enrolled in the program on or after July 1, 2003 may not be eligible for coverage under the traditional plan as defined in section 2 of P.L.1961, c.49 (C.52:14-17.26) pursuant to a binding collective negotiations agreement or pursuant to the application by the commission, in its sole discretion, of the terms of any collective negotiations agreement binding on the State to State employees for whom there is no majority representative for collective negotiations purposes.

2. Section 7 of P.L. 1968, c.303 (C.34:13A-5.3) is amended to read as follows:

**C.34:13A-5.3 Employee organizations; right to form or join; collective negotiations; grievance procedures.**

7. Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity; provided, however, that this right shall not extend to elected officials, members of boards and commissions, managerial executives, or confidential employees, except in a school district the term managerial executive shall mean the superintendent of schools or his equivalent, nor, except where established practice, prior agreement or special circumstances dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership, and the fact that any organization has such supervisory employees as members shall not deny the right of that organization to represent the appropriate unit in collective negotiations; and provided further, that, except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership. The negotiating unit shall be defined with due regard for the community of interest among the employees concerned, but the commission shall not intervene in matters of recognition and unit definition except in the event of a dispute.

Representatives designated or selected by public employees for the purposes of collective negotiation by the majority of the employees in a unit appropriate for such purposes or by the majority of the employees voting in an election conducted by the commission as authorized by this act shall be the exclusive representatives for collective negotiation concerning the terms and conditions of employment of the employees in such unit. Nothing herein shall be construed to prevent any official from meeting with an employee organization for the purpose of hearing the views and requests of its members in such unit so long as (a) the majority representative is informed of the meeting; (b) any changes or modifications in terms and conditions of employment are made only through negotiation with the majority representative; and (c) a minority organization shall not present or process grievances. Nothing herein shall be construed to deny to any individual employee his rights under Civil Service laws or regulations. When no majority representative has been selected as the bargaining agent for the unit of which an individual employee is a part, he may present his own grievance either personally or through an appropriate

representative or an organization of which he is a member and have such grievance adjusted.

A majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interest of all such employees without discrimination and without regard to employee organization membership. Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established. In addition, the majority representative and designated representatives of the public employer shall meet at reasonable times and negotiate in good faith with respect to grievances, disciplinary disputes, and other terms and conditions of employment. Nothing herein shall be construed as permitting negotiation of the standards or criteria for employee performance.

When an agreement is reached on the terms and conditions of employment, it shall be embodied in writing and signed by the authorized representatives of the public employer and the majority representative.

Public employers shall negotiate written policies setting forth grievance and disciplinary review procedures by means of which their employees or representatives of employees may appeal the interpretation, application or violation of policies, agreements, and administrative decisions, including disciplinary determinations, affecting them, provided that such grievance and disciplinary review procedures shall be included in any agreement entered into between the public employer and the representative organization. Such grievance and disciplinary review procedures may provide for binding arbitration as a means for resolving disputes. Except as otherwise provided herein, the procedures agreed to by the parties may not replace or be inconsistent with any alternate statutory appeal procedure nor may they provide for binding arbitration of disputes involving the discipline of employees with statutory protection under tenure or civil service laws, except that such procedures may provide for binding arbitration of disputes involving the minor discipline of any public employees protected under the provisions of section 7 of P.L. 1968, c.303 (C.34:13A-5.3), other than public employees subject to discipline pursuant to R.S.53:1-10. Grievance and disciplinary review procedures established by agreement between the public employer and the representative organization shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, minor discipline shall mean a suspension or fine of less than five days unless the employee has been suspended or fined an aggregate of 15 or more days or received more than three suspensions or fines of five days or less in one calendar year.

Where the State of New Jersey and the majority representative have agreed to a disciplinary review procedure that provides for binding arbitration of disputes involving the major discipline of any public employee protected under

the provisions of this section, other than public employees subject to discipline pursuant to R.S.53:1-10, the grievance and disciplinary review procedures established by agreement between the State of New Jersey and the majority representative shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, major discipline shall mean a removal, disciplinary demotion, suspension or fine of more than five days, or less where the aggregate number of days suspended or fined in any one calendar year is 15 or more days or unless the employee received more than three suspensions or fines of five days or less in one calendar year.

3. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 120

AN ACT concerning tax lien financing and supplementing P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

**C.52:27BBB-66 Short title.**

1. This act shall be known and may be cited as the "Tax Lien Financing Corporation Act."

**C.52:27BBB-67 Declarations relative to tax lien financing; purposes of act.**

2. It is hereby declared to be in the public interest and to be the policy of the State to assist qualified municipalities by facilitating the creation of capital markets structures to fund public improvements or purposes at a reduced cost not otherwise available in the absence of such capital markets structures, particularly for qualified municipalities that are not otherwise able to access the capital markets for such purposes. It is hereby further declared that qualified municipalities are owed millions of dollars annually in unpaid property taxes, and that such uncollected taxes adversely impact qualified municipalities' ability to timely collect the moneys necessary to meet their operating expenditures and provide for the delivery of necessary government services, amplifying the risk of future real property tax increases and negatively impacting those taxpayers who timely remit payment. It is hereby further declared that limited means exist for qualified municipalities to expedite the collection of delinquent taxes, that as a result, such delinquencies often remain unpaid, and that the assignment sale of the tax liens related to such delinquent taxes will enable

qualified municipalities to expedite the receipt of anticipated revenues and provide a funding source that will enable such qualified municipalities to more effectively carry out their public purposes. Accordingly, one of the purposes of this act is to authorize, create and establish a corporation empowered to acquire from a qualified municipality all or a portion of the qualified municipality's tax liens. Additional purposes of this act are: to authorize the sale by a qualified municipality of all or a portion of the tax liens to the corporation; to authorize the transfer to and the receipt by the corporation of the tax liens; to authorize the corporation to issue securities of the corporation for the purposes authorized in this act, payable solely from and secured solely by such portion of the tax liens as the corporation may designate and pledge to secure the securities, together with the investment income thereon and any reserve funds created by the corporation from any portion of the proceeds of the securities; to authorize the corporation to hold and invest the portion of the net proceeds of the sale of the securities pending direction by a qualified municipality and the portion of a qualified municipality's tax liens sold to the corporation which are not pledged to secure securities of the corporation; to authorize the corporation to acquire, hold, operate, maintain, improve and dispose of real and personal property; and to authorize the corporation to manage the portion of the net proceeds of the sale of the securities pending direction by a qualified municipality and all or a portion of a qualified municipality's tax liens sold to the corporation for the purposes and in the manner authorized in this act.

**C.52:27BBB-68 "Tax Lien Financing Corporation" established; governing members, terms, duties.**

3. a. There is hereby established in, but not of, the Department of the Treasury, a public body corporate and politic, with corporate succession, to be known as the "Tax Lien Financing Corporation." The corporation is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the corporation of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State. The corporation shall be treated and accounted for as a separate legal entity with its separate corporate purposes as set forth in this act. The assets, liabilities and funds of the corporation shall be neither consolidated nor commingled with those of a qualified municipality or of any entity capable of being a debtor in a case commenced under the federal bankruptcy code.

b. The corporation shall have and be governed by five members, including one seat reserved for the State Treasurer, who shall be a member ex officio, a second seat reserved for the Commissioner of Community Affairs, who shall be a member ex officio, a third seat reserved for a Chief Operating Officer to be selected by the Governor, a fourth seat reserved for a public member

appointed by the Governor and who shall serve at the pleasure of the Governor, and a fifth seat reserved for a public member to be appointed by the Governor and selected from three persons nominated by any mayor of any qualified municipality. The State Treasurer shall serve as the chairperson of the corporation. The corporation shall elect from among its members a vice chairperson. The powers of the corporation shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the corporation shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the corporation at any meeting thereof by the affirmative vote of a majority of the members present. No vacancy in the membership of the corporation shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the corporation.

c. Each member before entering upon his or her duties shall take and subscribe an oath to perform the duties of his or her office faithfully, impartially and justly to the best of his or her ability. A record of the oaths shall be filed in the office of the Secretary of State.

d. The State Treasurer shall be the president of the corporation. The president of the corporation shall appoint the vice president, treasurer and secretary of the corporation. The staff of the office of the State Treasurer shall also serve as staff of the corporation. Officers, agencies, and departments of the State and of a qualified municipality may render services to the corporation within their respective functions, as requested by the corporation.

e. Each member and the treasurer of the corporation shall execute a bond to be conditioned upon the faithful performance of the duties of the member or treasurer in the form and amount as may be prescribed by the State Comptroller. The bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the corporation shall maintain the bonds in full force and effect. All costs of the bonds shall be borne by the corporation.

f. The members of the corporation shall serve without compensation, but the corporation shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other laws, no officer or employee of a qualified municipality or of the State shall be deemed to have forfeited or shall forfeit office or employment or any benefits or emoluments thereof by reason of that person's acceptance of the office of ex officio member or officer of the corporation.

g. Each ex officio member of the corporation may designate an officer or employee of the member's department to represent the member at meetings of the corporation. A designee may lawfully vote and otherwise act on behalf of the member designating the designee. Any designation shall be in writing



delivered to the secretary of the corporation and shall continue in effect until revoked or amended by writing delivered to the secretary of the corporation.

h. The corporation may be dissolved by act of the Legislature on condition that the corporation has no debts, obligations or residual interests outstanding or that provision has been made for the payment or retirement of the debts, obligations or residual interests. Upon any dissolution of the corporation, all property, funds and assets thereof shall be vested in the State.

i. The corporation shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State.

j. No member, officer or employee of the corporation shall have an interest, either directly or indirectly, in any business organization engaged in any business, contract or transaction with the corporation or in any contract of any other person engaged in any business with the corporation, or in the purchase, sale, lease or transfer of any property to or from the corporation.

**C.52:27BBB-69 Definitions relative to tax lien financing.**

4. As used in this act, unless the context clearly requires a different meaning:

"Ancillary facility" means any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange or similar agreement, currency exchange agreement, interest rate floor or cap options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell securities, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the corporation, including without limitation any arrangement referred to in section 6 of this act.

"Benefitted parties" means persons, firms, corporations or organizations that enter into ancillary facilities with the corporation according to the provisions of this act.

"Code" means the United States Internal Revenue Code of 1986, as amended, and any successor provision of law.

"Costs of issuance" means any item of expense directly or indirectly payable or reimbursable by the corporation and related to the authorization, sale or issuance of securities, including without limitation underwriting fees, and fees and expenses of servicers, auditors, consultants and fiduciaries.

"Corporation" means the Tax Lien Financing Corporation established by section 3 of this act.

"Encumbered tax lien" means those tax liens that are pledged by the corporation for the repayment of any securities pursuant to the terms of the applicable corporation resolution, trust agreement or indenture.

"Financing costs" means all capitalized interest, operating and debt service reserves, costs of issuance, fees for credit and liquidity enhancements, and other costs as the corporation determines to be desirable in issuing, securing and marketing the securities.

"Net proceeds" means the amount of proceeds remaining following each sale of securities which are not required by the corporation to establish and fund reserve or escrow funds, or termination or settlement payments under ancillary facilities or to provide the financing costs and other expenses and fees directly related to the authorization and issuance of securities.

"Operating expenses" means the reasonable operating expenses of the corporation, including but not limited to the fees and expenses (including legal fees and expenses) incurred in the pursuit of any collections or the foreclosure of, or other realization upon, the tax liens, the fees and costs related to the foreclosure process, the expenses relating to appraisals and property inspections and valuations, the expenses relating to property operation, maintenance, improvement and sale, the fees and disbursements incurred in connection with landlord-tenant proceedings, the expenses related to the sale of properties acquired through foreclosure or other liquidation of tax liens such as advertising, brokerage fees, transfer taxes, legal fees and the cost of setting up reserves for tenant security, the cost of preparation of accounting and other reports, costs of maintenance of the ratings on any securities, insurance premiums and costs of annual meetings or other required activities of the corporation, and fees and expenses incurred for servicers, auditors, consultants and fiduciaries.

"Outstanding" means, when used with respect to securities, all securities other than securities that shall have been paid in full at maturity or that may be deemed not outstanding pursuant to the applicable corporation resolution, indenture or trust agreement authorizing the issuance of the securities and when used with respect to ancillary facilities, all ancillary facilities other than ancillary facilities that have been paid in full or that may be deemed not outstanding under the ancillary facilities.

"Qualified municipality" means a municipality: (1) that has been subject to the supervision of a financial review board pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) for at least one year; (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for at least one year; and (3) which, according to its most recently adopted municipal budget, is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.

"Residual interests" means the interests consisting of the right to receive remaining undistributed assets of the corporation after provision has been made for the payment of its operating expenses, debt service, sinking fund

requirements, reserve fund or escrow fund requirements and any other contractual obligations to the owners of the securities or benefitted parties, or that may be incurred in connection with the issuance of the securities or the execution of ancillary facilities; and such contractual rights, if any, as shall be provided to the corporation in accordance with the terms of any sale agreements.

"Sale agreement" means any agreement authorized pursuant to section 5 of this act in which a qualified municipality provides for the sale of tax liens to the corporation.

"Securities" means any securities, including without limitation any bonds, notes and other evidence of indebtedness, issued by the corporation pursuant to section 7 of this act.

"Tax liens" means those tax liens which are held by a qualified municipality securing delinquent real property taxes, assessments, water, sewer, utilities or other municipal charges by a qualified municipality or certified to a qualified municipality that become a lien on real property and are held by a qualified municipality pursuant to R.S.54:5-34.

"Unencumbered tax liens" means that portion of the tax liens that are not subject to the pledge of the applicable corporation resolution, trust agreement or indenture by the corporation to the repayment of any securities issued pursuant to the terms of such applicable corporation resolution, trust agreement or indenture.

**C.52:27BBB-70 Sales, agreements applicable to tax liens; procedures, conditions.**

5. a. Authority to Enter into Sale Agreements. A qualified municipality may sell to the corporation, and the corporation may purchase, for cash or other consideration and in one or more installments, all or a portion of the tax liens pursuant to the terms of one or more sale agreements. Any sale agreement shall provide, among other matters, the purchase price payable by the corporation to a qualified municipality for the tax liens, which amount may be more or less than the face amount of the tax liens purchased by the corporation, and may include the residual interests, if any. The sale agreement may require a qualified municipality to repurchase a tax lien, or to substitute another tax lien of equivalent value, under conditions to be specified in the sale agreement. The sale agreement may provide that a qualified municipality shall be obligated to sell to the corporation subsequent tax liens encumbering the property encumbered by the tax liens originally sold and remaining unpaid on such terms as the corporation deems desirable. Any sale shall be conducted pursuant to one or more sale agreements that may contain such terms and conditions deemed appropriate by a qualified municipality to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the qualified municipality in favor of the corporation and its assignees,

including, without limitation, the owners of its securities and benefitted parties; a provision authorizing inclusion of the State's pledge and agreement, as set forth in section 10 of this act, in any agreement with owners of the securities or any benefitted parties; and covenants with respect to the application and use of the proceeds of the sale of the qualified municipality's tax liens to preserve the tax exemption of the interest on any securities, if issued as tax exempt. A qualified municipality in any sale agreement may agree to, and the corporation may provide for, the assignment of the corporation's right, title and interest under the sale agreement for the benefit and security of the owners of securities and benefitted parties. The residual interest shall be uncertificated.

Notwithstanding that the corporation is hereby constituted an instrumentality of the State, all of the residual interests arising upon the transfer of a qualified municipality's tax liens to the corporation shall be the property of and vest in such qualified municipality and all of the economic avails and benefits of such residual interests, including, but not limited to, the income attributable to and accruing with respect to such interests from time to time, shall accrue to and inure to the benefit of such qualified municipality.

b. **True Sale.** Any sale of tax liens to the corporation pursuant to a sale agreement shall constitute a true sale and absolute transfer of the property so transferred and not a pledge or a grant of a security interest for any borrowing. The characterization of a sale as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of a qualified municipality's tax liens is transferred, nor by the acquisition or retention by a qualified municipality of a residual interest, nor by the characterization of the corporation or its obligations for purposes of accounting, taxation or securities regulation, nor by any actual pledge, assignment or grant of a security interest in the tax liens and any proceeds of the tax liens, nor by any other factor whatsoever.

c. **Qualified Municipality to Notify Collector.** On and after the effective date of each sale of tax liens, a qualified municipality shall have no right, title or interest in or to the tax liens sold, and the tax liens so sold shall be property of the corporation and not of the qualified municipality, and shall be owned and held by the corporation and not the qualified municipality. On or before the effective date of any sale, the qualified municipality shall notify the collector that the tax liens have been sold to the corporation and irrevocably instruct the collector that, subsequent to the effective date of the sale, it shall pay over to the corporation or its designee within two days of its receipt any payments made on the transferred tax liens for the benefit of the owners of the securities and benefitted parties.

d. **No Right to Cancel, Reduce or Compromise.** Notwithstanding any other law to the contrary, a qualified municipality shall not have any right to cancel, reduce or compromise any taxes, penalties or interest secured by

a tax lien sold pursuant to this act or extend the time for payment thereof. A qualified municipality may not waive any penalties and interest on a tax lien that has been sold pursuant to this act.

e. **Sale by Assignment.** A qualified municipality's sale of tax liens to the corporation shall be made by assignment. The certificates of sale may be assigned separately or in bulk with other such certificates. Upon such assignment, the qualified municipality shall promptly deliver such certificates to the corporation or its designee.

f. **Recording.** Any and all further or additional assignments of the tax sale certificates shall promptly be recorded in the office of the county clerk or the register of deeds and mortgages, as the case may be, of the county where the real property is located, and a photocopy of the recorded assignment shall be served upon the collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the collector, the collector shall be held harmless for the payment of any redemption amounts to the holder of the certificate of sale as appears on the records of the collector. All assignments must be submitted to the office of the county clerk or register of deeds and mortgages for recording within 90 days of the sale by assignment.

g. **Presumptive Evidence.** The certificate of sale shall be presumptive evidence in all courts in all proceedings by and against the corporation of the truth of the statements therein, of the title of the corporation in the transferred tax liens, and the regularity and validity of all proceedings had in reference to the sale. After six months from the recording of the certificate of sale, no evidence shall be admitted in any court to rebut the presumption that the lien purported to be transferred by the certificate of sale is a valid and enforceable lien, unless the corporation shall have procured it by fraud, or had previous knowledge that it was fraudulently made or procured.

h. **Destruction or Loss of a Certificate.** In case of the destruction or loss of a certificate of sale issued by a qualified municipality, the corporation shall present an affidavit of destroyed or lost certificate to the collector, and the collector shall then issue and execute a new certificate of sale in place of the one destroyed or lost. There shall appear on the new certificate a statement that it is a duplicate of the original certificate of sale that was destroyed or lost, the date of the original certificate, the date of the tax sale of the original certificate, the date the original certificate was issued and the name and title of the officer who issued the original certificate.

i. **Duplicate Certificate and Time Limit to Redeem.** The time limit within which the right to redeem from any tax sale in which a duplicate certificate has been issued shall be the same as though the original certificate had not been destroyed or lost.

j. **Amount Required for Redemption.** Any person having a legal and beneficial interest in the property affected by a certificate of sale acquired

by the corporation may satisfy the outstanding lien on the property at any time upon payment to the collector of all sums due with respect to such certificate and for subsequent taxes, municipal liens and charges, and interest and costs thereon, together with interest on the amounts so paid at the rate or rates chargeable by the qualified municipality.

k. Cancellation of Certificate Upon Redemption. Upon satisfaction of a tax lien, the redeeming party shall be entitled to have, upon demand, the certificate of sale, duly receipted for cancellation, or a certificate of redemption thereof, duly executed, stating that said certificate of sale may be canceled of record in the manner prescribed by law.

l. Duties Upon Redemption. The collector, on receiving payment as set forth in subsection j. of this section from a redeeming party, shall confirm with the corporation that such payment constitutes a payment in full. Upon such confirmation, the collector shall execute and deliver to the redeeming party a certificate of redemption which may be recorded with the county clerk or register of deeds and mortgages, as appropriate. The county clerk or register of deeds and mortgages, as appropriate, shall, on request, note on the record of the original certificate of sale a reference to the record of the certificate of redemption, and shall be entitled to the same fees as provided for the cancellation of a mortgage, or, at the option of the redeeming party, the collector shall request the corporation to deliver to it the certificate of sale and in turn, the collector shall deliver to the redeeming party the certificate of sale receipted for cancellation by endorsement in the same manner required by the law of the State to satisfy or cancel a mortgage, whereupon the record of the certificate of sale shall be canceled by the county clerk or register of deeds and mortgages in the same manner and for the same fees as in the case of a mortgage.

m. Installment Agreements. If the corporation holds a certificate of sale, it shall be entitled in its own name or in the name of its duly authorized representative to enter into installment agreements with the related taxpayers as if it were a municipality acting pursuant to Title 54 of the Revised Statutes and on such terms as the corporation deems desirable; provided, however, that the payment of the total sum due the corporation on any one parcel shall be made in substantially equal monthly installments, over a period not exceeding five years.

n. Filing of Installment Agreements. The installment agreement must be in writing and filed with the collector where the property is located. Upon due execution of the installment agreement the corporation shall forward a true copy of the agreement to the collector's office.

o. Foreclosure. When the corporation is the purchaser or assignee of a certificate of sale, the corporation, or its assignee or transferee, may, in its own name or in the name of its duly authorized representative, at any time after the expiration of the term of six months from the issuance of the certificate

of sale, institute a procedure to foreclose the right of redemption. The corporation shall be entitled to foreclose the tax lien or liens evidenced thereby in the manner provided by the law for the foreclosure of tax liens as if it were a municipality. In connection with the enforcement of a tax lien, all statutory references to a municipality acting pursuant to the provisions of Title 54 of the Revised Statutes shall be deemed to refer to the corporation, and all references to actions to be taken by an officer of the municipality shall be deemed to refer to an appropriate officer or duly authorized representative of the corporation.

p. **Jurisdiction of Court.** The Superior Court, in a procedure to foreclose the right of redemption, may give full and complete relief under this act, in accordance with other statutory authority of the court, to bar the right of redemption and to foreclose all prior or subsequent alienations and descents of the lands and encumbrances thereon, except subsequent municipal liens, and to adjudge an absolute and indefeasible estate of inheritance in fee simple, to be vested in the purchaser or assignee. The judgment shall be final upon the defendants, their heirs, devisees and personal representatives, and any of their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest and no application shall be entertained to reopen the judgment after the date thereof, and then only upon the grounds of lack of jurisdiction or fraud in the conduct of the suit. The judgment and recording thereof shall not be deemed a sale, transfer, or conveyance of title or interest to the subject property under the provisions of the "Uniform Fraudulent Transfer Act," R.S.25:2-20 et seq.

In the event that any federal statute or regulation requires a judicial sale of the property in order to debar and foreclose a mortgage interest or any other lien held by the United States or any agency or instrumentality thereof, then the tax lien may be foreclosed in the same manner as a mortgage, and the final judgment shall provide for the issuance of a writ of execution to the sheriff of the county wherein the property is situated and the holding of a judicial sale as in the manner of the foreclosure of a mortgage.

q. **Conflict.** In connection with the foreclosure of the right of redemption, in the event of any conflict between this act and any other law relating to the foreclosure of the right of redemption, this act shall be given precedence over the other law or laws.

r. **Recovery of Fees and Expenses.** To the extent permitted by law, in connection with the foreclosure of tax liens, the corporation or its designee shall have the right to recover attorneys' fees and disbursements incurred relating to the foreclosure at the time such fees and disbursements are incurred, together with the expenses of the sale.

s. **Evidence of Payments of Subsequent Tax Liens at Foreclosure.** Notwithstanding R.S.54:5-99, in connection with the foreclosure of tax liens,

the corporation or its designee shall produce evidence that all subsequent tax liens on the related land have been paid in full at the time a foreclosure judgment shall be entered. The evidence shall not be required to be produced at the commencement of a foreclosure procedure.

**C.52:27BBB-71 Powers of the corporation.**

6. The corporation also shall have the power to and be authorized to:
  - a. sue and be sued;
  - b. have a seal and alter the same at its pleasure;
  - c. make and alter bylaws for its organization and internal management and make rules and regulations governing the use of its property and facilities;
  - d. make and execute contracts including, without limitation, sale agreements, trust agreements, indentures, bond purchase agreements, tax regulatory agreements, continuing disclosure agreements, servicing agreements, ancillary facilities, and all other instruments necessary or convenient for the exercise of its powers and functions, and commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;
  - e. engage, in such manner as the corporation may determine, the services of financial advisors and experts, servicers, contractors, real estate agents, property maintenance contractors, custodians, placement agents, underwriters, appraisers and such other advisors, auditors, consultants, and fiduciaries as may be necessary to effectuate the purposes of this act;
  - f. pay its operating expenses and financing costs;
  - g. borrow money in its name and issue negotiable securities and provide for the rights of the owners thereof;
  - h. procure insurance against any loss in connection with its activities, properties and assets in such amount and from insurers as it deems desirable;
  - i. invest any funds or other moneys under its custody and control in investments and securities that are legal investments under the laws of the State for funds of the State and, notwithstanding any law to the contrary, in any ancillary facility, in obligations the interest on which is exempt from federal income taxation under the code and in shares or participation interests in funds or trusts that invest solely in such obligations;
  - j. as security for the payment of the principal of and interest on any securities and for its obligations under any ancillary facility, transfer, assign or pledge all or any part of the tax liens or other assets;
  - k. procure insurance, letters of credit or other credit enhancement with respect to any securities for the payment of tenders of securities, or for the payment upon maturity of securities;
  - l. (1) enter into any ancillary facility with any person under such terms and conditions as the corporation may determine;



(2) procure insurance, letters of credit or other credit enhancement with respect to any ancillary facility;

(3) provide security for the payment or performance of its obligations with respect to any ancillary facility from such sources and with the same effect as is authorized by this act with respect to security for securities; and

(4) modify, amend or replace any existing, or enter into a new, ancillary facility; and

m. establish, create or otherwise form and control one or more trusts or other single purpose entities to facilitate the purchase of tax liens and the issuance of tax lien collateralized securities;

n. acquire, hold and dispose of real and personal property for its corporate purposes;

o. cancel, reduce or compromise any taxes, penalties or interest secured by tax liens sold pursuant to this act or extend the time for payment thereof; provided, however, that in the event such reduction causes the principal sum of any taxes secured by the tax liens to fall below the fair market value of the underlying property, the corporation shall obtain the approval of the board prior to such reduction; and

p. do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this act.

**C.52:27BBB-72 Issuance of securities.**

7. a. The corporation shall have the power and is hereby authorized from time to time to issue securities in principal amount or amounts as the corporation shall determine to be necessary to provide sufficient funds for achieving its authorized purposes, consisting of the purchase of all or a portion of a qualified municipality's tax liens pursuant to section 5 of this act and the payment of or provision for financing costs.

(1) The issuance of securities shall be authorized by a corporation resolution. Other than the express written consent of the State Treasurer, securities (including securities issued to refund securities) may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of a qualified municipality and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act. Every issue of securities shall be special revenue obligations payable from, and secured, in whole or in part, by a pledge of encumbered tax liens or other assets, or both, including, without limitation, those proceeds of the securities deposited in a reserve fund for the benefit of the owners of the securities, earnings on funds of the corporation and other funds as may become available, as specified by the corporation in the corporation resolution pursuant to which

the securities are issued or in a related trust agreement, indenture or sale agreement.

(2) The corporation may issue securities to refund any securities by the issuance of new securities, whenever it deems refunding expedient, whether the securities to be refunded have or have not matured, and may issue securities partly to refund securities then outstanding and partly for any of its other authorized purposes. The refunding securities may be exchanged for the securities to be refunded or sold and the proceeds applied to the purchase, redemption or payment of the securities.

b. Each issue of securities shall be dated, shall bear interest (which under the code may be includable in or excludable from the gross income tax of the owners for federal income tax purposes) at such fixed or variable rates, payable at or prior to maturity, and shall mature at such time or times, as may be determined by the corporation and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be fixed by the corporation. The principal and interest of the securities may be made payable in any lawful medium. The corporation shall determine the form of the securities, either coupon, registered or book entry form, and the manner of execution of the securities and shall fix the denomination or denominations of the securities and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without a qualified municipality. If any officer whose signature or a facsimile thereof appears on any securities shall cease to be the officer before the delivery of the securities, the signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until delivery. The securities may be issued in coupon or in registered form or both, as the corporation may determine, and provisions may be made for the registration of any coupon securities as to principal alone, interest alone and as to both principal and interest and for the reconversion of any securities registered as to both principal and interest into coupon securities. The corporation may also provide for temporary securities and for the replacement of any security that shall become mutilated or shall be destroyed or lost.

c. The corporation may sell the securities in any manner, either at public or private sale and on either a competitive or negotiated basis. The proceeds of the securities shall be disbursed for the purposes for which the securities were issued as the act, the sale agreement and the corporation resolution authorizing the issuance of the securities or the related trust agreement or indenture may provide.

d. Any pledge made by the corporation shall be valid and binding at the time the pledge is made. The revenues, reserves or earnings so pledged, or earnings on the investment thereof, shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien

of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether the parties have notice thereof. Notwithstanding any other provision of law to the contrary, neither the corporation resolution nor any trust agreement or indenture or other instrument by which a pledge is created, or by which the corporation's interest in the encumbered tax liens, reserves or earnings thereon or in properties acquired by the corporation as a result of the foreclosure or other liquidation of tax liens is assigned, need be filed or recorded in any public records in order to protect the pledge thereof, or perfect the lien thereof, as against third parties, except that a copy thereof shall be filed in the records of the corporation.

e. Notwithstanding the provisions of any other law to the contrary, any securities issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each owner of such a security or other obligation, by accepting the security shall be conclusively deemed to have agreed that the security is and shall be fully negotiable within the meaning and for all purposes of Title 12A.

f. In the discretion of the corporation, any securities and any ancillary facilities may be secured by a trust agreement or indenture by and between the corporation and the trustee thereunder, which may be any trust company or bank having the powers of a trust company, whether located within or without the State. A trust agreement or indenture or corporation resolution providing for the issuance of securities may provide for the creation and maintenance of such reserves as the corporation shall determine to be proper and may include covenants setting forth the duties of the corporation in relation to the securities, the ancillary facilities, the income to the corporation, the sale agreement, the encumbered tax liens and residual interests. The trust agreement, indenture or corporation resolution may contain provisions respecting the servicing of the tax liens, the custody, safeguarding and application of all moneys and securities, and may contain such provisions for protecting and enforcing the rights and remedies (pursuant thereto and to the sale agreement) of the owners of the securities and benefitted parties as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of securities or of any other funds or obligations received on behalf of the corporation to furnish such indemnifying bonds or to pledge such obligations as may be required by the corporation. Any trust agreement or indenture or corporation resolution may contain such other provisions as the corporation may deem reasonable and proper for priorities and subordination among the owners of the securities and benefitted parties.

g. The corporation may enter into, amend or terminate, as it determines to be necessary or appropriate, any ancillary facilities to facilitate the issuance,

sale, resale, purchase, repurchase or payment of securities. The determination of the corporation that an ancillary facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. The ancillary facility shall be made upon the terms and conditions established by the corporation, including, without limitation, provisions as to security, default, termination, payment, remedy and consent to service of process.

h. The corporation may enter into, amend or terminate any ancillary facility as it determines to be necessary or appropriate to place the obligations or investments of the corporation, as represented by the securities or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the corporation. These contracts or arrangements may be entered into by the corporation in connection with, or incidental to, entering into, or maintaining any (1) agreement which secures securities of the corporation or (2) investment, or contract providing for investments, of reserves or similar facility guaranteeing an investment rate for a period of years. The determination by the corporation that an ancillary facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. Any ancillary facility may contain such payment, security, default, remedy, termination provisions and payments, and other terms and conditions as determined by the corporation, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including, without limitation, any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

i. Securities and ancillary facilities may contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity, the validity of any ancillary facility and the regularity of the proceedings relating thereto.

j. Neither the members of the corporation nor any other person executing the securities or an ancillary facility shall be subject to any personal liability or accountability by reason of the issuance or execution and delivery thereof.

**C.52:27BBB-73 Securities, ancillary facility not debt, liability of State.**

8. The securities and any ancillary facility shall not be a debt or liability of the State, a qualified municipality or any agency or instrumentality of either thereof (other than the corporation as set forth in this act), either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the corporation to incur any indebtedness on behalf of or in any way to obligate the State or a qualified municipality (excluding a qualified municipality's obligation, if any, to repurchase or substitute for a tax lien pursuant to the terms set forth in the sale agreement), and the securities and any ancillary facility shall contain on the face thereof, or other prominent place thereon, in bold typeface, a statement to the foregoing effect.

**C.52:27BBB-74 Tax exemptions.**

9. a. It is hereby determined that the creation of the corporation and the carrying out of its authorized purposes is in all respects a public and governmental purpose for the benefit of the people of a qualified municipality and for the improvement of financial security of a qualified municipality, and that said purposes are public purposes and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

b. The property of the corporation and its income and operations shall be exempt from all State taxation.

c. The securities and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the corporation and the properties and income thereon acquired and held by the corporation or its designee as a result of the foreclosure or other liquidation of tax liens shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

d. In the case of any securities, the interest on which is exempt from federal and State (personal and corporate) income tax, the corporation may prescribe restrictions on the use of the proceeds thereof and related matters as may be necessary to assure such exemption, if any, and the recipients of such proceeds shall then be bound thereby to the extent such restrictions shall be made applicable to them. Any such recipient, including without limitation, a qualified municipality, is authorized to execute a tax regulatory agreement with the corporation and the execution of such an agreement may be treated as a condition to receiving any such proceeds.

**C.52:27BBB-75 State pledges, agreements with parties.**

10. a. The State hereby pledges and agrees with the corporation, the owners of the securities and benefitted parties, that until all securities and ancillary facilities, together with the interest thereon and all costs and expenses in connection with any action or proceedings by or on behalf of owners of securities or benefitted parties, are fully paid and discharged the State will (1) not limit or alter the rights of the corporation to fulfill the terms of its agreements with the owners or benefitted parties and (2) not in any way impair the rights and remedies of the owners or benefitted parties or the security for the securities or ancillary facilities. The State is authorized and directed to include this pledge and agreement in sale agreements and the corporation is authorized and directed to include this pledge and agreement in any contract with the owners of the securities and benefitted parties.

b. Prior to the date that is one year and one day after the corporation no longer has any securities or ancillary facilities outstanding, the corporation shall have no authority to file a voluntary petition under chapter 9 of the federal bankruptcy code or the corresponding chapter or sections as may, from time to time, be in effect, and neither any public officer nor any organization, entity or other person shall authorize the corporation to be or become a debtor under chapter 9, or any successor or corresponding chapter or sections, during this period. The State hereby covenants with the owners of the securities and benefitted parties that the State will not limit or alter the denial of the corporation under this subsection during the period referred to in the preceding sentence. The corporation is authorized and directed to include this covenant as an agreement of the state in any contract with the owners of the securities and benefitted parties.

**C.52:27BBB-76 Immunity.**

11. Neither any member of the corporation nor any officer, employee or agent of the corporation, while acting within the scope of his or her authority, shall be subject to any personal liability resulting from exercising or carrying out of any of the corporation's purposes or powers.

**C.52:27BBB-77 Rules, regulations.**

12. The corporation may adopt any rule and regulation to effectuate the purposes of this act and, if it does so, shall apply the procedures of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), with respect thereto.

**C.52:27BBB-78 Liberal construction.**

13. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling. If any clause, sentence, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder hereof, but shall be applied in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which the judgment shall have been rendered.

**C.52:27BBB-79 Title 54 unaffected; precedence of act.**

14. Title 54 of the Revised Statutes shall remain in full force and effect. In the event of any conflict between this act and Title 54 of the Revised Statutes, this act shall be given precedence over such other law.

15. This act shall take effect immediately.

Approved July 1, 2003.

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## CHAPTER 121

AN ACT concerning hazardous site cleanup and redevelopment, and supplementing P.L.1993, c.139 (C.58:10B-1 et seq.).

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

**C.58:10B-6.1 Grants, Hazardous Discharge Site Remediation Fund; certain brownfield sites.**

1. a. Notwithstanding the provisions of sections 27 and 28 of P.L.1993, c.139 (C.58:10B-5 and 58:10B-6), or any other law, or any rule or regulation adopted pursuant thereto to the contrary, the New Jersey Economic Development Authority may provide grants or removeable grants from the Hazardous Discharge Site Remediation Fund established pursuant to section 26 of P.L.1993, c.139 (C.58:10B-4) to a municipality that has received a commitment prior to the effective date of this act from the New Jersey Redevelopment Authority, established pursuant to P.L.1996, c.62 (C.55:19-20 et al.), for funding the implementation of a remedial action and any other activities within the approved scope of work associated with the redevelopment of a brownfield site.

b. Grants may be provided pursuant to the provisions of this act to the following municipalities for the following projects:

<u>Municipality</u>	<u>Amount</u>
Bayonne	\$ 344,657
Camden	500,000
Camden-Nipper	1,500,000
Camden-Traillways	750,000
East Orange	100,000
Glassboro	94,000
Long Branch	350,000
Newark K-Mart	673,500

Newark Bergen Street	50,000
New Brunswick-Heldrich Center	1,000,000
Perth Amboy	845,000
Plainfield	750,000
Pleasantville	1,000,000
Rahway-80 East Milton	750,000
Rahway-Main & Monroe	25,000
Trenton	84,000
	<u>\$8,816,157</u>

c. Any repayments to the New Jersey Redevelopment Authority for grants or other financial assistance made for brownfields remediation or redevelopment pursuant to the provisions of this act shall be paid to the New Jersey Economic Development Authority and shall be deposited into the fund.

d. As used in this act, "brownfield site" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.

2. This act shall take effect immediately.

Approved July 1, 2003.



**CHAPTER 122**

Note: In approving the following act, certain items were deleted or reduced by the Governor. For a statement of those items, see the Governor's statement appended to Senate Bill No. 3000, dated July 1, 2003.

AN ACT making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2004 and regulating the disbursement thereof.

**ANTICIPATED RESOURCES  
FOR THE FISCAL YEAR 2003 - 2004  
GENERAL FUND**

Undesignated Fund Balance, July 1, 2003 . . . . . \$250,000,000

***Major Taxes***

Sales . . . . .	\$6,165,000,000
Corporation Business . . . . .	2,055,000,000
Transfer Inheritance . . . . .	433,000,000
Motor Fuels . . . . .	544,000,000
Motor Vehicle Fees . . . . .	233,094,000
Cigarette . . . . .	635,000,000
Insurance Premiums . . . . .	420,000,000
Petroleum Products Gross Receipts . . . . .	225,000,000
Realty Transfer . . . . .	172,000,000
Alcoholic Beverage Excise . . . . .	83,000,000
Corporation Banks and Financial Institutions . . . . .	131,000,000
Tobacco Products Wholesale Sales . . . . .	13,000,000
Public Utility Excise (Reform) . . . . .	8,700,000
Savings Institutions . . . . .	<u>5,000,000</u>
Total -- Major Taxes . . . . .	<u>\$11,122,794,000</u>

***Miscellaneous Taxes, Fees, Revenues***

Executive Branch --

Department of Agriculture:

Fertilizer Inspection Fees . . . . .	\$291,000
Miscellaneous Revenue . . . . .	<u>4,000</u>
Subtotal, Department of Agriculture . . . . .	<u>\$295,000</u>

Department of Banking and Insurance:

Actuarial Services . . . . .	\$52,000
Bank Assessments . . . . .	3,525,000
Banking -- Examination Fees . . . . .	2,262,000
Banking -- Licenses and Other Fees . . . . .	5,500,000
FAIR Act Administration . . . . .	14,500,000

Matter within summary of appropriations is not enacted as part of the law and is intended to be for the purpose of displaying summaries of the items of appropriations set forth elsewhere.

Insurance -- Special Purpose Assessment .....	16,921,000
Insurance -- Examination Billings .....	2,000,000
Insurance Fraud Prevention .....	33,843,000
Insurance Licenses and Other Fees .....	12,330,000
Real Estate Commission .....	<u>7,600,000</u>
Subtotal, Department of Banking and Insurance ..	<u>\$98,533,000</u>
Department of Community Affairs:	
Affordable Housing and Neighborhood	
Preservation -- Fair Housing .....	\$19,439,000
Boarding Home Fees .....	368,000
Construction Fees .....	11,950,000
Divorce Filing Fees .....	1,202,000
Fire Safety .....	14,405,000
Housing Inspection Fees .....	7,256,000
Planned Real Estate Development Fees .....	<u>828,000</u>
Subtotal, Department of Community Affairs ...	<u>\$55,448,000</u>
Department of Education:	
Audit Recoveries .....	\$1,000,000
Audit of Enrollments .....	1,600,000
Local School District Loan Recoveries -- NJEDA .....	9,231,000
Miscellaneous Revenue .....	125,000
Nonpublic Schools Handicapped and	
Auxiliary Recoveries .....	5,000,000
Nonpublic Schools Textbook Recoveries .....	1,365,000
School Construction Inspection Fees .....	2,993,000
State Board of Examiners .....	<u>2,475,000</u>
Subtotal, Department of Education .....	<u>\$23,789,000</u>
Department of Environmental Protection:	
Air Pollution Fees and Fines .....	\$21,880,000
Clean Water Enforcement Act .....	2,700,000
Coastal Area Development Review Act .....	1,880,000
Endangered Species Tax Check-Off .....	225,000
Environmental Infrastructure Financing Program --	
Administrative Fee .....	5,000,000
Excess Diversion .....	240,000
Freshwater Wetlands Fees .....	2,600,000
Freshwater Wetlands Fines .....	45,000
Hazardous Waste Fees .....	3,800,000
Hazardous Waste Fines .....	500,000
Hunters' and Anglers' Licenses .....	12,800,000
Industrial Site Recovery Act .....	1,200,000
Laboratory Certification Fees .....	1,600,000
Laboratory Certification Fines .....	25,000
Marina Rentals .....	900,000
Marine Lands -- Preparation and Filing Fees .....	175,000
Medical Waste .....	3,700,000

New Jersey Pollutant Discharge Elimination System/	
Stormwater Permits .....	11,850,000
Parks Management Fees and Permits .....	4,300,000
Parks Management Fines .....	185,000
Pesticide Control Fees .....	4,000,000
Pesticide Control Fines .....	30,000
Radiation Protection Fees .....	3,418,000
Radiation Protection Fines .....	65,000
Radon Testers Certification .....	275,000
Shellfish and Marine Fisheries .....	7,000
Solid and Hazardous Waste Disclosure .....	3,708,000
Solid Waste -- Utility Regulations Assessments .....	3,100,000
Solid Waste Fines -- DEP .....	900,000
Solid Waste Management Fees -- DEP .....	8,207,000
Spring Meadow Golf Course .....	300,000
Stormwater Permits .....	5,800,000
Stream Encroachment .....	2,600,000
Toxic Catastrophe Prevention Fees .....	1,200,000
Toxic Catastrophe Prevention Fines .....	25,000
Treatment Works Approval .....	2,073,000
Underground Storage Tanks Fees .....	705,000
Water Allocation .....	2,000,000
Water Supply Management Regulations .....	1,600,000
Water/Wastewater Operators Licenses .....	215,000
Waterfront Development Fees .....	2,400,000
Well Permits/Well Drillers/Pump Installers Licenses ....	1,200,000
Wetlands .....	26,000
Worker and Community Right to Know -- Fines .....	<u>60,000</u>
Subtotal, Department of	
Environmental Protection .....	<u>\$119,519,000</u>
Department of Health and Senior Services:	
Admission Charge Hospital Assessment .....	\$6,000,000
HMO Covered Lives .....	2,286,000
Health Care Reform .....	1,200,000
Licenses, Fines, Permits, Penalties, and Fees .....	<u>790,000</u>
Subtotal, Department of Health	
and Senior Services .....	<u>\$10,276,000</u>
Department of Human Services:	
Child Care Licensing/Adoption Law .....	\$300,000
Early Periodic Screening and Diagnostic Treatment ....	3,000,000
Marriage License Fees .....	1,309,000
Medicaid Uncompensated Care -- Acute .....	253,210,000
Medicaid Uncompensated Care -- Mental Health .....	30,475,000
Medicaid Uncompensated Care -- Psychiatric .....	171,454,000
Medical Assistance -- Federal Match on PAAD/	
Medicaid Dual Eligibles .....	2,000,000

Miscellaneous Federal Revenue Initiatives . . . . .	15,000,000
Miscellaneous Revenue . . . . .	700,000
Patients' and Residents' Cost Recoveries:	
Developmental Disability . . . . .	15,280,000
Psychiatric Hospitals . . . . .	51,508,000
School Based Medicaid . . . . .	34,500,000
Subtotal, Department of Human Services . . . . .	<u>\$578,736,000</u>
Department of Labor:	
Special Compensation Fund . . . . .	\$1,660,000
Workers' Compensation Assessment . . . . .	11,938,000
Workplace Standards -- Licenses, Permits and Fines . . . . .	<u>2,820,000</u>
Subtotal, Department of Labor . . . . .	<u>\$16,418,000</u>
Department of Law and Public Safety:	
Beverage Licenses . . . . .	\$3,960,000
Division of Consumer Affairs:	
General Revenues:	
Charities Registration Section . . . . .	695,000
Controlled Dangerous Substances . . . . .	100,000
Legalized Games of Chance Control . . . . .	1,200,000
Private Employment Agencies . . . . .	258,000
Weights and Measures -- General . . . . .	2,612,000
Professional Examining Board Fees:	
New Jersey Cemetery Board . . . . .	50,000
State Board of Architects . . . . .	375,000
State Board of Audiology and Speech -- Language	
Pathology Advisory . . . . .	100,000
State Board of Certified Psychoanalysts . . . . .	50,000
State Board of Certified Public Accountants . . . . .	220,000
State Board of Chiropractors . . . . .	450,000
State Board of Cosmetology and Hairstyling . . . . .	1,000,000
State Board of Dentistry . . . . .	850,000
State Board of Electrical Contractors . . . . .	120,000
State Board of Marriage Counselor Examiners . . . . .	200,000
State Board of Master Plumbers . . . . .	300,000
State Board of Medical Examiners . . . . .	2,600,000
State Board of Mortuary Science . . . . .	400,000
State Board of Nursing . . . . .	6,050,000
State Board of Occupational Therapists	
and Assistants . . . . .	140,000
State Board of Ophthalmic Dispensers and	
Ophthalmic Technicians . . . . .	135,000
State Board of Optometrists . . . . .	75,000
State Board of Orthotics and Prosthesis . . . . .	50,000
State Board of Pharmacy . . . . .	556,000
State Board of Physical Therapy . . . . .	250,000

State Board of Professional Engineers and Land Surveyors .....	850,000
State Board of Professional Planners .....	75,000
State Board of Psychological Examiners .....	225,000
State Board of Real Estate Appraisers .....	885,000
State Board of Respiratory Care .....	125,000
State Board of Shorthand Reporting .....	60,000
State Board of Social Workers .....	700,000
State Board of Veterinary Medical Examiners .....	150,000
EDA School Construction Recoveries .....	2,829,000
Pleasure Boat Licenses .....	3,200,000
Securities Enforcement .....	16,047,000
State Police -- Fingerprint Fees .....	2,694,000
State Police -- Other Licenses .....	204,000
State Police -- Private Detective Licenses .....	220,000
Violent Crime Compensation .....	<u>3,930,000</u>
Subtotal, Department of Law and Public Safety ..	<u>\$54,990,000</u>
Department of Military and Veterans' Affairs:	
Soldiers' Homes .....	<u>\$26,823,000</u>
Subtotal, Department of Military and Veterans' Affairs .....	<u>\$26,823,000</u>
Department of Transportation:	
Air Safety Fund .....	\$965,000
Applications and Highway Permits .....	1,300,000
Auto Body Repair Shop Licensing .....	15,000
Autonomous Transportation Authorities .....	24,500,000
Drunk Driving Fines .....	350,000
Good Driver .....	61,000,000
Graduated Driver's License .....	1,600,000
Heavy Duty Diesel Fines .....	640,000
Interest on Purchase of Right-of-Way .....	5,000
Limo Fees .....	10,000,000
Logo Sign Program Fees .....	300,000
Motor Vehicle Database -- Automated Access .....	55,327,000
Motor Vehicle Inspection Fund .....	76,710,000
Outdoor Advertising .....	24,740,000
Parking Offenses .....	360,000
Salvage Title Program .....	980,000
Special Plate Fees .....	750,000
Uninsured Motorists Program .....	<u>3,400,000</u>
Subtotal, Department of Transportation .....	<u>\$262,942,000</u>
Department of the Treasury:	
Assessments -- Cable TV .....	\$3,738,000
Assessments -- Public Utility .....	23,494,000
Coin Operated Telephones .....	4,200,000
Commercial Recording -- Expedited .....	2,853,000

Commissions .....	1,000,000
Dormitory Safety Trust Fund --	
Debt Service Recovery .....	5,270,000
Equipment Leasing Fund -- Debt Service Recovery ....	3,892,000
Escrow Interest -- Construction Accounts .....	7,000
General Revenue -- Fees .....	31,580,000
Higher Education Capital Improvement Fund --	
Debt Service Recovery .....	9,287,000
Hotel Occupancy Tax .....	111,400,000
Lease Lease-Back .....	14,500,000
Miscellaneous Revenue .....	260,000
New Jersey Economic Development Authority .....	4,000,000
New Jersey Redevelopment Authority .....	9,000,000
Nuclear Emergency Response Assessment .....	3,173,000
ODS Mediation Fees .....	158,000
Public Defender Client Receipts .....	5,340,000
Public Utility -- Customer Specific Tax .....	1,998,000
Public Utility Fines .....	500,000
Public Utility Gross Receipts and Franchise	
Taxes (Water/Sewer) .....	69,000,000
Railroad Tax -- Class II .....	3,700,000
Railroad Tax -- Franchise .....	540,000
Rate Payer Advocate .....	6,547,000
Sale of Real Property .....	10,345,000
Second Referral Debt Collection -- Hospitals .....	20,000,000
Surplus Property .....	950,000
Transitional Energy Facilities Assessment .....	<u>218,300,000</u>
Subtotal, Department of the Treasury .....	<u>\$565,032,000</u>
Other Sources:	
Miscellaneous Revenue .....	<u>\$500,000</u>
Subtotal, Other Sources .....	<u>\$500,000</u>
Inter-Departmental Accounts:	
Administration and Investment of Pension and	
Health Benefit Funds - Recoveries .....	\$46,000,000
Employee Maintenance Deductions .....	300,000
Fringe Benefit Recoveries from	
Colleges and Universities .....	99,000,000
Fringe Benefit Recoveries from	
Federal and Other Funds .....	141,150,000
Fringe Benefit Recoveries from School Districts .....	26,000,000
Indirect Cost Recovery -- DEP Other Funds .....	11,100,000
MTF Revenue Fund .....	107,747,000
Rent of State Building Space .....	1,900,000
Social Security Recoveries from	
Federal and Other Funds .....	<u>43,000,000</u>
Subtotal, Inter-Departmental Accounts .....	<u>\$476,197,000</u>

The Judiciary:	
Court Fees . . . . .	<u>\$60,995,000</u>
Subtotal, Judicial Branch . . . . .	<u>\$60,995,000</u>
Total -- Miscellaneous Taxes, Fees, Revenues . . . . .	<u>\$2,350,493,000</u>

*Interfund Transfers*

Beaches and Harbor Fund . . . . .	\$30,000
Clean Waters Fund . . . . .	39,000
Correctional Facilities Construction Fund . . . . .	10,000
Correctional Facilities Construction Fund -- 1987 . . . . .	59,000
Cultural Center and Historic Preservation Fund -- 1987 . . . . .	145,000
Developmental Disabilities Waiting List Reduction Fund . . . . .	252,000
Dredging and Containment Facility Fund -- 1996 . . . . .	338,000
Emergency Flood Control Fund . . . . .	7,000
Enterprise Zone Assistance Fund . . . . .	3,000,000
Garden State Farmland Preservation Trust Fund . . . . .	1,764,000
Garden State Green Acres Preservation Trust Fund . . . . .	5,006,000
Garden State Historic Preservation Fund . . . . .	489,000
Hazardous Discharge Fund . . . . .	4,000
Hazardous Discharge Site Cleanup Fund . . . . .	18,180,000
Housing Assistance Fund . . . . .	105,000
Human Services Facilities Construction Fund . . . . .	1,000
Institutions Construction Fund . . . . .	1,000
Jobs, Education and Competitiveness Fund . . . . .	100,000
Judiciary Bail Fund . . . . .	525,000
Judiciary Child Support and Paternity Fund . . . . .	450,000
Judiciary Probation Fund . . . . .	150,000
Judiciary Special Civil Fund . . . . .	47,000
Judiciary Superior Court Miscellaneous Fund . . . . .	80,000
Legal Services Trust Fund . . . . .	10,750,000
Mortgage Assistance Fund . . . . .	925,000
Motor Vehicle Security Responsibility Fund . . . . .	7,000
New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Fund . . . . .	100,000
Natural Resources Fund . . . . .	55,000
New Jersey Green Acres Fund (Act of 1983) . . . . .	394,000
New Jersey Insolvent HMO Assistance Fund . . . . .	250,000
New Jersey Spill Compensation Fund . . . . .	14,750,000
Pollution Prevention Fund . . . . .	2,347,000
Public Purpose Buildings Construction Fund . . . . .	1,000
Public Purpose Buildings and Community-Based Facilities Construction Fund . . . . .	150,000
Real Estate Guarantee Fund . . . . .	1,000,000
Safe Drinking Water Fund . . . . .	2,251,000
School Fund Investment Account . . . . .	2,930,000

Shore Protection Fund .....	275,000
Solid Waste Services Tax Fund .....	50,000
State Disability Benefit Fund General Account .....	56,699,000
State Land Acquisition and Development Fund .....	16,000
State Lottery Fund .....	793,000,000
State Lottery Fund Administration .....	23,163,000
State Recreation and Conservation Land Acquisition and Development (Act of 1974) .....	26,000
State Recycling Fund .....	1,014,000
State of New Jersey Cash Management Fund .....	2,900,000
Stock Workers' Compensation Security Fund .....	15,000,000
Supplemental Workforce Fund for Basic Skills .....	2,000,000
Tobacco Settlement Fund .....	1,612,022,000
Transportation Rehabilitation and Improvement Fund of 1979 .....	6,000
Unclaimed Insurance Payments .....	39,000
Unclaimed Personal Property Trust Fund .....	172,379,000
Unclaimed Utility Deposit .....	60,000
Unemployment Compensation Tax Auxiliary Fund .....	17,675,000
Universal Service Fund .....	72,000,000
Unsatisfied Claim and Judgment Fund .....	2,461,000
Wage and Hour Trust Fund .....	75,000
Water Conservation Fund .....	38,000
Water Supply Fund .....	3,634,000
Worker and Community Right to Know Fund .....	3,420,000
Workforce Development Partnership Fund .....	43,839,000
Total -- Interfund Transfers .....	<u>\$2,888,483,000</u>
Total State Revenues, General Fund .....	<u>\$16,361,770,000</u>
Total Resources, General Fund .....	<u>\$16,611,770,000</u>

***Surplus Revenue Fund***

Undesignated Fund Balance, July 1, 2003 .....	<u>\$0</u>
Total Resources, Surplus Revenue Fund .....	<u>\$0</u>

***Debt Avoidance and Retirement Fund***

Undesignated Fund Balance, July 1, 2003 .....	<u>\$0</u>
Total Resources, Debt Avoidance and Retirement Fund .....	<u>\$0</u>

***Property Tax Relief Fund***

Undesignated Fund Balance, July 1, 2003 .....	\$0
Gross Income Tax .....	<u>7,130,000,000</u>
Total Resources, Property Tax Relief Fund .....	<u>\$7,130,000,000</u>

***Casino Control Fund***

Undesignated Fund Balance, July 1, 2003 .....	\$0
License Fees .....	<u>62,737,000</u>
Total Resources, Casino Control Fund .....	<u>\$62,737,000</u>



**Casino Revenue Fund**

Undesignated Fund Balance, July 1, 2003 .....	\$0
Casino Simulcasting Fund .....	700,000
Newly Enacted Casino Taxes and Fees .....	90,000,000
Gross Revenue Tax .....	<u>358,000,000</u>
Total Resources, Casino Revenue Fund .....	<u>\$448,700,000</u>

**Gubernatorial Elections Fund**

Undesignated Fund Balance, July 1, 2003 .....	\$1,500,000
Taxpayers' Designations .....	<u>1,500,000</u>
Total Resources, Gubernatorial Elections Fund .....	<u>\$3,000,000</u>

Total Resources, All State Funds ..... \$24,256,207,000

**Federal Revenue**

## Executive Branch --

## Department of Agriculture:

Child Nutrition -- Administration .....	\$3,278,000
Child Nutrition -- Child Care .....	44,000,000
Child Nutrition -- School Lunch .....	145,000,000
Child Nutrition -- Special Milk .....	1,400,000
Child Nutrition -- Summer Programs .....	8,664,000
Cooperative Gypsy Moth Suppression .....	610,000
Farm Risk Management Education Program .....	117,000
Farmland Preservation .....	1,726,000
Fish Inspection Services .....	100,000
Jobs Bill .....	1,325,000
School Breakfast .....	28,000,000
Team Nutrition Training .....	225,000
Various Federal Programs and Accruals .....	<u>441,000</u>
Subtotal, Department of Agriculture .....	<u>\$234,886,000</u>

## Department of Community Affairs:

Community Services Block Grant .....	\$17,699,000
Emergency Shelter Grants Program .....	1,473,000
Moderate Rehabilitation Housing Assistance .....	8,749,000
National Affordable Housing -- HOME	
Investment Partnerships .....	7,413,000
National Fire Academy Training Program .....	30,000
Section 8 Housing Voucher Program .....	146,056,000
Shelter Plus Care Program .....	450,000
Small Cities Block Grant Program .....	9,578,000
Weatherization Assistance Program .....	5,166,000
Various Federal Programs and Accruals .....	18,199,000
Subtotal, Department of Community Affairs ...	<u>\$214,813,000</u>

## Department of Corrections:

Project In-Side .....	\$514,000
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Serious and Violent Offender Reentry Initiative . . . . .	1,500,000
State Criminal Alien Assistance Program . . . . .	7,000,000
Various Federal Programs and Accruals . . . . .	50,000
Subtotal, Department of Corrections . . . . .	<u>\$9,064,000</u>
Department of Education: . . . . .	
21st Century Schools . . . . .	\$7,518,000
AIDS Prevention Education . . . . .	687,000
Adult Basic Education --	
Administration/Discretionary . . . . .	17,986,000
Bilingual and Compensatory Education -- Homeless	
Children and Youth . . . . .	1,201,000
Byrd Scholarship Program . . . . .	1,500,000
Character Education Partnership . . . . .	500,000
Deaf/Blind Children Services --	
Administration/Discretionary . . . . .	272,000
Drug-Free Schools and Communities --	
Administration . . . . .	8,250,000
Drug-Free Schools and Communities -- Discretionary . . . . .	281,000
Educational Technology . . . . .	15,000,000
Even Start Family Literacy Grant -- Discretionary . . . . .	4,300,000
IASA Consolidated Administration . . . . .	4,221,000
IDEA -- Handicapped . . . . .	272,588,000
IDEA -- Preschool Incentive Grant Administration --	
Discretionary . . . . .	12,257,000
IDEA -- Supervision Enhancement . . . . .	441,000
Innovative Education, Title VI -- Discretionary . . . . .	10,696,000
Language Acquisition State Grants . . . . .	13,727,000
Migrant Education -- Administration/Discretionary . . . . .	2,167,000
National Community Service -- Learn	
and Serve America . . . . .	393,000
Public Charter Schools . . . . .	2,809,000
Reading Excellence . . . . .	1,050,000
Safe & Drug-Free Schools . . . . .	3,487,000
State Assessments . . . . .	9,321,000
State Grants for Improving Teacher Quality . . . . .	65,451,000
State Improvement Grant, Administration . . . . .	1,690,000
Teacher Quality Enhancement -- DA . . . . .	4,000,000
Title I -- Accountability Grants . . . . .	6,000,000
Title I -- Comprehensive School Reform . . . . .	7,808,000
Title I -- LEA Disadvantaged . . . . .	272,000,000
Title I, Part D -- Neglected & Delinquent . . . . .	3,089,000
Title I -- Reading First State Grant . . . . .	20,473,000
Vocational Education -- Basic Grants, Administration . . . . .	24,180,000
Vocational Education Technical Preparation . . . . .	2,252,000
Various Federal Programs and Accruals . . . . .	43,731,000
Subtotal, Department of Education . . . . .	<u>\$841,326,000</u>

Department of Environmental Protection:	
Air Pollution Maintenance Program	\$6,319,000
Americorps	300,000
Artificial Reef Program	325,000
Atlantic Coastal Cooperative Program	150,000
Boat Access (Fish and Game)	1,000,000
Brownfields	5,000,000
Brownfields Preliminary Assessment/Site Investigation	1,500,000
Clean Lakes Program	500,000
Clean Vessels	1,000,000
Climate Change Action Plan	
(Recycling of Landfill Gases)	100,000
Coastal Zone Management -- Federal Grant	1,000,000
Coastal Zone Management Implementation	6,100,000
Community Assistance Program	200,000
Community and Public Water Supply Operators --	
Expense Reimbursement	1,500,000
Consolidated Forest Management	1,049,000
Construction Grants Program	57,600,000
Defensible Space	350,000
Endangered Species and Non-Game Species	
Program State Wildlife Grants	1,200,000
EPA Regional Applied Research	250,000
Endangered Species	75,000
Environmental Justice	100,000
Environmental Monitoring for Public Access	
and Community Tracking	50,000
Firewise in the Pines	100,000
Fish and Wildlife Health	379,000
Forest Legacy	10,010,000
Forest Resource Management -- Cooperative	
Forest Fire Control	525,000
Hazardous Discharge Site Clean-up Fund --	
Responsible Party	155,000
Hazardous Waste -- Resource Conservation	
Recovery Act	4,281,000
Historic Preservation Survey & Planning	2,000,000
Hunters' and Anglers' License Fund	7,655,000
Intermodal Surface Transportation	
Efficiency Act (ISTEA)	9,420,000
Land and Water Conservation Fund	5,000,000
Lower Cohansey Watershed	1,000,000
Marine Fisheries Investigation and Management	1,150,000
Multi-Media	750,000
Multi-Media Enforcement Grant	1,000,000
NJFO Bog Turtle Cooperative Agreement	50,000

National Coastal Wetlands Conservation .....	4,360,000
National Dam Safety Program (FEMA) .....	90,000
National Geologic Mapping Program .....	160,000
National Pollutant Discharge Elimination System Implementation Support Program .....	600,000
National Recreational Trails .....	1,250,000
Non-Point Source Implementation (319H) .....	2,400,000
Non-Point Source Implementation (319H) Supplemental .....	2,000,000
Particulate Monitoring Grant .....	1,500,000
Pesticide Recording Program .....	20,000
Pesticide Technology .....	730,000
Pinelands Grant -- Acquisition .....	6,000,000
Preliminary Assessments/Site Inspections .....	3,000,000
Radon Program .....	500,000
SWG Projects .....	390,000
Safe Drinking Water Act .....	22,200,000
State Wetlands Conservation Plan .....	492,000
State/EPA Data Management Grant .....	3,050,000
Superfund Grants .....	30,450,000
Toxic Substance Compliance .....	50,000
US Army Corps of Engineers Beachnesters .....	81,000
Underground Storage Tanks .....	2,055,000
Various Federal Programs and Accruals .....	4,530,000
Voluntary Clean-up -- Site Specific .....	250,000
Voluntary Clean-up Program .....	500,000
Water Monitoring and Planning .....	1,000,000
Water Pollution Control Program .....	4,250,000
Wildlife/Urban Interface II .....	250,000
Wildlife Education Program .....	<u>285,000</u>
Subtotal, Department of Environmental Protection .....	<u>\$221,586,000</u>
Department of Health and Senior Services:	
AIDS Incarcerated Individuals in Corrections .....	\$1,230,000
Abstinence Education -- FHS .....	1,012,000
Asthma Surveillance and Coalition Building .....	256,000
Behavioral Risk Factor Surveillance Survey .....	261,000
Bioterrorism Hospital Emergency Preparedness .....	3,600,000
Center for Birth Defects Research and Prevention .....	1,600,000
Childhood Lead Poisoning .....	1,029,000
Clinical Laboratory Improvement Amendments Program .....	473,000
Comprehensive AIDS Resources Grant .....	63,000,000
Comprehensive Breast and Cervical Cancer .....	4,200,000
Comprehensive State Based Tobacco Use Prevention Programs .....	1,300,000

Demonstration Program to Conduct Health Assessments .	707,000
Early Hearing Detection and Intervention (EHDI)	
Tracking, Research .....	334,000
Early Intervention Program for Infants and	
Toddlers with Disabilities (Part H) .....	12,000,000
Eliminating Disparities in Perinatal Health .....	500,000
Emergency Preparedness for Bioterrorism .....	21,048,000
Emergency Preparedness for	
Bioterrorism -- Laboratories .....	3,152,000
Evaluation of the Performance of Integrated HIV/	
AIDS Surveillance .....	255,000
Family Planning Program -- Title X .....	3,500,000
Federal Lead Abatement Program .....	450,000
Food Inspection .....	300,000
HIV/AIDS Prevention and Education Grant .....	18,340,000
HIV/AIDS Surveillance Grant .....	6,594,000
Housing Opportunities for Persons with AIDS .....	5,326,000
Immunization Project .....	7,300,000
Lyme Disease Research .....	576,000
Maternal and Child Health Block Grant .....	12,700,000
Medicare/Medicaid Inspections of Nursing Facilities ..	10,834,000
Minority AIDS Demo .....	150,000
NJ Ease for Caregivers -- Building Support Systems ....	250,000
National Cancer Prevention and	
Control -- Public Health .....	1,800,000
National Family Caregiver Program .....	4,100,000
Nurse Aide Certification Program .....	1,958,000
Nursing Facilities Transition Grant .....	600,000
Older Americans Act -- Title III .....	33,628,000
Pediatric AIDS Health Care Demonstration Project ....	2,850,000
Pharmaceutical Assistance to the Aged and Disabled --	
Federal Waiver .....	193,165,000
Pregnancy Risk Assessment Monitoring System .....	750,000
Preventative Health and Health Services Block Grant ...	5,431,000
Public Employees Occupational	
Safety & Health -- State Plan .....	900,000
Public Health Laboratory Biomonitoring Planning .....	200,000
Research on Ecology of Lyme Disease in US .....	85,000
Senior Farmers Market Nutrition Program .....	435,000
State Regulation on Immunization Rates of Older Adults ..	60,000
Substance Abuse Block Grant .....	51,385,000
Supplemental Food Program -- W.I.C. ....	90,000,000
Surveillance, Epidemiology and End Results (SEER) ...	1,800,000
Tools For School Implementation Project .....	80,000
Traumatic Brain Injury Surveillance .....	105,000
Tuberculosis Control Program .....	16,000,000

USDA Older Americans Act -- Title III .....	3,900,000
Venereal Disease Project .....	3,500,000
Violence Related Injury Prevention .....	160,000
Vital Statistics Component .....	850,000
WIC Farmer's Market Nutrition Program .....	803,000
West Nile Virus -- Laboratory .....	256,000
West Nile Virus -- Public Health .....	1,744,000
Various Federal Programs and Accruals .....	<u>5,265,000</u>
Subtotal, Department of Health and Senior Services .....	<u>\$604,187,000</u>
Department of Human Services:	
Block Grant Mental Health Services .....	\$12,113,000
Child Care Block Grant .....	111,946,000
Child Support Enforcement Program .....	127,699,000
Community Based Residential Program Grant .....	1,000,000
Developmental Disabilities Council .....	1,577,000
Federal Independent Living .....	892,000
Federal Revenue Maximization -- IGT/Stimulus/Other Initiatives .....	482,000,000
Food Stamp Program .....	77,427,000
Foster Grandparents Program .....	2,108,000
Low Income Energy Assistance Block Grant .....	76,037,000
Projects for Assistance in Transition from Homelessness (PATH) .....	1,285,000
Refugee Resettlement Program .....	5,555,000
Restricted Grant .....	10,053,000
Social Service Block Grant .....	55,240,000
Temporary Assistance to Needy Families Block Grant .....	572,771,000
Title IV-B Child Welfare Services .....	5,714,000
Title IV-E Foster Care .....	106,820,000
Title XIX Child Residential .....	29,774,000
Title XIX Community Care Waiver .....	210,352,000
Title XIX ICF/MR .....	210,984,000
Title XIX Medical Assistance .....	2,927,901,000
Title XXI Childrens Health Insurance Program .....	202,311,000
Various Federal Programs and Accruals .....	14,302,000
Vocational Rehabilitation Act -- Section 120 .....	<u>9,520,000</u>
Subtotal, Department of Human Services . . .	<u>\$5,255,381,000</u>
Department of Labor:	
Comprehensive Services for Independent Living .....	\$700,000
Current Employment Statistics .....	2,823,000
Disability Determination Services .....	47,000,000
Disabled Veterans' Outreach Program .....	2,300,000
Employment Services Reemployment Services .....	1,000,000
Employment Services .....	22,855,000

Employment Services -- One Stop Shopping .....	325,000
Employment Services Cost Reimbursable Grants --	
Migrant Housing .....	50,000
Employment Services Grants --	
Alien Labor Certification .....	2,419,000
Federal Public Employees Occupational	
Safety and Health Act .....	2,000,000
Local Veterans Employment Representatives .....	1,500,000
National Council on Aging - Senior Community	
Services Employment Project .....	3,000,000
OASI (DDS) Intelligent Workstation Activities .....	1,000,000
OSHA Data Collection Survey .....	85,000
Occupational Informational Coordinating Program .....	159,000
Occupational Safety Health Act ,	
On-Site Consultation .....	2,000,000
One Stop Labor Market Information .....	980,000
Redesigned Occupational Safety and Health (ROSH) ....	230,000
Rehabilitation of Supplemental Security Income	
Beneficiaries .....	2,000,000
Supported Employment .....	1,200,000
Technical Assistance Training .....	1,700,000
Technology Related Assistance Project .....	700,000
Trade Adjustment Assistance Project .....	8,000,000
Unemployment Insurance .....	135,500,000
Vocational Rehabilitation Act of 1973 .....	44,350,000
WIA Title IIID Discretionary Funding .....	8,000,000
Work Opportunity Tax Credit .....	750,000
Workforce Investment Act .....	56,331,000
Workforce Investment Act -	
Title III Dislocated Workers .....	19,000,000
Various Federal Programs and Accruals .....	<u>145,000</u>
Subtotal, Department of Labor .....	<u>\$368,102,000</u>
Department of Law and Public Safety:	
Bulletproof Vest Partnership .....	\$550,000
Challenge Grant .....	300,000
Child Passenger Protection Education .....	250,000
Combat Underage Drinking -- Discretionary .....	400,000
Combating Underage Drinking .....	360,000
Community Prosecutors Block Grant .....	1,000,000
County Prosecutors Assistance	
Megan's Law Implementation .....	1,000,000
Domestic Marijuana Eradication Suppression Program ...	280,000
Domestic Preparedness Training .....	8,000,000
Drug Enforcement Administration and Grants .....	14,028,000
Drunk Driver Prevention .....	1,000,000
EMPG -- Non-Terrorism .....	3,540,000

EMPG -- Terrorism .....	1,000,000
Election Reform Grant Program .....	12,000,000
Equal Employment Opportunity Commission .....	532,000
FEMA Pre-Disaster Mitigation Grant .....	750,000
FEMA State Police Emergency Operations Center Grant .....	25,000,000
FFY01 Domestic Preparedness Grant .....	1,740,000
FFY03 Domestic Preparedness Equipment Grant ....	25,000,000
FFY03 Domestic Preparedness Communications Grant .....	25,000,000
Forensic Crime Laboratory Improvement Program ....	2,500,000
Forensic DNA Laboratory .....	500,000
Hazardous Materials Transportation .....	350,000
High Intensity Drug Trafficking Area (HIDTA) .....	250,000
Incident Command .....	750,000
Innovative Seat Belt Use .....	900,000
Juvenile Accountability Incentive Block Grant .....	5,900,000
Juvenile Justice Delinquency Prevention .....	2,411,000
Local Law Enforcement Block Grant .....	1,400,000
Medicaid Fraud Unit .....	2,550,000
National Criminal History Program -- OAG .....	2,000,000
NHTSA Section 405 .....	600,000
NHTSA Section 411 .....	125,000
NHTSA Section 402 .....	6,257,000
Northeast Hazardous Waste Project -- RCRA .....	250,000
Recreational Boating Safety .....	2,000,000
Residential Treatment for Substance Abuse .....	1,600,000
Safety Incentive Grants .....	5,000,000
Title V Funding .....	1,500,000
Victim Assistance Grants .....	12,000,000
Victim Compensation Award .....	4,800,000
Violence Against Women Act .....	4,000,000
Various Federal Programs and Accruals .....	510,173,000
World Trade Center Victim Counseling Grant .....	<u>8,600,000</u>
Subtotal, Department of Law and Public Safety .....	<u>\$698,146,000</u>
Department of Military and Veterans' Affairs:	
Armory Renovations and Improvements .....	\$1,100,000
Army Facilities Service Contracts .....	2,500,000
Army National Guard Statewide Security Agreement ....	750,000
Army Training Technology Lab .....	550,000
Atlantic City Air Base -- Service Contracts .....	2,200,000
Atlantic City Operations and Maintenance .....	59,000
Atlantic City Environmental .....	42,000
Cemetery New Construction .....	6,000,000
Combined Logistics Facility .....	26,000,000



Facilities Support Contract .....	3,272,000
Federal VA Distance Learning Program .....	456,000
Fire Fighter/Crash Rescue Service Cooperative Funding Agreement .....	950,000
Hazardous Waste Environmental Protection Program ....	405,000
McGuire Airforce Base Environmental .....	42,000
McGuire Air Force Base -- Service Contracts .....	1,994,000
McGuire Operations and Maintenance .....	80,000
Medicare Part A Receipts for Resident Care and Operational Costs .....	3,638,000
Menlo Adult Day Care Funds .....	290,000
National Guard Communications Agreement .....	650,000
New Jersey National Guard Challenge Youth Program .....	2,800,000
New Jersey National Guard Counter Drug Program Interservice State - Federal .....	12,000
Training and Equipment -- Pool Sites .....	400,000
Transitional Housing .....	352,000
Veterans' Education Monitoring .....	473,000
Various Federal Programs and Accruals .....	<u>60,000</u>
Subtotal, Department of Military and Veterans' Affairs .....	<u>\$55,075,000</u>
Department of State:	
Americorps Grants .....	\$6,135,000
Leveraging Educational Assistance Partnership .....	2,531,000
NJ GEAR UP .....	2,730,000
National Endowment for the Arts Partnership .....	750,000
National Health Service Corps -- Student Loan Repayment Program .....	240,000
National Telecommunications Information Agency .....	1,250,000
Student Loan Administrative Cost Deduction and Allowance .....	19,375,000
Various Federal Programs and Accruals .....	<u>350,000</u>
Subtotal, Department of State .....	<u>\$33,361,000</u>
Department of Transportation:	
Airport Fund .....	\$20,000,000
Highway Planning and Research .....	14,161,000
Metropolitan Planning Funds .....	10,586,000
Supportive Services Highway Construction Training Program .....	<u>500,000</u>
Subtotal, Department of Transportation .....	<u>\$45,247,000</u>
Department of the Treasury:	
Diamond Shamrock Oil Overcharge Settlement .....	\$500,000
Division of Gas Expansion .....	600,000
State Energy Conservation Program .....	<u>1,525,000</u>
Subtotal, Department of the Treasury .....	<u>\$2,625,000</u>

The Judiciary	
Various Federal Programs and Accruals .....	<u>\$556,000</u>
Subtotal, The Judiciary .....	<u>\$556,000</u>
Special Transportation Fund -- Federal .....	
Department of Transportation:	
Federal Highway Administration .....	\$650,269,752
Federal Transit Administration .....	<u>515,020,000</u>
Subtotal, Special Transportation Fund --	
Federal .....	<u>\$1,165,289,752</u>
 Total -- Federal Revenue .....	<u>\$9,749,644,752</u>
 Grand Total Resources, All Funds .....	<u>\$34,005,851,752</u>

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

1. The appropriations herein or so much thereof as may be necessary are hereby appropriated out of the General Fund, or such other sources of funds specifically indicated or as may be applicable, for the respective public officers and spending agencies and for the several purposes herein specified for the fiscal year ending on June 30, 2004. Unless otherwise provided, the appropriations herein made shall be available during said fiscal year and for a period of one month thereafter for expenditures applicable to said fiscal year. Unless otherwise provided, at the expiration of said one-month period, all unexpended balances shall lapse into the State Treasury or to the credit of trust, dedicated or non-State funds as applicable, except those balances held by encumbrances on file as of June 30, 2004 with the Director of the Division of Budget and Accounting or held by pre-encumbrances on file as of June 30, 2004 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2004 together with an explanation of their status. Nothing contained in this section or in this act shall be construed to prohibit the payment due upon any encumbrance or pre-encumbrance made under any appropriation contained in any appropriation act of the previous year or years. Furthermore, balances held by pre-encumbrances as of June 30, 2003 are available for payments applicable to fiscal year 2003 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2003 together with an explanation of their status. On or before December 1, 2003, the State Treasurer, in accordance with the provisions of section 37 of article 3 of P.L.1944, c.112 (C.52:27B-46), shall transmit to the Legislature the Annual Financial Report of the State of New Jersey for the fiscal year ending June 30, 2003, depicting the financial condition of the State and the results of operation for the fiscal year ending June 30, 2003.

**31 LEGISLATURE**  
**70 Government Direction, Management and Control**  
**71 Legislative Activities**  
**0001 Senate**

**DIRECT STATE SERVICES**

01-0001 Senate ..... \$10,694,000  
 Total Direct State Services Appropriation, Senate .... \$10,694,000

**Direct State Services:**

Personal Services:

Senators (40) ..... (\$1,990,000)  
 Salaries and Wages ..... (3,977,000)  
 Members' Staff Services ..... (4,400,000)  
 Materials and Supplies ..... (150,000)  
 Services Other Than Personal ..... (540,000)  
 Maintenance and Fixed Charges ..... (80,000)  
 Additions, Improvements and Equipment .... (30,000)

**Less:**

**Savings from Operating Efficiencies .... 473,000**

The Presidents of the Senate shall allocate Savings from Operating Efficiencies among the above accounts.

The unexpended balance as of June 30, 2003 in this account is appropriated.

**0002 Assembly**

**DIRECT STATE SERVICES**

01-0002 General Assembly ..... \$17,305,000  
 Total Direct State Services Appropriation,  
 General Assembly ..... \$17,305,000

**Direct State Services:**

Personal Services:

Assemblypersons (80) ..... (\$3,937,000)  
 Salaries and Wages ..... (4,469,000)  
 Members' Staff Services ..... (8,800,000)  
 Materials and Supplies ..... (120,000)  
 Services Other Than Personal ..... (640,000)  
 Maintenance and Fixed Charges ..... (100,000)  
 Additions, Improvements and Equipment .... (5,000)

**Less:**

**Savings from Operating Efficiencies .... 766,000**

The Speaker of the General Assembly shall allocate Savings from Operating Efficiencies among the above accounts.

The unexpended balance as of June 30, 2003 in this account is appropriated.

**0003 Office of Legislative Services**

**DIRECT STATE SERVICES**

01-0003 Legislative Support Services ..... \$25,661,000  
 Total Direct State Services Appropriation,  
 Office of Legislative Services ..... \$25,661,000

***Direct State Services:*****Personal Services:**

Salaries and Wages . . . . . (\$19,368,000)  
 Materials and Supplies . . . . . (1,065,000)  
 Services Other Than Personal . . . . . (2,527,000)  
 Maintenance and Fixed Charges . . . . . (3,717,000)

**Special Purpose:**

03 Affirmative Action and Equal  
     Employment Opportunities . . . . . (29,000)  
 03 Henry J. Raimondo New Jersey  
     Legislative Fellows Program . . . . . (69,000)  
 Additions, Improvements and Equipment . . . (22,000)

***Less:***

***Savings from Operating Efficiencies . . 1,136,000***

The Executive Director of the Office of Legislative Services shall allocate Savings from Operating Efficiencies among the above accounts.

The unexpended balance as of June 30, 2003 in this account is appropriated.

Such sums as may be required for the cost of information system audits performed by the State Auditor are funded from the departmental data processing accounts of the department in which the audits are performed.

In addition to the amounts appropriated hereinabove, there is appropriated an amount not to exceed \$4,200,000 less any funds previously appropriated in fiscal year 2003 for this purpose, as determined by the Computer Executive Group of the Legislative Information Systems Committee of the Legislative Services Commission, for the continuation and expansion of data processing systems for the Legislature in order to plan, acquire and install a comprehensive electronic data processing system, including software acquisition and training in connection with the system. No amounts so determined shall be obligated, expended or otherwise made available without the written prior authorization of the Senate President and the Speaker of the General Assembly.

Receipts derived from fees and charges for public access to legislative information systems and the unexpended balance as of June 30, 2003 of such receipts are appropriated and shall be credited to a non-lapsing revolving fund established in and administered by the Office of Legislative Services for the purpose of continuing to modernize, maintain, and expand the dissemination and availability of legislative information.

Such sums as are required for Master Lease payments, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer, are appropriated.

The Office of Legislative Services shall monitor, review and report to both houses of the Legislature on each new anti-smoking initiative funded in fiscal years 2001, 2002 and 2003 from the Tobacco Settlement Fund.

***77 Legislative Commissions and Committees*****DIRECT STATE SERVICES**

09-0010 Intergovernmental Relations Commission . . . . . \$396,000

09-0014	Joint Committee on Public Schools .....	335,000
09-0018	State Commission of Investigation .....	3,812,000
09-0026	Commission on Business Efficiency in the Public Schools .....	110,000
09-0053	New Jersey Law Revision Commission .....	321,000
09-0058	State Capital Joint Management Commission .....	9,001,000
09-0061	Clean Ocean and Shore Trust Committee .....	<u>144,000</u>
Total Direct State Services Appropriation, Legislative Commissions and Committees .....		<u>\$14,119,000</u>

***Direct State Services:***

Intergovernmental Relations Commission		
09	Expenses of Commission . . . . .	(\$29,000)
09	The Council of State Governments . . . . .	(145,000)
09	National Conference of State Legislatures . . . . .	(164,000)
09	Eastern Trade Council - The Council of State Governments . . .	(34,000)
09	Northeast States Association for Agriculture Stewardship, Council of State Governments . . . . .	(24,000)
Joint Committee on the Public Schools		
09	Expenses of Commission . . . . .	(335,000)
State Commission on Investigation		
09	Expenses of Commission . . . .	(3,812,000)
Commission on Business Efficiency in the Public Schools		
09	Expenses of Commission . . . . .	(110,000)
New Jersey Law Revision Commission		
09	Expenses of Commission . . . . .	(321,000)
State Capital Joint Management Commission		
09	Expenses of Commission . . . .	(9,001,000)
Clean Ocean and Shore Trust Committee		
09	Expenses of Commission . . . . .	(144,000)

The unexpended balances as of June 30, 2003 in these accounts are appropriated. Such sums as are required for the establishment and operation of the Apportionment Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Such sums as are required for the establishment and operation of the New Jersey Redistricting Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Receipts from the rental of the Cafeteria and the Welcome Center and any other facility under the jurisdiction of the State Capitol Joint Management Commission are appropriated to defray custodial, security, maintenance and other related costs of these facilities.

The Legislature, Total State Appropriation ..... \$67,779,000

**Summary of Legislature Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services . . . . . \$67,779,000

*Appropriations by Fund:*

General Fund . . . . . \$67,779,000

**06 OFFICE OF THE CHIEF EXECUTIVE**

**70 Government Direction, Management and Control**

**76 Management and Administration**

**DIRECT STATE SERVICES**

01-0300 Executive Management . . . . . \$5,351,000

Total Direct State Services Appropriation,

The Office of the Chief Executive . . . . . \$5,351,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$4,408,000)

Materials and Supplies . . . . . (89,000)

Services Other Than Personal . . . . . (308,000)

Maintenance and Fixed Charges . . . . . (85,000)

Special Purpose:

01 National Governors' Association . . . (175,000)

01 Coalition of Northeastern Governors . (48,000)

01 Education Commission of the States . (91,000)

01 National Conference of  
Commissioners On Uniform

State Laws . . . . . (42,000)

01 Brian Stack Intern Program . . . . . (10,000)

01 Allowance to the Governor of Funds

Not Otherwise Appropriated, For

Official Reception on Behalf of the

State, Operation of an Official

Residence and Other Expenses . . . . . (95,000)

The unexpended balance as of June 30, 2003 in this account is appropriated.

Office of the Chief Executive,

Total State Appropriation . . . . . \$5,351,000

**Summary of The Office of the Chief Executive Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services ..... \$5,351,000

*Appropriations by Fund:*

General Fund ..... \$5,351,000

**10 DEPARTMENT OF AGRICULTURE**

**40 Community Development and Environmental Management**

**49 Agricultural Resources, Planning and Regulation**

**DIRECT STATE SERVICES**

01-3310 Animal Disease Control .....	\$1,170,000
02-3320 Plant Pest and Disease Control .....	1,872,000
03-3330 Resource Development Services .....	1,014,000
04-3340 Dairy and Commodity Regulation .....	720,000
06-3360 Marketing Services .....	2,102,000
08-3380 Farmland Preservation .....	1,740,000
99-3370 Administration and Support Services .....	<u>766,000</u>

Total Direct State Services Appropriation, Agricultural

Resources, Planning and Regulation ..... \$9,384,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$5,669,000)

Materials and Supplies ..... (189,000)

Services Other Than Personal ..... (314,000)

Maintenance and Fixed Charges ..... (262,000)

Special Purpose:

06 Promotion/Market Development .... (826,000)

06 Temporary Emergency Food

Assistance Program ..... (338,000)

08 Agricultural Right-to-

Farm Program ..... (90,000)

08 Open Space Administrative

Costs ..... (1,650,000)

99 Expenses of State Board

of Agriculture ..... (18,000)

99 Affirmative Action and Equal

Employment Opportunity ..... (28,000)

Receipts from laboratory test fees are appropriated to support the Animal Health Laboratory program. The unexpended balance as of June 30, 2003 in the

Animal Health Laboratory receipt account is appropriated for the same purpose.

Receipts from the seed laboratory testing and certification programs are appropriated for program costs. The unexpended balance as of June 30, 2003 in the seed laboratory testing and certification receipt account is appropriated for the same purpose.

Receipts from Nursery Inspection fees are appropriated for Nursery Inspection program costs. The unexpended balance as of June 30, 2003 in the Nursery Inspection program is appropriated for the same purpose.

Receipts from the sale or studies of beneficial insects are appropriated to support the Beneficial Insect Laboratory. The unexpended balance as of June 30, 2003 in the Sale of Insects account is appropriated for the same purpose.

Receipts from Stormwater Discharge Permit program fees are appropriated for program costs. The unexpended balance as of June 30, 2003 in the Stormwater Discharge Permit Program account is appropriated for the same purpose.

Receipts from dairy licenses and inspections are appropriated for program costs.

Receipts in excess of the amount anticipated from feed, fertilizer, and liming material registrations and inspections are appropriated for program costs.

Receipts from agriculture chemistry fees not to exceed \$150,000 shall be available to support the organic certification program.

Receipts from inspection fees derived from fruit, vegetable, fish, red meat, and poultry inspections are appropriated for the cost of conducting fruit, vegetable, fish, and poultry inspections.

An amount equal to receipts generated at the rate of \$.47 per gallon of wine, vermouth and sparkling wine sold by plenary winery and farm winery licensees issued pursuant to R.S.33:1-10, and certified by the Director of the Division of Taxation, are appropriated to the Department of Agriculture from the alcoholic beverage excise tax for expenses of the Wine Promotion Program.

Receipts derived from the distribution of commodities, sale of containers, and salvage of commodities, in accordance with applicable federal regulations, are appropriated for Commodity Distribution expenses.

Notwithstanding any other law to the contrary, an amount not to exceed \$1,650,000 shall be transferred from the Garden State Farmland Preservation Trust Fund to the General Fund and is appropriated to the Department of Agriculture for Open Space Administrative Costs.

#### **GRANTS-IN-AID**

06-3360 Marketing Services ..... \$75,000

08-3380 Farmland Preservation ..... 361,000

Total Grants-in-Aid Appropriation, Agricultural

Resources, Planning and Regulation ..... \$436,000

#### ***Grants-in-Aid:***

06 Promotion/Market Development ..... (\$75,000)

08 Soil and Water Conservation Grants ..... (361,000)

The expenditure of funds for the Conservation Cost Share program shall be based upon an expenditure plan subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, \$540,000 shall be transferred from the Department of Environmental Protection's Water Resources Monitoring and Planning - Constitutional Dedication special purpose account to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2003. Further additional sums may be transferred



pursuant to a Memorandum of Understanding between the Department of Environmental Protection and the Department of Agriculture, from the Department of Environmental Protection's Water Resources Monitoring and Planning - Constitutional Dedication account to support non-point source pollution control programs in the Department of Agriculture, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of this program as of June 30, 2003 is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Agriculture Development Committee, in determining eligibility for funding from the amount hereinabove for Soil and Water Conservation projects, shall give consideration to applications pursuant to the following priority: a. lands from which a development easement has been permanently conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 39 of P.L.1999, c.152 (C.13:8C-39), section 40 of P.L.1999, c.152 (C.13:8C-40) or section 1 of P.L.1999, c.180 (C.4:1C-43.1); b. lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program on or before January 1, 2000 pursuant to P.L.1983, c.32; c. lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program subsequent to January 1, 2000 pursuant to P.L.1983, c.32.

#### STATE AID

06-3660 Marketing Services .....	\$8,592,000
08-3380 Farmland Preservation .....	<u>50,000</u>
Total State Aid Appropriation, Agricultural Resources,	
Planning and Regulation .....	<u>\$8,642,000</u>

#### *State Aid:*

06 School Breakfast Program .....	(\$1,588,000)
06 Non-Public Nutrition Aid .....	(439,000)
06 School Lunch Aid .....	(6,565,000)
08 Payments in Lieu of Taxes .....	(50,000)

Department of Agriculture,	
Total State Appropriation .....	<u>\$18,462,000</u>

#### *Summary of Department of Agriculture Appropriations (For Display Purposes Only)*

#### *Appropriations by Category:*

Direct State Services .....	\$9,384,000
Grants-in-Aid .....	436,000
State Aid .....	8,642,000

#### *Appropriations by Fund:*

General Fund .....	\$18,462,000
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**14 DEPARTMENT OF BANKING AND INSURANCE****50 Economic Planning, Development and Security****52 Economic Regulation****DIRECT STATE SERVICES**

01-3110	Licensing and Regulatory Affairs .....	\$15,723,000
02-3120	Actuarial Services .....	5,656,000
03-3130	Regulation of the Real Estate Industry .....	3,100,000
04-3110	Public and Regulatory Services .....	1,810,000
05-3160	Unsatisfied Claims .....	1,958,000
06-3110	Insurance Fraud Prevention .....	31,976,000
07-3170	Supervision and Examination of Financial Institutions .....	3,549,000
99-3150	Administration and Support Services .....	<u>4,246,000</u>
	Total Direct State Services Appropriation, Economic Regulation .....	<u>\$68,018,000</u>

**Direct State Services:****Personal Services:**

	Salaries and Wages .....	(\$28,333,000)
	Materials and Supplies .....	(342,000)
	Services Other Than Personal .....	(7,484,000)
	Maintenance and Fixed Charges .....	(208,000)

**Special Purpose:**

	01 Ombudsman Program .....	(700,000)
	02 Actuarial Services .....	(600,000)
	06 Insurance Fraud Prosecution Services .....	(29,877,000)
	99 Affirmative Action and Equal Employment Opportunity .....	(30,000)
	Additions, Improvements and Equipment ..	(444,000)

Receipts derived from extraordinary financial condition examinations or actuarial certifications of loss reserves are appropriated for the conduct of such examinations or certifications, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2003 in the Public Adjusters' Licensing account, together with receipts derived from the "Public Adjusters' Licensing Act," P.L.1993, c.66 (C.17:22B-1 et seq.), are appropriated for the administration of the act, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the investigation of out-of-State land sales are appropriated for the conduct of those investigations.

There are appropriated from the Real Estate Guaranty Fund such sums as may be necessary to pay claims.

There are appropriated from the assessments imposed by the New Jersey Individual Health Coverage Program Board, created pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), and by the New Jersey Small Employer Health Benefits Program Board, created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.),

- such sums as may be necessary to carry out the provisions of those acts, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for Unsatisfied Claims is appropriated out of the Unsatisfied Claim and Judgment Fund and, in addition, there are appropriated out of that fund additional sums as may be necessary for the payment of claims pursuant to section 7 of P.L.1952, c.174 (C.39:6-67), and for such additional costs as may be required to administer the fund pursuant to P.L.1952, c.174 (C.39:6-61 et seq.).
- Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties and the unexpended balances as of June 30, 2003, not to exceed \$250,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.
- Proceeds from the sale of credits by the Pinelands Development Credit Bank pursuant to P.L.1985, c.310 (C.13:18A-30 et seq.) shall be appropriated to the Pinelands Development Credit Bank for the same purpose.
- The unexpended balance as of June 30, 2003 in the Pinelands Development Credit Bank account is appropriated for the same purpose.
- In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine, are appropriated from the assessments of the insurance industry pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).
- The amount hereinabove for the Division of Insurance accounts is payable from receipts received from the Special Purpose Assessment of insurance companies pursuant to section 2 of P.L.1995, c.156 (C.17:1C-20). If the Special Purpose Assessment cap calculation is less than the amount herein appropriated for this purpose for the Division of Insurance, the appropriation shall be reduced to the level of funding supported by the Special Purpose Assessment cap calculation.
- All monies deposited in the Division of Motor Vehicles Surcharge Fund are appropriated to the Market Transition Facility Revenue Fund in accordance with the provisions of P.L.1994, c.57 (C.34:1B-21.1 et seq.).
- The amount appropriated hereinabove for FAIR Act Administration shall be funded from the additional taxes on the taxable premiums of insurers for the payment of Department of Banking and Insurance administrative costs related to its statutory duties, pursuant to P.L.1990, c.8 (C.17:33B-1 et al.).
- There is appropriated such sums as are necessary to fund the administrative costs of the New Jersey Hospital Care Payment Commission pursuant to the hospital care payment act, P.L.2003, c.112 (C.17B:30-41 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.
- Pursuant to P.L.2003, c.89, there is appropriated all balances and interest earnings in the New Jersey Auto Insurance Guaranty Fund and the Unsatisfied Claims and Judgment Fund for transfer within their respective accounts to the New Jersey Property Liability Insurance Guaranty Association, less any amounts necessary to pay outstanding claims attributable to the Unsatisfied Claim and Judgment Fund program during a period of orderly transition.
- Amounts on deposit in the New Jersey Full Insurance Underwriting Association and Market Transition Facility Auxiliary Fund are transferred to the General Fund as State Revenue.

Department of Banking and Insurance,  
 Total State Appropriation ..... \$68,018,000

***Summary of Department of Banking and Insurance Appropriations  
 (For Display Purposes Only)***

*Appropriations by Category:*  
 Direct State Services ..... \$68,018,000  
*Appropriations by Fund:*  
 General Fund ..... \$68,018,000

**22 DEPARTMENT OF COMMUNITY AFFAIRS**

***40 Community Development and Environmental Management***

***41 Community Development Management***

**DIRECT STATE SERVICES**

01-8010 Housing Code Enforcement ..... \$5,267,000  
 02-8020 Housing Services ..... 4,062,000  
 06-8015 Uniform Construction Code ..... 6,166,000  
 12-8025 Boarding Home Regulation and Assistance ..... 1,066,000  
 13-8027 Codes and Standards ..... 251,000  
 18-8017 Uniform Fire Code ..... 5,448,000

Total Direct State Services Appropriation,  
 Community Development Management ..... \$22,260,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages ..... (\$15,478,000)  
 Materials and Supplies ..... (86,000)  
 Services Other Than Personal ..... (872,000)  
 Maintenance and Fixed Charges ..... (625,000)

**Special Purpose:**

02 Prevention of Homelessness ..... (243,000)  
 02 Neighborhood Preservation-Fair  
   Housing (P.L.1985, c.222) ..... (1,667,000)  
 02 Council on Affordable Housing ... (1,847,000)  
 06 Carnival Amusement Ride Safety  
   Advisory Board ..... (1,000)  
 12 Boarding Home Regulation and  
   Assistance ..... (1,066,000)  
 18 Local Fire Fighters' Training ..... (375,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2003 in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

- The unexpended balance as of June 30, 2003 in the several Uniform Construction Code program classification fee accounts, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2003 in the Planned Real Estate Development Full Disclosure Act fees account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The amounts received by the Uniform Construction Code Revolving Fund attributable to that portion of the surcharge fee in excess of \$0.0006, and to surcharges on other construction, shall be dedicated to the general support of the Uniform Construction Code Program, and, notwithstanding the provisions of section 2 of P.L.1979, c.121 (C.52:27D-124.1), shall be available for training and non-training purposes, except that the amounts attributable to \$0.00075 per cubic foot of new construction and \$0.39 per \$1000 of other construction shall be dedicated to the Smart Growth Planning Grant-in-Aid program. Notwithstanding the provision of law to the contrary, unexpended balances as of June 30, 2003 in the Uniform Construction Code Revolving Fund are appropriated.
- Such sums as may be required for the registration of builders and reviewing and paying claims under the "New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), are appropriated from the New Home Warranty Security Fund in accordance with section 7 of P.L.1977, c.467 (C.46:3B-7), subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2003 in the Uniform Fire Code program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The amounts hereinabove for the Uniform Fire Code program classification are payable out of the fees and penalties derived from code enforcement activities. If these receipts are less than anticipated, the appropriations shall be reduced proportionately.
- Notwithstanding the provisions of any law to the contrary, receipts derived from fees associated with the Fire Protection Contractor's Certification program pursuant to P.L.2001, c.289 (C.52:27D-25n et seq.) are appropriated to the Department of Community Affairs Division of Fire Safety, necessary to operate the program subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Council on Affordable Housing and Neighborhood Preservation - Fair Housing accounts shall be payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). Any receipts in

excess of the amount anticipated, and any unexpended balance as of June 30, 2003 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the New Jersey Housing and Mortgage Finance Agency charges for Housing Affordability Service to municipalities and the unexpended balance as of June 30, 2003 are appropriated for the operation of the Housing Affordability Service within the Division of Housing.

Pursuant to section 15 of P.L.1983, c.530 (C.55:14K-15), the Commissioner of the Department of Community Affairs shall determine, at least annually, the eligibility of each boarding house resident for rental assistance payments; and notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.) to the contrary, moneys held in the Boarding House Rental Assistance Fund that were originally appropriated from the General Fund may be used by the commissioner for the purpose of providing life safety improvement loans, and any moneys held in the Boarding House Rental Assistance Fund may be used for the purpose of providing rental assistance for repayment of such loans. Notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.), the commissioner shall have authority to disburse funds from the Boarding House Rental Assistance Fund established pursuant to section 14 of P.L.1983, c.530 (C.55:14K-14) for the purpose of repaying, through rental assistance or otherwise, loans made to the boarding house owners for the purpose of rehabilitating boarding houses.

Any receipts from the sale of truth in renting statements, including fees, fines, and penalties, are appropriated.

There is appropriated from the Petroleum Overcharge Reimbursement Fund the sum of \$300,000 for the expenses of the Green Homes Office in the Division of Housing and Community Resources, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

01-8010 Housing Code Enforcement .....	\$919,000
02-8020 Housing Services .....	6,360,000
18-8017 Uniform Fire Code .....	<u>8,571,000</u>
Total Grants-in-Aid Appropriation, Community	
Development Management .....	<u>\$15,850,000</u>

#### ***Grants-in-Aid:***

01 Cooperative Housing Inspection .....	(\$919,000)
02 Shelter Assistance .....	(2,000,000)
02 Prevention of Homelessness .....	(4,360,000)
18 Uniform Fire Code -- Local	
Enforcement Agency Rebates .....	(8,425,000)
18 Uniform Fire Code -- Continuing	
Education .....	(146,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

- The unexpended balance as of June 30, 2003, in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Uniform Fire Code program classification is payable out of the fees and penalties derived from inspection and enforcement activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.
- The unexpended balance as of June 30, 2003 in the Uniform Fire Code program classification together with any receipts in excess of the amount anticipated is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for Shelter Assistance is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.
- The unexpended balance as of June 30, 2003 in the Shelter Assistance account is appropriated.
- Upon determination by the Commissioner that all eligible shelter assistance projects have received funding from the amount appropriated for Shelter Assistance from receipts of the portions of the realty transfer tax dedicated to the Neighborhood Preservation Nonlapsing Revolving Fund, any available balance in the Shelter Assistance account may be transferred to the Neighborhood Preservation - Fair Housing account, subject to the approval of the Director of the Division of Budget and Accounting.
- There is appropriated to the Revolving Housing Development and Demonstration Grant Fund an amount not to exceed 50% of the penalties derived from bureau activities in the Housing Code Enforcement program classification, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts from repayment of loans from the Downtown Business Improvement Loan Fund, together with the unexpended balance of such loan fund as of June 30, 2003 and any interest thereon, are appropriated for the purposes of P.L.1998, c.115 (C.40:56-71.1 et seq.).
- Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to \$3,205,000 shall be withdrawn from the escrow accounts by the New Jersey Meadowlands Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the New Jersey Meadowlands Commission for operational costs. Of the amount so deposited and appropriated to the New Jersey

Meadowlands Commission, \$110,000 shall be made available to the Hackensack Meadowlands Municipal Committee for operational costs. Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to \$432,000 of the calendar year 2003 interest earnings on the aggregate balance in the closure and post-closure monitoring of the sanitary landfill facilities operated by the New Jersey Meadowlands Commission shall be withdrawn from the escrow accounts by the commission and paid to the State Treasurer for deposit in the General Fund, and the amount so deposited is appropriated for payment to the New Jersey Meadowlands Tax Sharing Stabilization Fund and paid to the commission in accordance with the certification of the fund's requirements, for distribution by the commission to municipalities entitled to payments from the fund for 2003.

#### STATE AID

02-8020 Housing Services ..... \$16,925,000  
     Total State Aid Appropriation, Community  
     Development Management ..... \$16,925,000

***State Aid:***

02 Relocation Assistance ..... (\$250,000)

02 Neighborhood Preservation  
     (P.L.1975, c.248 and c.249) ..... (2,750,000)

02 Neighborhood Preservation --  
     Fair Housing (P.L.1985, c.222) ..... (13,925,000)

In addition to the sum hereinabove for Relocation Assistance, such amounts as may be required to fund relocation costs of boarding home residents are appropriated from the Boarding Home Rental Assistance Fund.

Of the sum hereinabove for Neighborhood Preservation - Fair Housing, a sum not to exceed \$300,000 may be used for matching on a 50/50 basis for the administrative costs of the Federal Small Cities Block Grant.

Any receipts in excess of the amount anticipated in the Neighborhood Preservation - Fair Housing account are appropriated.

The amount hereinabove for Neighborhood Preservation - Fair Housing is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

Of the amount hereinabove for Neighborhood Preservation - Fair Housing, an amount not to exceed \$2,500,000 may be used to provide technical assistance grants to non-profit housing organizations and authorities for creating and supporting affordable housing and community development opportunities.



The unexpended balance as of June 30, 2003 in the Neighborhood Preservation - Fair Housing account is appropriated.

Notwithstanding any law to the contrary, funds appropriated for Neighborhood Preservation - Fair Housing may be provided directly to the housing project being assisted; provided however, that any such project have the support by resolution of the governing body of the municipality in which it is located.

**51 Economic Planning, Development and Security**

**8049 Office of Smart Growth**

**DIRECT STATE SERVICES**

49-8049 Office of Smart Growth ..... \$2,000,000

Total Direct State Services Appropriation,

Office of Smart Growth ..... \$2,000,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$1,211,000)

Materials and Supplies ..... (55,000)

Services Other Than Personal ..... (245,000)

Maintenance and Fixed Charges ..... (6,000)

Special Purpose:

49 Governor's Smart Growth

Policy Council ..... (25,000)

49 Historic Trust/Open Space

Administrative Costs ..... (458,000)

The Office of Smart Growth is authorized to collect reasonable fees for the distribution of its publications, and receipts derived from such fees are appropriated for the Office of Smart Growth.

The amount hereinabove for the New Jersey Historic Trust Program is appropriated for all administrative costs and expenses pursuant to the "New Jersey Cultural Trust Act," P.L.2000, c.76 (C.52:16A-72 et seq.); the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.); the "Historic Preservation Revolving Loan Fund," P.L.1991, c.41 (C.13:1B-15.115a et seq.); the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88; and the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, an amount not to exceed \$458,000 shall be transferred from the Garden State Historic Preservation Trust Fund to the General Fund and is appropriated to the Department of Community Affairs for Historic Trust/Open Space Administrative Costs.

Notwithstanding any law, rule or regulation to the contrary, applications for center designation submitted by municipalities pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) prior to March 1, 2001, shall be acted on by the State Planning Commission prior to June 30, 2004, unless the petition has been withdrawn. The commission shall develop policies which encourage

municipalities to participate in the Plan Endorsement process and, where appropriate, recommend legislation which promotes such participation.

#### **GRANTS-IN-AID**

49-8049 Office of Smart Growth .....	<u>\$2,700,000</u>
Total Grants-in-Aid Appropriation, Office of Smart Growth .....	<u>\$2,700,000</u>
<b>Grants-in-Aid:</b>	
49 Smart Growth Planning Grants .....	(\$2,700,000)

#### **55 Social Services Program DIRECT STATE SERVICES**

05-8050 Community Resources .....	\$410,000
15-8051 Women's Programs .....	<u>968,000</u>
Total Direct State Services Appropriation, Social Services Programs .....	<u>\$1,378,000</u>

#### **Direct State Services:**

##### **Personal Services:**

Salaries and Wages .....	(\$828,000)
Materials and Supplies .....	(70,000)
Services Other Than Personal .....	(174,000)
Maintenance and Fixed Charges .....	(6,000)

##### **Special Purpose:**

15 Address Confidentiality Program ....	(93,000)
15 Expenses of the New Jersey Commission on Women .....	(7,000)
15 Office on the Prevention of Violence Against Women .....	(200,000)

There is appropriated from the Petroleum Overcharge Reimbursement Fund such amount as may be required to provide the State 25% cost share for the Low-Income Weatherization Assistance Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any law to the contrary, receipts derived from the increases in divorce filing fees enacted in the amendment to N.J.S.22A:2-12 by section 41 of P.L.2003, c.117 are appropriated for transfer to the General Fund as general State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

05-8050 Community Resources .....	\$4,825,000
15-8051 Women's Programs .....	<u>2,990,000</u>
Total Grants-in-Aid Appropriation, Social Services Programs .....	<u>\$7,815,000</u>

#### **Grants-in-Aid:**

05 Center for Hispanic Policy, Research and Development .....	(\$2,625,000)
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05 Recreation for the Handicapped . . . . .	(650,000)
05 Special Olympics . . . . .	(450,000)
05 Grant to ASPIRA . . . . .	(100,000)
05 Boys and Girls Clubs of New Jersey . .	(1,000,000)
15 Grants to Hispanic Women's Resource Centers . . . . .	(400,000)
15 Women's Referral Central . . . . .	(25,000)
15 Rape Prevention . . . . .	(500,000)
15 Job Training Center for Urban Women Act . . . . .	(315,000)
15 Grants to Women's Shelters . . . . .	(25,000)
15 Women's Micro-Business Pilot Program . . . . .	(750,000)
15 Grants to Displaced Homemaker Centers . . . . .	(975,000)

**70 Government Direction, Management and Control**

**75 State Subsidies and Financial Aid**

**DIRECT STATE SERVICES**

04-8030 Local Government Services . . . . .	<u>\$4,718,000</u>
Total Direct State Services Appropriation, State Subsidies and Financial Aid . . . . .	<u>\$4,718,000</u>

**Direct State Services:**

Personal Services:

Local Finance Board Members . . . . .	(\$84,000)
Salaries and Wages . . . . .	(2,700,000)
Materials and Supplies . . . . .	(50,000)
Services Other Than Personal . . . . .	(320,000)
Maintenance and Fixed Charges . . . . .	(18,000)

Special Purpose:

04 Special Municipal Aid Act - Administration . . . . .	(1,138,000)
04 Municipal Rehabilitation/Recovery Act . .	(408,000)

Receipts from the Division of Local Government Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

04-8030 Local Government Services . . . . .	<u>\$10,500,000</u>
Total Grants-in-Aid Appropriation, State Subsidies and Financial Aid . . . . .	<u>\$10,500,000</u>

**Grants-in-Aid:**

04 Local Library Grants . . . . .	(\$6,000,000)
04 Statewide Livable Communities . . . . .	(2,500,000)
04 Essex County Jail - Expansion . . . . .	(1,500,000)
04 Hoboken 9/11 Memorial . . . . .	(500,000)

**STATE AID**

04-8030 Local Government Services .....	<u>\$963,140,000</u>
<i>(From General Fund .....</i>	<i>\$3,071,000)</i>
<i>(From Property Tax Relief Fund ...</i>	<i>960,069,000)</i>
Total State Aid Appropriation, State	
Subsidies and Financial Aid .....	<u>\$963,140,000</u>
<i>(From General Fund .....</i>	<i>\$3,071,000)</i>
<i>(From Property Tax Relief Fund ..</i>	<i>960,069,000)</i>

**State Aid:**

04 Extraordinary Aid (C.52:27D-118.36) (PTRF) .....	(\$35,000,000)
04 Consolidated Municipal Property Tax Relief Aid (PTRF) .....	(835,447,000)
04 County Prosecutors Salary Increase (P.L.1996, c.99) .....	(821,000)
04 Legislative Initiative Municipal Block Grant Program (PTRF) .....	(34,825,000)
04 Domestic Violence Training Cost Reimbursement - Local Law Enforcement Agencies .....	(250,000)
04 Trenton Capitol City Aid (PTRF) ....	(16,500,000)
04 Regional Efficiency Development Incentive Grant Program .....	(2,000,000)
04 Regional Efficiency Aid Program (PTRF) .....	(9,992,000)
04 Special Municipal Aid Act (PTRF) ..	(28,305,000)

Notwithstanding any provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq., to the contrary, the Director of the Division of Local Government Services may require any municipality which is determined to be experiencing fiscal distress pursuant to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), to anticipate and include in its annual budget any additional item or amount of revenue as the director deems to be appropriate and fiscally prudent.

Notwithstanding any provision of law to the contrary, municipal appropriations for "Reserve for Tax Appeals" may be made in exception to spending limitations pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3).

Notwithstanding any provision of law to the contrary, any qualified municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178) for fiscal year 2003 shall continue to be a qualified municipality thereunder for fiscal year 2004.

In addition to the amount hereinabove for the County Prosecutors Salary Increase, there is appropriated an amount not to exceed \$40,000, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, whenever funds appropriated as State aid and payable to any municipality, which municipality requests and receives the approval of the Local Finance Board, such funds may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued

pursuant to section 11 of P.L.2003, c.15 (C.40A:2-8.1) and any tax anticipation notes issued pursuant to N.J.S.40A:4-64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

Notwithstanding the provisions of any other law to the contrary, the amount hereinabove for Extraordinary Aid shall be distributed subject to the determination of the Director of the Division of Local Government Services.

The amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

Notwithstanding any law to the contrary, from the amount received from the Consolidated Municipal Property Tax Relief Aid program, each municipality shall be required to distribute to each fire district within its boundaries the amount received by the fire district from the Supplementary Aid for Fire Services program pursuant to the provisions of the fiscal year 1995 annual appropriations act, P.L.1994, c.67.

Notwithstanding any law to the contrary, the amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed in the same amounts, and to the same municipalities which received funding pursuant to the fiscal year 2003 annual appropriations act, P.L.2002, c.38, provided further, however, that from the amount hereinabove there is transferred to the Energy Tax Receipts Property Tax Relief Fund account such sums as were determined for fiscal year 2003 pursuant to subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439), and except that the amount received by the city of Newark shall be further reduced by an amount certified by the Division of Taxation and appropriated to the Division of Taxation for any aspect of the revaluation of real property in Newark, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Local Government Services shall further take such actions as may be necessary to ensure that the proportion of Consolidated Municipal Property Tax Relief Aid appropriated in fiscal year 2003 to offset losses from business personal property tax that would have otherwise been used for the support of public schools will be used to reduce the school property tax levy for those affected school districts with the remaining State Aid used as municipal property tax relief. The chief financial officer of the municipality shall pay to the school districts such amounts as may be due by December 31, 2003.

The amount appropriated hereinabove for the Legislative Initiative Municipal Block Grant Program (PTRF) shall be distributed to the same municipalities and in the

same proportions as the distributions received therefrom during fiscal year 2003.

Notwithstanding the provisions of P.L.1999, c.61 (C.54:4-8.76 et seq.) to the contrary, the amount appropriated hereinabove for the Regional Efficiency Aid Program (REAP) shall be distributed to the same municipalities and in the same proportion as was distributed in fiscal year 2003 where, upon a finding and certification by the Director of the Division of Local Government Services, the average residential parcel received a property tax credit of \$100.00 or greater per parcel.

Municipalities that received Municipal Revitalization Program aid in fiscal year 1995 pursuant to the provisions of P.L.1994, c.67 shall continue to be subject to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), and the Director of the Division of Local Government Services may withhold aid payments or portions thereof from any municipality that fails to comply with those provisions, until such time as the director determines the municipality to be in compliance.

The State Treasurer, in consultation with the Commissioner of the Department of Community Affairs, is empowered to direct the Director of the Division of Budget and Accounting to transfer from any State department to any other State department sums as may be necessary to provide a loan for a term not to exceed 30 days to a municipality faced with a fiscal crisis, including but not limited to a potential default on tax anticipation notes. Extension of a loan shall be conditioned on the municipality being an "eligible municipality" pursuant to P.L.1987, c.75 (C.52:27D-118.24 et seq.).

#### **76 Management and Administration**

##### **DIRECT STATE SERVICES**

99-8070 Administration and Support Services . . . . . \$4,146,000

Total Direct State Services Appropriation,

Management and Administration . . . . . \$4,146,000

##### **Direct State Services:**

###### **Personal Services:**

Salaries and Wages . . . . . (\$2,764,000)

Materials and Supplies . . . . . (10,000)

Services Other Than Personal . . . . . (281,000)

Maintenance and Fixed Charges . . . . . (26,000)

###### **Special Purpose:**

99 Government Records Council . . . . . (467,000)

99 Affirmative Action and Equal

Employment Opportunity . . . . . (60,000)

Additions, Improvements and Equipment . . (538,000)

Department of Community Affairs,

Total State Appropriation . . . . . \$1,051,432,000

**Summary of Department of Community Affairs Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services .....	\$34,502,000
Grants-in-Aid .....	36,865,000
State Aid .....	980,065,000

*Appropriations by Fund:*

General Fund .....	\$91,363,000
Property Tax Relief Fund .....	960,069,000

**26 DEPARTMENT OF CORRECTIONS**

**10 Public Safety and Criminal Justice**

**16 Detention and Rehabilitation**

**7025 System-Wide Program Support**

**DIRECT STATE SERVICES**

07-7025 Institutional Control and Supervision .....	\$28,345,000
13-7025 Institutional Program Support .....	<u>59,098,000</u>
Total Direct State Services Appropriation, System-Wide Program Support .....	<u>\$87,443,000</u>

**Direct State Services:**

**Personal Services:**

Salaries and Wages .....	(\$41,265,000)
Materials and Supplies .....	(203,000)
Services Other Than Personal .....	(7,636,000)

**Special Purpose:**

07 Central Office Transportation Unit .....	(273,000)
07 Special Operations Group .....	(75,000)
13 Integrated Information Systems Development .....	(7,758,000)
13 Augment Medical Care At Institutions .....	(862,000)
13 State Match - Gang Prevention and Awareness Program .....	(49,000)
13 State Match - Discharge Planning Unit .....	(27,000)
13 Drug Interdiction Unit - State Match .....	(44,000)
13 Inmate Work Details Program ....	(1,590,000)
13 Return of Escapees and Absconders .....	(223,000)
13 Mutual Agreement Program ....	(1,168,000)
13 Recruit Screening Program .....	(180,000)
13 Bulletproof Vests .....	(340,000)
13 DOC/DOT Work Details .....	(537,000)
13 Video Conferencing .....	(300,000)

- 13 Additional Mental Health  
Treatment Services . . . . . (24,478,000)
- 13 Drug Testing - Assumption  
of Federal Funding . . . . . (314,000)
- Additions, Improvements and Equipment . . (121,000)
- The unexpended balance as of June 30, 2003 in the Integrated Information Systems Development account is appropriated to provide funding for the cost of replacing the Department of Corrections S/36 Correctional Management Information System, subject to the approval of the Director of the Division of Budget and Accounting, the expenditures of which shall directly improve the department's ability to collect fines, restitutions, penalties, surcharges or other debts owed by inmates.
- In addition to the sums appropriated above, funds may be transferred from the Victims of Crime Compensation Board to the Department of Corrections for the department's new computer system, which will facilitate the collection of monies owed by inmates, subject to the approval of the Director of the Division of Budget and Accounting.
- Of the sums appropriated hereinabove for Video Teleconferencing, an amount shall be transferred to the Judiciary and the Office of the Public Defender for telephone line charges, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2003 in the Services Other Than Personal account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

- 13-7025 Institutional Program Support . . . . . \$81,377,000
- Total Grants-in-Aid Appropriation,  
System-Wide Program Support . . . . . \$81,377,000

#### **Grants-in-Aid:**

- 13 Purchase of Service for Inmates  
Incarcerated In County Penal  
Facilities . . . . . (\$21,082,000)
- 13 Purchase of Service for Inmates  
Facilities . . . . . (100,000)
- 13 Life Skills Academy . . . . . (1,500,000)
- 13 Purchase of Community Services . . . . (58,695,000)
- A portion of the total amount appropriated in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is available for operational costs of additional State facilities for inmate housing which become ready for occupancy and other programs which reduce the number of State inmates in county facilities, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2003 in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is appropriated for the same purpose.



Any change by the Department of Corrections in the per diem rates paid for Inmates Incarcerated in County Penal Facilities and for Community Services shall first be approved by the Director of the Division of Budget and Accounting. The unexpended balance as of June 30, 2003 in the Purchase of Community Services account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

**7040 New Jersey State Prison**

**DIRECT STATE SERVICES**

07-7040 Institutional Control and Supervision	\$43,072,000
08-7040 Institutional Care and Treatment	14,764,000
99-7040 Administration and Support Services	<u>7,636,000</u>
Total Direct State Services Appropriation, New Jersey State Prison	<u>\$65,472,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages	(\$48,345,000)
Food in Lieu of Cash	(210,000)
Materials and Supplies	(7,361,000)
Services Other Than Personal	(8,521,000)
Maintenance and Fixed Charges	(955,000)
Additions, Improvements and Equipment	(80,000)

**7045 Vroom Central Reception and Assignment Facility**

**DIRECT STATE SERVICES**

07-7045 Institutional Control and Supervision	\$19,511,000
08-7045 Institutional Care and Treatment	11,798,000
99-7045 Administration and Support Services	<u>3,219,000</u>
Total Direct State Services Appropriation, Vroom Central Reception and Assignment Facility	<u>\$34,528,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages	(\$23,959,000)
Food in Lieu of Cash	(112,000)
Materials and Supplies	(4,554,000)
Services Other Than Personal	(4,386,000)
Maintenance and Fixed Charges	(507,000)
Special Purpose:	
Jones Farm - Repopulation	(929,000)
Additions, Improvements and Equipment	(81,000)

**7050 East Jersey State Prison**

**DIRECT STATE SERVICES**

07-7050 Institutional Control and Supervision	\$38,241,000
08-7050 Institutional Care and Treatment	18,090,000

99-7050 Administration and Support Services ..... 6,150,000  
 Total Direct State Services Appropriation,  
 East Jersey State Prison ..... \$62,481,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages ..... (\$43,653,000)  
 Food in Lieu of Cash ..... (188,000)  
 Materials and Supplies ..... (6,763,000)  
 Services Other Than Personal ..... (10,546,000)  
 Maintenance and Fixed Charges ..... (1,251,000)  
 Additions, Improvements  
 and Equipment ..... (80,000)

***7055 South Woods State Prison***

**DIRECT STATE SERVICES**

07-7055 Institutional Control and Supervision ..... \$45,159,000  
 08-7055 Institutional Care and Treatment ..... 28,643,000  
 99-7055 Administration and Support Services ..... 12,148,000  
 Total Direct State Services Appropriation,  
 South Woods State Prison ..... \$85,950,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages ..... (\$56,010,000)  
 Food in Lieu of Cash ..... (263,000)  
 Materials and Supplies ..... (12,045,000)  
 Services Other Than Personal ..... (14,962,000)  
 Maintenance and Fixed Charges ..... (1,689,000)  
 Special Purpose:  
 08 Nuway Drug Treatment  
 Program ..... (900,000)  
 Additions, Improvements  
 and Equipment ..... (81,000)

***7060 Bayside State Prison***

**DIRECT STATE SERVICES**

07-7060 Institutional Control and Supervision ..... \$33,826,000  
 08-7060 Institutional Care and Treatment ..... 18,128,000  
 99-7060 Administration and Support Services ..... 6,390,000  
 Total Direct State Services Appropriation,  
 Bayside State Prison ..... \$58,344,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages ..... (\$38,808,000)  
 Food in Lieu of Cash ..... (176,000)  
 Materials and Supplies ..... (6,620,000)  
 Services Other Than Personal ..... (10,875,000)

Maintenance and Fixed Charges ..... (1,785,000)  
 Additions, Improvements  
 and Equipment ..... (80,000)

**7065 Southern State Correctional Facility**

**DIRECT STATE SERVICES**

07-7065 Institutional Control and Supervision ..... \$25,713,000  
 08-7065 Institutional Care and Treatment ..... 7,386,000  
 99-7065 Administration and Support Services ..... 3,360,000  
 Total Direct State Services Appropriation,  
 Southern State Correctional Facility ..... \$36,459,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$20,945,000)  
 Food in Lieu of Cash ..... (90,000)  
 Materials and Supplies ..... (2,862,000)  
 Services Other Than Personal ..... (4,279,000)  
 Maintenance and Fixed Charges ..... (740,000)

Special Purpose:

New Unit Expansion ..... (7,462,000)  
 Additions, Improvements and Equipment .... (81,000)

**7070 Mid-State Correctional Facility**

**DIRECT STATE SERVICES**

07-7070 Institutional Control and Supervision ..... \$12,457,000  
 08-7070 Institutional Care and Treatment ..... 5,346,000  
 99-7070 Administration and Support Services ..... 2,486,000  
 Total Direct State Services Appropriation,  
 Mid-State Correctional Facility ..... \$20,289,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$15,120,000)  
 Food in Lieu of Cash ..... (65,000)  
 Materials and Supplies ..... (1,800,000)  
 Services Other Than Personal ..... (2,864,000)  
 Maintenance and Fixed Charges ..... (360,000)  
 Additions, Improvements and Equipment .... (80,000)

**7075 Riverfront State Prison**

**DIRECT STATE SERVICES**

07-7075 Institutional Control and Supervision ..... \$18,799,000  
 08-7075 Institutional Care and Treatment ..... 11,182,000  
 99-7075 Administration and Support Services ..... 4,053,000  
 Total Direct State Services Appropriation,  
 Riverfront State Prison ..... \$34,034,000

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$22,860,000)
Food in Lieu of Cash .....	(100,000)
Materials and Supplies .....	(3,532,000)
Services Other Than Personal .....	(6,903,000)
Maintenance and Fixed Charges .....	(558,000)
Additions, Improvements and Equipment .....	(81,000)

**7080 Edna Mahan Correctional Facility for Women****DIRECT STATE SERVICES**

07-7080 Institutional Control and Supervision .....	\$19,428,000
08-7080 Institutional Care and Treatment .....	9,919,000
99-7080 Administration and Support Services .....	<u>5,061,000</u>
Total Direct State Services Appropriation, Edna Mahan Correctional Facility for Women ....	<u>\$34,408,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$23,861,000)
Food in Lieu of Cash .....	(118,000)
Materials and Supplies .....	(4,379,000)
Services Other Than Personal .....	(5,125,000)
Maintenance and Fixed Charges .....	(781,000)

## Special Purpose:

08 State Match -- Social Services Block Grant .....	(41,000)
08 Violence Against Women Grant - State Match .....	(23,000)
Additions, Improvements and Equipment ...	(80,000)

**7085 Northern State Prison****DIRECT STATE SERVICES**

07-7085 Institutional Control and Supervision .....	\$42,061,000
08-7085 Institutional Care and Treatment .....	21,539,000
99-7085 Administration and Support Services .....	<u>6,893,000</u>
Total Direct State Services Appropriation, Northern State Prison .....	<u>\$70,493,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$47,715,000)
Food in Lieu of Cash .....	(200,000)
Materials and Supplies .....	(6,798,000)
Services Other Than Personal .....	(13,794,000)
Maintenance and Fixed Charges .....	(1,106,000)

**Special Purpose:**

07 Gang Management Unit . . . . .	(746,000)
08 Northern Therapeutic Community - State Match . . . . .	(53,000)
Additions, Improvements and Equipment . . . .	(81,000)

**7090 Adult Diagnostic and Treatment Center, Avenel****DIRECT STATE SERVICES**

07-7090 Institutional Control and Supervision . . . . .	\$34,776,000
08-7090 Institutional Care and Treatment . . . . .	7,071,000
99-7090 Administration and Support Services . . . . .	<u>2,566,000</u>
Total Direct State Services Appropriation, Adult Diagnostic and Treatment Center, Avenel . . . . .	<u>\$44,413,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . .	(\$16,759,000)
Food in Lieu of Cash . . . . .	(75,000)
Materials and Supplies . . . . .	(1,889,000)
Services Other Than Personal . . . . .	(4,685,000)
Maintenance and Fixed Charges . . . . .	(505,000)

**Special Purpose:**

07 Civilly Committed Sexual Offender Facility . . . . .	(8,538,000)
07 Civilly Committed Sexual Offender Facility - Annex . . . . .	(11,882,000)
Additions, Improvements and Equipment . . . .	(80,000)

In order to permit flexibility and ensure the appropriate levels of services to the civilly committed, amounts may be transferred between the Civilly Committed Sexual Offender Facility and the Civilly Committed Sexual Offender Facility - Annex accounts, subject to the approval of the Director of the Division of Budget and Accounting.

**7110 Garden State Youth Correctional Facility****DIRECT STATE SERVICES**

07-7110 Institutional Control and Supervision . . . . .	\$24,078,000
08-7110 Institutional Care and Treatment . . . . .	13,869,000
99-7110 Administration and Support Services . . . . .	<u>4,115,000</u>
Total Direct State Services Appropriation, Garden State Youth Correctional Facility . . . . .	<u>\$42,062,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . .	(\$28,365,000)
Food in Lieu of Cash . . . . .	(119,000)
Materials and Supplies . . . . .	(4,272,000)
Services Other Than Personal . . . . .	(8,262,000)
Maintenance and Fixed Charges . . . . .	(695,000)

**Special Purpose:**

08 State Match -- Residential Substance

Abuse Treatment Grant . . . . . (268,000)

Additions, Improvements and Equipment . . . (81,000)

Receipts derived from the Mates Inn Program at the Garden State Youth Correctional Facility, and any unexpended balance as of June 30, 2003 are appropriated for the operation of the program, subject to the approval of the Director of the Division of Budget and Accounting.

**7120 Albert C. Wagner Youth Correctional Facility****DIRECT STATE SERVICES**

07-7120 Institutional Control and Supervision . . . . . \$27,924,000

08-7120 Institutional Care and Treatment . . . . . 10,559,000

99-7120 Administration and Support Services . . . . . 5,138,000

Total Direct State Services Appropriation, Albert C.

Wagner Youth Correctional Facility . . . . . \$43,621,000**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$29,479,000)

Food in Lieu of Cash . . . . . (137,000)

Materials and Supplies . . . . . (3,541,000)

Services Other Than Personal . . . . . (6,122,000)

Maintenance and Fixed Charges . . . . . (637,000)

**Special Purpose:**

07 Adult Offender Boot Camp . . . . . (3,625,000)

Additions, Improvements and Equipment . . . (80,000)

Receipts derived from the Upholstery Program at the Albert C. Wagner Youth Correctional Facility, and any unexpended balance as of June 30, 2003 are appropriated for the operation of the program with surplus funds being credited to the institution's Inmate Welfare Fund, subject to the approval of the Director of the Division of Budget and Accounting.

**7130 Mountainview Youth Correctional Facility****DIRECT STATE SERVICES**

07-7130 Institutional Control and Supervision . . . . . \$22,074,000

08-7130 Institutional Care and Treatment . . . . . 9,153,000

99-7130 Administration and Support Services . . . . . 4,297,000

Total Direct State Services Appropriation,

Mountainview Youth Correctional Facility . . . . . \$35,524,000**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$25,824,000)

Food in Lieu of Cash . . . . . (115,000)

Materials and Supplies . . . . . (2,918,000)

Services Other Than Personal . . . . . (5,531,000)

Maintenance and Fixed Charges . . . . . (829,000)

## Special Purpose:

08 Byrne Grant - Therapeutic  
Community Program . . . . . (82,000)  
99 Sewage Hauling and Disposal Costs . (145,000)  
Additions, Improvements and Equipment . . . . (80,000)

**10 Public Safety and Criminal Justice****17 Parole****DIRECT STATE SERVICES**

03-7010 Parole . . . . . \$39,555,000  
05-7280 State Parole Board . . . . . 11,916,000  
99-7280 Administration and Support Services . . . . . 2,974,000  
Total Direct State Services Appropriation, Parole . . . . \$54,445,000

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . . (\$31,770,000)  
Materials and Supplies . . . . . (632,000)  
Services Other Than Personal . . . . . (2,405,000)  
Maintenance and Fixed Charges . . . . . (498,000)

## Special Purpose:

03 Payments to Inmates Discharged  
from Facilities . . . . . (100,000)  
03 Parolee Electronic Monitoring  
Program . . . . . (5,034,000)  
03 Intensive Supervision/  
Surveillance Program . . . . . (5,073,000)  
03 High Impact Diversion Program . . (3,497,000)  
03 Parolee Drug Treatment . . . . . (2,309,000)  
03 Mutual Agreement  
Program (MAP) . . . . . (3,127,000)

Any change by the Division of Parole in the per diem rates affecting Special Caseload accounts shall first be approved by the Director of the Division of Budget and Accounting.

From the appropriations hereinabove, the Executive Director shall make payment to the Interstate Commission for Adult Offender Supervision in the amount of \$32,000 for the New Jersey state assessment in fiscal year 2004.

**GRANTS-IN-AID**

03-7010 Parole . . . . . \$5,736,000  
Total Grants-in-Aid Appropriation, Parole . . . . . \$5,736,000

**Grants-in-Aid:**

03 Re-entry Substance Abuse Program . . (\$2,145,000)  
03 State Match -- Truth in Sentencing  
Grant . . . . . (1,425,000)  
03 Halfway Back Program . . . . . (2,166,000)

Any change by the Division of Parole in the per diem rates affecting Special Caseload accounts shall first be approved by the Director of the Division of Budget and Accounting.

**10 Public Safety and Criminal Justice**  
**19 Central Planning, Direction and Management**  
**DIRECT STATE SERVICES**

99-7000 Administration and Support Services ..... \$19,159,000  
 Total Direct State Services Appropriation, Central  
 Planning, Direction and Management ..... \$19,159,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$14,399,000)  
 Materials and Supplies ..... (762,000)  
 Services Other Than Personal ..... (2,332,000)  
 Maintenance and Fixed Charges ..... (915,000)

Special Purpose:

99 Affirmative Action and Equal  
 Employment Opportunity ..... (655,000)  
 Additions, Improvements and Equipment ... (96,000)  
 Balances on hand as of June 30, 2003 of funds held for the benefit of inmates in the  
 several institutions, and such funds as may be received, are appropriated for the  
 use of such inmates.

Payments received by the State from employers of prisoners on their behalf, as part  
 of any work release program, are appropriated for the purposes provided under  
 P.L.1969, c.22 (C.30:4-91.4 et seq.).

Department of Corrections,  
 Total State Appropriation ..... \$916,238,000

**Summary of Department of Corrections Appropriations**  
**(For Display Purposes Only)**

**Appropriations by Category:**

Direct State Services ..... \$829,125,000  
 Grants-in-Aid ..... 87,113,000

**Appropriations by Fund:**

General Fund ..... \$916,238,000

**34 DEPARTMENT OF EDUCATION**  
**30 Educational, Cultural and Intellectual Development**  
**31 Direct Educational Services and Assistance**  
**DIRECT STATE SERVICES**

04-5064 Adult and Continuing Education ..... \$395,000  
 05-5064 Bilingual Education and Equity Issues ..... 205,000  
 07-5065 Special Education ..... 48,000  
 Total Direct State Services Appropriation, Direct  
 Educational Services and Assistance ..... \$648,000



**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . . (\$303,000)  
 Materials and Supplies . . . . . (21,000)  
 Services Other Than Personal . . . . . (62,000)  
 Maintenance and Fixed Charges . . . . . (1,000)

## Special Purpose:

General Education Development --  
 GED . . . . . (261,000)

**STATE AID**

01-5120 General Formula Aid . . . . . \$4,953,766,000  
     *(From General Fund . . . . . \$1,431,441,000)*  
     *(From Property Tax Relief Fund 3,522,325,000)*  
 02-5120 Nonpublic School Aid . . . . . 97,702,000  
 03-5120 Miscellaneous Grants-in-Aid . . . . . 58,434,000  
     *(From General Fund . . . . . 5,746,000)*  
     *(From Property Tax Relief Fund . . . 52,688,000)*  
 04-5062 Adult and Continuing Education . . . . . 2,448,000  
 05-5120 Bilingual Education and Equity Issues . . . . . 65,578,000  
     *(From Property Tax Relief Fund . . . 65,578,000)*  
 06-5064 Programs for Disadvantaged Youths . . . . . 199,512,000  
     *(From Property Tax Relief Fund . . 199,512,000)*  
 07-5120 Special Education . . . . . 948,420,000  
     *(From Property Tax Relief Fund . . 948,420,000)*  
 Total State Aid Appropriation, Direct Educational  
   Services and Assistance . . . . . \$6,325,860,000  
     *(Total From General Fund . . . . \$1,537,337,000)*  
     *(Total From Property*  
       *Tax Relief Fund . . . . . 4,788,523,000)*

**State Aid:**

01 Core Curriculum  
   Standards Aid . . . . . (\$1,431,128,000)  
 01 Core Curriculum Standards  
   Aid (PTRF) . . . . . (1,649,190,000)  
 01 Abbott v. Burke Parity  
   Remedy (PTRF) . . . . . (512,656,000)  
 01 Supplemental Core Curriculum  
   Standards Aid (PTRF) . . . . . (251,768,000)  
 01 Early Childhood Aid  
   (PTRF) . . . . . (330,630,000)  
 01 Instructional Supplement  
   (PTRF) . . . . . (15,621,000)  
 01 Stabilization Aid (PTRF) . . . . . (111,626,000)  
 01 Large Efficient District  
   Aid (PTRF) . . . . . (5,250,000)

01	Aid for Districts with High Senior Citizen Populations (PTRF) . . . . .	(1,231,000)
01	Stabilization Aid II (PTRF) . . . . .	(2,491,000)
01	Stabilization Aid III (PTRF) . . . . .	(11,402,000)
01	Regionalization Incentive Aid (PTRF) . . . . .	(18,295,000)
01	Consolidated Aid (PTRF) . . . . .	(130,127,000)
01	Additional <u>Abbott v. Burke</u> State Aid (PTRF) . . . . .	(401,758,000)
01	Abbott Preschool Expansion Aid (PTRF) . . . . .	(142,400,000)
01	Aid for Enrollment Adjustments (PTRF) . . . . .	(16,456,000)
01	Formula Entitlement Amelioration Aid . . . . .	(313,000)
02	Nonpublic Textbook Aid . . . . .	(11,652,000)
02	Nonpublic Handicapped Aid . . . . .	(27,536,000)
02	Nonpublic Auxiliary Services Aid . . . . .	(32,506,000)
02	Nonpublic Auxiliary/Handicapped Transportation Aid . . . . .	(3,436,000)
02	Nonpublic Nursing Services Aid . . . . .	(13,954,000)
02	Nonpublic Technology Initiative . . . . .	(8,118,000)
02	Seton Hall Prep - Expansion . . . . .	(250,000)
02	St. Peter's Prep - Field Remediation . . . . .	(250,000)
03	Emergency Fund . . . . .	(200,000)
03	Educational Information and Resource Center . . . . .	(450,000)
03	East Brunswick High School Renovation and Equipment . . . . .	(200,000)
03	Bridge Loan Interest and Approved Borrowing Cost . . . . .	(66,000)
03	Swedesboro/Woolwich School District - Extraordinary Enrollment Aid . . . . .	(500,000)
03	Montclair Board of Education - Minority Student Achievement Network . . . . .	(1,000,000)
03	Englewood Implementation Aid . . . . .	(1,300,000)
03	Payments for Institutionalized Children - Unknown District of Residence (PTRF) . . . . .	(17,217,000)
03	Community Relations Committee of the United Jewish Federation of Metrowest . . . . .	(30,000)
03	Chad School Foundation . . . . .	(500,000)

03 School District of	
Trenton - Security . . . . .	(1,500,000)
03 Character Education (PTRF) . . . .	(4,750,000)
03 Teacher Quality	
Mentoring (PTRF) . . . . .	(2,000,000)
03 Adult and Postsecondary	
Education Grants (PTRF) . . . . .	(28,721,000)
04 Evening School for the Foreign	
Born . . . . .	(211,000)
04 High School Equivalency . . . . .	(1,213,000)
04 Adult Literacy . . . . .	(1,024,000)
05 Bilingual Education Aid (PTRF) . . .	(65,578,000)
06 Demonstrably Effective Program	
Aid (PTRF) . . . . .	(199,512,000)
07 Special Education Aid (PTRF) . . .	(896,420,000)
07 Extraordinary Special Education	
Costs Aid (PTRF) . . . . .	(52,000,000)

**Less:****Stabilization Growth****Limitation (PTRF) . . . . . 73,576,000****Growth Savings - Payment****Change (PTRF) . . . . . 5,000,000**

Receipts from nonpublic schools handicapped and auxiliary recoveries are appropriated for the payment of additional aid in accordance with section 17 of P.L.1977, c.192 (C.18A:46A-14) and section 14 of P.L.1977, c.193 (C.18A:46-19.8).

Notwithstanding the provisions of section 14 of P.L.1977, c.193 (C.18A:46-19.8) for the purpose of computing Nonpublic Handicapped Aid for pupils requiring the following services, the per pupil amounts shall be: \$1,185.64 for an initial evaluation or reevaluation for examination and classification; \$355.50 for an annual review for examination and classification; \$901.06 for speech correction; and \$785.81 for supplementary instruction services.

Notwithstanding the provisions of section 9 of P.L.1977, c.192 (C.18A:46A-9), the per pupil amount for compensatory education for the 2003-2004 school year for the purposes of computing Nonpublic Auxiliary Services Aid shall equal \$739.60.

Notwithstanding the provisions of section 9 of P.L.1991, c.226 (C.18A:40-31), the amount appropriated hereinabove for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16, 2002.

Nonpublic Technology Initiative aid shall be paid to school districts and allocated for nonpublic school pupils at the rate of \$40 per pupil in a manner that is consistent with the provisions of the federal and State constitutions.

Of the amount hereinabove in the High School Equivalency and the Adult Literacy accounts, such sums as are necessary may be transferred to an applicant State department.

Notwithstanding any provision of law to the contrary, the amount appropriated hereinabove for Formula Entitlement Amelioration Aid shall be allocated to any

K-8 school district whose 2001-2002 projected enrollment growth exceeded 8 percent and whose 2001-2002 transportation aid cash payment was reduced to zero due to a 2000-2001 deferred reduction resulting from the recalculation of the district's 2000-2001 stabilization growth limitation. The amount provided to each district as Formula Entitlement Amelioration Aid shall equal the total amount of the 2000-2001 deferred reductions and shall be included in the calculation of the spending growth limitation for the 2003-2004 school year pursuant to section 5 of P.L. 1996, c.138 (C.18A:7F-5).

The Commissioner of Education shall not authorize the disbursement of funds to any "Abbott district" until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable those students to achieve the core curriculum content standards. The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including but not limited to, the adoption of regulations related to the receipt and/or expenditure of State aid by the "Abbott districts" and the programs, services and positions supported thereby. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.), any such regulations adopted by the commissioner shall be deemed adopted immediately upon filing with the Office of Administrative Law. The commissioner may deduct from the State aid of any "Abbott district" the expenses required to manage, control and supervise the implementation of that State aid. In order to expeditiously fulfill the responsibilities of the commissioner under Abbott v. Burke, determinations by the commissioner hereunder shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The unexpended balance as of June 30, 2003, in the Abbott v. Burke Parity Remedy account is appropriated for the same purpose and with the same conditions as are applied to the fiscal year 2004 appropriation for this purpose.

Notwithstanding any other law to the contrary, State aid for each "Abbott district" whose per pupil regular education expenditure for 2003-2004 under P.L.1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003-2004 shall be increased. The amount of increase shall be appropriated as the sum of Abbott v. Burke Parity Remedy aid and an amount of Additional Abbott v. Burke aid such that the increase is fully funded, and shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for 2003-2004 and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003 indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003 over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2001-2002. In calculating the per pupil regular education expenditure of each "Abbott district" for 2003-2004, regular education expenditure shall equal the sum of the general fund tax levy for 2002-2003, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to

section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for 2003-2004 indexed by the district's enrollment growth rate used to determine the estimated enrollments of October 2003; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments. State aid shall be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 15, 2003 as reflected on the Application for State School Aid for 2004-2005. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003-2004. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003-2004, regular education expenditure shall equal the sum of the general fund tax levy for 2003-2004, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall be the resident enrollment for preschool through grade 12 as of October 15, 2003 as reflected on the Application for State School Aid for 2004-2005; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid.

Notwithstanding any other law to the contrary, as a condition of receiving Abbott v. Burke Parity Remedy aid, an "Abbott district" shall raise a general fund tax levy which shall be no less than the general fund tax levy of the prior year.

Consolidated Aid shall be distributed to each district in district factor groups "I" or "J" in an amount equal to the total of the amount allocated to the district in 2002-2003 as Distance Learning Network Aid, aid for approved adult high schools and post-graduate programs, and academic achievement rewards and to all other districts at the greater of the total of the amount allocated to the district in 2002- 2003 as Distance Learning Network Aid, aid for approved adult high schools and post-graduate programs, and academic achievement rewards or the amount calculated at a rate of \$109.72 per pupil based on the resident enrollment contained on the Application for State School Aid for 2003-2004 indexed by the district's enrollment growth rate used to determine the estimated enrollments of October 2003. Notwithstanding any other law or regulation to the contrary, the amount provided to each district as Consolidated Aid shall be included in the calculation of the spending growth limitation pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5). The amount distributed as Consolidated Aid shall be appropriated as the sum of the amount hereinabove for Consolidated Aid and \$18,399,000 of the amount hereinabove for Adult and Postsecondary Education Grants.

For the purposes of calculating Consolidated Aid, the amount that would have been allocated as additional school aid in 2002-2003 based on the impact of the withdrawal of a constituent member from a limited purpose regional school district effective July 1, 2003 shall be allocated as Consolidated Aid and the 2002-2003 amounts allocated as Distance Learning Network Aid and academic

achievement rewards will also be calculated as though the withdrawal had occurred in the prior year.

The amount appropriated hereinabove for Additional Abbott v. Burke State Aid will provide additional resources to "Abbott districts" to meet the State's obligation to fully fund parity and approved "Abbott" preschool expansion. The remaining funds appropriated will be used for the award of discretionary funding to "Abbott districts" to maintain the programs, services and positions from the prior year that the commissioner determines are essential to the provision of a thorough and efficient education in those districts. Before the Commissioner of Education establishes the discretionary award, he shall determine whether some or all of the additional funds sought can be achieved by reallocating non-instructional expenditures or achieving economies and efficiencies in the delivery of services and programs. If the commissioner determines that the district does have available such reallocations or achievement of economies and efficiencies, the commissioner shall direct that the district undertake those steps and use those funds to support, in part or in full, the requested programs and services. The discretionary award shall be adjusted based on the annual audit filed pursuant to N.J.S.18A:23-1, and other financial statements and information, of each "Abbott district" that has requested Additional Abbott v. Burke State Aid. Any district that fails to submit the required documentation or fails to submit its annual audit by November 15, 2003 may have its State aid withheld upon the commissioner's request to the Director of the Division of Budget and Accounting. In making any adjustment to the discretionary award, the commissioner shall consider all of the district's available resources and any appropriate reallocations, including, but not limited to, a reallocation of the district's undesignated general fund balances in excess of two percent.

The amount appropriated hereinabove as Abbott Preschool Expansion Aid is for the purpose of funding the increase in the approved budgeted costs from 2001-2002 to 2003-2004 for the projected expansion of preschool programs in "Abbott districts." Payments of Abbott Preschool Expansion Aid shall be based on documented expansion of the preschool program. Upon the Commissioner of Education's request, "Abbott districts" will be required to provide such supporting documentation as deemed necessary to verify that the actual expansion in the preschool program has occurred in the 2003-2004 fiscal year. Such documentation may include expenditure, enrollment and attendance data that may be subject to an audit. Appropriate adjustments to a district's Abbott Preschool Expansion Aid amount may be made by the commissioner based on actual need.

The amount hereinabove for the New Jersey Character Education Partnership Initiative shall be made available to school districts according to a formula to be administered by the Commissioner of Education which will assure that each district that elects to participate shall receive funding for at least one school. Of the amount appropriated hereinabove, up to \$100,000 may be used to fund the costs of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, the amount of State aid made available to the Department of Human Services pursuant to "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et al.), to defray the costs of educating eligible children in approved private schools under contract with the Department of Human Services shall not exceed the actual costs of the education of those children in such private schools.

Notwithstanding any other law to the contrary, Special Education Aid for pupils classified as eligible for day training shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a regional day school operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

Notwithstanding the provisions of section 3 of P.L.1971, c.271 (C.18A:46-31), a portion of the district tuition amounts payable to a county special services school district operating an extended school year program may be transferred to the county special services school district prior to the first of September in the event the board shall file a written request with the Commissioner of Education stating the needs for the funds. The commissioner shall review the board's request and determine whether to grant the request after an assessment of whether the district needs to spend the funds prior to September and after considering the availability of district surplus. The Commissioner of Education shall transfer the payment for the portion of the tuition payable for which need has been demonstrated.

The amount appropriated hereinabove for Extraordinary Special Education Costs Aid in excess of the amount appropriated for the same purpose in fiscal year 2003 shall be used to achieve property tax relief in the 2003 or 2004 local tax year.

### ***32 Operation and Support of Educational Institutions***

#### **DIRECT STATE SERVICES**

12-5011 Marie H. Katzenbach School for the Deaf . . . . .	\$10,943,000
(From General Fund . . . . .)	\$2,899,000
(From All Other Funds . . . . .)	8,044,000
13-5011 Program For Behaviorally Difficult Deaf Pupils . . .	1,118,000
(From All Other Funds . . . . .)	1,118,000
<b>Total Appropriation, State and All Other Funds . . .</b>	<b>\$12,061,000</b>
(From General Fund . . . . .)	\$2,899,000
(From All Other Funds . . . . .)	9,162,000

**Less:**

<b>All Other Funds . . . . .</b>	<b>\$9,162,000</b>
<b>Total Deductions . . . . .</b>	<b>\$9,162,000</b>
Total Direct State Services Appropriation, Operations and Support of Educational Institutions . . . . .	\$2,899,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$9,418,000)  
 Materials and Supplies . . . . . (1,163,000)  
 Services Other Than Personal . . . . . (540,000)  
 Maintenance and Fixed Charges . . . . . (587,000)  
 Special Purpose:  
     12 Transportation Expenses  
         for Students . . . . . (40,000)  
 Additions, Improvements and Equipment . . (313,000)

**Less:**

**All Other Funds . . . . . 9,162,000**

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other statute, for the 2003-2004 academic year, local boards of education shall reimburse the Marie H. Katzenbach School for the Deaf at an annual rate and payment schedule adopted by the Commissioner of Education and the Director of the Division of Budget and Accounting.

Any income from the rental of vacant space at the Marie H. Katzenbach School for the Deaf is appropriated for the operation and maintenance cost of the facility and for capital costs at the school, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2003, in the receipt account of the Marie H. Katzenbach School for the Deaf is appropriated for expenses of operating the school.

The unexpended balance as of June 30, 2003, in the receipt account of the Positive Learning Understanding Support (PLUS) program is appropriated for the expenses of operating the Marie H. Katzenbach School for the Deaf.

**CAPITAL CONSTRUCTION**

Notwithstanding any law to the contrary, accumulated and current year interest earnings in the State Facilities for the Handicapped Fund established pursuant to section 12 of P.L.1973, c.149 are appropriated for capital improvements and maintenance of facilities for the eleven regional day schools throughout the State and the Marie H. Katzenbach School for the Deaf as authorized in the State Facilities for the Handicapped Bond Act, P.L.1973, c.149, subject to the approval of the Director of the Division of Budget and Accounting.

**33 Supplemental Education and Training Programs****DIRECT STATE SERVICES**

20-5062 General Vocational Education . . . . . \$359,000  
 Total Direct State Services Appropriation,  
     Supplemental Education and Training Programs . . . . \$359,000

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$308,000)  
 Materials and Supplies . . . . . (26,000)  
 Services Other Than Personal . . . . . (25,000)



**STATE AID**

20-5062 General Vocational Education .....	<u>\$44,408,000</u>
<i>(From General Fund .....</i>	<i>\$5,460,000)</i>
<i>(From Property Tax Relief Fund ..</i>	<i>38,948,000 )</i>
Total State Aid Appropriation, Supplemental	
Education and Training Programs .....	<u>\$44,408,000</u>
<i>(From General Fund .....</i>	<i>\$5,460,000)</i>
<i>(Total From Property</i>	
<i>Tax Relief Fund .....</i>	<i>38,948,000 )</i>
<i>State Aid:</i>	
20 Vocational Education .....	(\$5,460,000)
20 County Vocational	
Program Aid (PTRF) .....	(38,948,000)

**34 Educational Support Services****DIRECT STATE SERVICES**

29-5029 Educational Technology .....	\$231,000
30-5063 Educational Programs and Assessment .....	24,638,000
31-5060 Grants Management .....	445,000
32-5061 Professional Development and Licensure .....	2,064,000
33-5067 Service to Local Districts .....	5,996,000
34-5068 Office of School Choice .....	844,000
35-5069 Early Childhood Education .....	120,000
36-5120 Pupil Transportation .....	401,000
37-5069 Abbott Implementation .....	371,000
38-5120 Facilities Planning and School Building Aid .....	2,993,000
40-5064 Health, Safety and Community Services .....	<u>1,361,000</u>
Total Direct State Services Appropriation,	
Educational Support Services .....	<u>\$39,464,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$14,924,000)
Materials and Supplies .....	(441,000)
Services Other Than Personal .....	(1,349,000)
Maintenance and Fixed Charges .....	(54,000)

**Special Purpose:**

30 Improved Basic Skills/Special	
Review Assessment .....	(55,000)
30 Statewide Assessment	
Program .....	(13,225,000)
30 Professional Development -	
Recruitment .....	(135,000)
30 Virtual Academy .....	(100,000)
30 Continuing Education .....	(52,000)
30 Governor's Literacy Initiative ....	(8,250,000)
30 Teacher Preparation .....	(500,000)

- 40 Commission on Italian American  
Heritage Cultural and Educational  
Programs ..... (135,000)
- 40 Advisory Council on Holocaust  
Education ..... (244,000)
- Receipts from the NJ School of the Arts and the unexpended balance of such  
receipts as of June 30, 2003, are appropriated for the cost of operation.
- Receipts from the State Board of Examiners' fees in excess of those anticipated and  
the unexpended program balances of such receipts as of June 30, 2003, are  
appropriated for the operation of the Professional Development and Licensure  
programs.
- From the amount appropriated hereinabove for the Governor's Literacy Initiative,  
the sum of \$300,000 may be transferred to the Commission for the Blind and  
Visually Impaired for increased Braille lessons for blind children, subject to the  
approval of the Director of the Division of Budget and Accounting.
- From the amount appropriated hereinabove for the Governor's Literacy Initiative,  
there is allocated \$250,000 for a grant for the Learning Through Listening  
program at the New Jersey Unit of the Recording for the Blind and Dyslexic.
- The unexpended balance as of June 30, 2003, in the inspection of school construc-  
tion account and receipts in excess of the amount anticipated, are appropriated  
for the operation of the school construction inspection program.

#### **GRANTS-IN-AID**

- 30-5063 Educational Programs and Assessment ..... \$9,443,000
- Total Grants-in-Aid Appropriation, Educational  
Support Services ..... \$9,443,000

#### ***Grants-in-Aid:***

- 30 Governor's School ..... (\$1,654,000)
- 30 Governor's Literacy Initiative ..... (750,000)
- 30 Liberty Science Center -  
Educational Services ..... (6,100,000)
- 30 Teacher Recruitment ..... (589,000)
- 30 Teacher Preparation ..... (350,000)
- The amount appropriated hereinabove for the Governor's School is payable to the  
six Governor's Schools: The College of New Jersey - Governor's School of the  
Arts, The Richard Stockton College of New Jersey - Governor's School on the  
Environment, Monmouth University - Governor's School on Public Issues,  
Drew University - Governor's School in the Sciences, Ramapo College of New  
Jersey - Governor's School on International Issues, and Rutgers, The State  
University - Governor's School of Engineering/ Technology.
- The amount appropriated hereinabove for the Teacher Recruitment program shall  
be expended for the third-year incentives for teachers deemed eligible for this  
program in fiscal 2003 in accordance with provisions established by the  
Department of Education, and who continue to teach preschool in a district  
defined as an "Abbott district" under section 3 of P.L.1996, c.138  
(C.18A:7F-3), or for a community provider under contract with an "Abbott

district" to provide preschool programs to 3 and 4 year old children. Incentives will be provided to eligible teachers to have a portion of their outstanding student loan indebtedness cancelled and/or to receive tuition reimbursement for graduate studies at any of New Jersey's four-year colleges and universities. The total value of the incentives for High Achiever recipients is up to \$3,333 and up to \$2,167 for Regular Incentive recipients. In order to maintain eligibility in the program, the school districts in which the teachers are working or in which they are employed by a community provider under contract with the district must maintain a participation agreement with the department and the district must provide, in a manner specified by the department, information regarding the teachers qualified for incentives working in said district and certifications of completion of a full year of teaching service. Incentives may only be paid upon satisfactory completion of a full year of teaching service and will be contingent upon the teacher's completion of all applicable professional development requirements and other conditions of employment, such as satisfactory evaluations by supervisors and submission of documentation as may be required by the department.

The amount hereinabove for the Liberty Science Center Educational Services shall be used to provide educational services to students in the "Abbott districts" in the science education component of the comprehensive core curriculum standards as established by law.

#### STATE AID

34-5068 Office of School Choice .....	\$17,337,000
<i>(From Property Tax Relief Fund .. \$17,337,000)</i>	
36-5120 Pupil Transportation .....	305,952,000
<i>(From Property Tax Relief Fund .. 305,952,000)</i>	
38-5120 Facilities Planning and School Building Aid .....	238,050,000
<i>(From General Fund .....</i>	<i>236,451,000)</i>
<i>(From Property Tax Relief Fund .... 1,599,000)</i>	
39-5095 Teachers' Pension and Annuity Assistance ...	<u>\$1,190,650,000</u>
Total State Aid Appropriation, Educational Support Services .....	<u>\$1,751,989,000</u>
<i>(Total From General Fund .... \$1,427,101,000)</i>	
<i>(Total From Property Tax Relief Fund .....</i>	<i>324,888,000)</i>
<b>State Aid:</b>	
34 School Choice (PTRF) .....	(\$6,537,000)
34 Charter School Aid (PTRF) .....	(5,500,000)
34 Charter Schools - Council on Local Mandates Decision Offset Aid (PTRF) .....	(5,300,000)
36 Transportation Aid (PTRF) ....	(305,652,000)
36 School Bus Crossing Arms (PTRF) .....	(300,000)

38 School Building Aid Debt Service (PTRF) .....	(1,599,000)
38 School Building Aid .....	(129,101,000)
38 School Construction and Renovation Fund .....	(107,350,000)
39 Teachers' Pension and Annuity Fund - Post Retirement Medical .....	(430,610,000)
39 Social Security Tax .....	(611,143,000)
39 Minimum Pension for Pre-1955 Retirees .....	(1,000)
39 Post Retirement Medical Other Than TPAF .....	(65,384,000)
39 Debt Service on Pension Obligation Bonds .....	(83,512,000)

Each district entitled to School Building Aid for school bond and lease purchase agreement payments for interest and principal payable during the 2003-2004 school year pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10) shall have its debt service adjusted for corrections to the 2001-2002 principal and interest amounts.

Notwithstanding the provisions of section 9 of P.L.2000, c.72 (C.18A:7G-9), for the purpose of calculating a district's State debt service aid, "DAP x 1.15" shall not be less than 40%. Notwithstanding the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10), for the purposes of calculating aid, CCSAID will be equal to the district's core curriculum standards aid calculated pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15) for fiscal 2002 and TEBUD shall be equal to the district's T&E budget calculated pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) for fiscal 2002.

In addition to the sum hereinabove appropriated to make payments under the contracts authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), there are hereby appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Of the amount hereinabove for School Construction and Renovation Fund, an amount equal to the total earnings of investments of the School Fund shall first be charged to such fund.

Such additional sums as may be required for Teachers' Pension and Annuity Fund - Post Retirement Medical and Post Retirement Medical Other Than TPAF are appropriated, as the Director of the Division of Budget and Accounting shall determine.

In addition to the amounts hereinabove for Social Security Tax, there are appropriated such sums as are required for payment of Social Security Tax on behalf of members of the Teachers' Pension and Annuity Fund.

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Teachers' Pension and Annuity Fund - Post Retirement Medical, \$96,375,000 from amounts in the Benefit Enhancement

- Fund established in N.J.S.18A:66-16, shall be applied to pay the normal cost contribution by the State for the Teachers' Pension and Annuity Fund.
- In addition to the amount appropriated hereinabove, \$8,764,000 in fiscal year 2004 debt service payments attributable to the School Construction program shall be paid by the Economic Development Authority from resources available from unexpended balances.
- For any school district receiving amounts from the amount appropriated hereinabove for Pupil Transportation, and notwithstanding the provisions of N.J.S.18A:39-1 to the contrary, if the school district is located in a county of the third class or a county of the second class with a population of less than 235,000, according to the 1990 federal decennial census, transportation shall be provided to school pupils residing in this school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 30 miles from the residence of the pupil.
- Notwithstanding the provisions of P.L.1999, c.413 (C.18A:36B-1 et seq.), for purposes of the calculation of 2003-2004 choice aid, the projected enrollment of choice students shall be the sum of the actual choice students reported in the October 15, 2002 Application for State School Aid inflated by the choice district's growth rate and the new choice students as reported on the Notice of Intent to Enroll forms and the estimated second cycle enrollment for the 2003-2004 School Year.
- Notwithstanding the provisions of section 2 of P.L.1999, c.385, amounts appropriated hereinabove for Charter School aid shall be used to distribute aid to any charter school which operates a full-day kindergarten program and which is located in an "Abbott district" in accordance with the formula contained in section 1 of P.L.1999, c.385, except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L.1995, c.426 (C.18A:36A-12).
- Notwithstanding the provisions of section 12 of P.L.1995, c.426 (C.18A:36A-12) and any other provision to the contrary, if necessary, the State shall pay on behalf of a resident district an amount not to exceed the difference between the district's 2003-2004 total actual charter school payment and the estimated appropriations used in completing the school district's 2002-2003 budget as stated in the 2002-2003 Potential Charter School Aid notification letter.
- Notwithstanding the provisions of section 1 of P.L.1997, c.53 (C.18A:39-11.1) districts shall not be reimbursed for administrative fees paid to Cooperative Transportation Service Agencies.
- The unexpended balance as of June 30, 2003 in the Charter School Aid account is appropriated.

**35 Education Administration and Management****DIRECT STATE SERVICES**

42-5120 School Finance .....	\$3,150,000
43-5092 Compliance and Auditing .....	1,777,000
99-5090 Administration and Support Services .....	<u>10,287,000</u>
Total Direct State Services Appropriation, Education	
Administration and Management .....	<u>\$15,214,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$11,931,000)
Materials and Supplies .....	(300,000)
Services Other Than Personal .....	(1,092,000)
Maintenance and Fixed Charges .....	(67,000)

**Special Purpose:**

42 Educational Facilities Construction -	
Finance .....	(74,000)
99 State Board of Education Expenses ..	(50,000)
99 Student Registration and Record	
System .....	(1,500,000)
99 Affirmative Action and Equal	
Employment Opportunity Program ..	(68,000)
99 Educational Facility Construction	
Financing - Technology	
Administration .....	(132,000)

Receipts derived from fees for school district personnel background checks and unexpended balances as of June 30, 2003 of such receipts are appropriated for the cost of operation.

In addition to the amount appropriated, such sums as may be necessary for the Department of Education to conduct comprehensive compliance investigations are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Additional sums as may be necessary for the Department of Education in preparation for implementation of P.L.1987, c.399 (C.18A:7A-34 et seq.) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee or its successor.

Additional sums as may be necessary for the Department of Education for the cost of the internal audit function in a State-operated school district pursuant to section 8 of P.L.1987, c.399 (C.18A:7A-41) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Department of Education,

Total State Appropriation ..... \$8,190,284,000

Of the amount appropriated hereinabove from the General Fund for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated February 4, 2003, first shall be charged to the State Lottery Fund.

The unexpended balances as of June 30, 2003 in the State Aid accounts, not to exceed \$650,000, are appropriated to the State Aid Supplemental Funding account.

Notwithstanding any other provision of law or this act to the contrary, monies directed to be paid to the Department of Education as a result of settlement of litigation by the Board of Public Utilities or to be paid to the Department of Education in connection with a stipulation of settlement in a merger approved by the Board of Public Utilities are appropriated for the purposes specified in the settlement agreement or stipulation, subject to the approval of the Director of the Division of Budget and Accounting.

In the event that sufficient funds are not appropriated to fully fund any State Aid item, the Commissioner of Education shall apportion such appropriation among the districts in proportion to the State Aid each district would have been apportioned had the full amount of State Aid been appropriated.

Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund revenues into the Property Tax Relief Fund, provided unrestricted balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

Notwithstanding any other law or regulation to the contrary, each district shall receive no less of a total State aid amount payable for the 2003-2004 school year than the sum of the district's total State aid amount payable for the 2002-2003 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Rewards and Recognition, Stabilization Aid, Stabilization Aid II, Stabilization Aid III, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Distance Learning Network Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice and Aid for Enrollment Adjustments, taking into consideration the June 2003 payment made in July 2003.

The Director of the Division of Budget and Accounting may transfer from one State Aid appropriations account for the Department of Education in the General Fund to another appropriations account in the same department in the Property Tax Relief Fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts and to effect the intent of legislation enacted subsequent to the enactment of the appropriations act, provided that sufficient funds are available in the appropriations for that department.

Notwithstanding the provisions of section 8 of P.L.1996, c.138 (C.18A:7F-8), five percent of the total payments to local districts for Abbott v. Burke Parity Remedy Aid, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Special Education, Transportation, Early Childhood programs, Demonstrably Effective programs, Instructional Supplement, Bilingual, County Vocational Educational program, other aid pursuant to P.L.1996, c.138, and Consolidated Aid, as provided by the Department of Education to the local school districts for the 2003-2004 school year in the 2003-04 General Fund and Special Revenue Fund State Aid Payments Schedule, shall be paid on the 8th and 22nd of each month from September through June, with the last school aid payment being subject to the approval of the State Treasurer.

From the amounts hereinabove, such sums as are required to satisfy delayed June 2003 school aid payments are appropriated and the State Treasurer is hereby authorized to make such payment in July 2003.

The Director of the Division of Budget and Accounting may transfer from one appropriations account for the Department of Education in the Property Tax Relief Fund to another account in the same department and fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts, provided that sufficient funds are available in the appropriations for that department.

***Summary of Department of Education Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services .....	\$58,584,000
Grants-in-Aid .....	9,443,000
State Aid .....	8,122,257,000

***Appropriations by Fund:***

General Fund .....	\$3,037,925,000
Property Tax Relief Fund .....	5,152,359,000

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

***40 Community Development and Environmental Management***

***42 Natural Resource Management***

**DIRECT STATE SERVICES**

11-4870 Forest Resource Management .....	\$6,650,000
12-4875 Parks Management .....	35,375,000
13-4880 Hunters' and Anglers' License Fund .....	12,800,000
14-4885 Shellfish and Marine Fisheries Management .....	1,310,000
20-4880 Wildlife Management .....	348,000
21-4895 Natural Resources Engineering .....	1,523,000
24-4876 Palisades Interstate Park Commission .....	<u>2,214,000</u>
Total Direct State Services Appropriation, Natural Resource Management .....	<u>\$60,220,000</u>

***Direct State Services:***

Personal Services:



Salaries and Wages .....	(\$39,979,000)
Materials and Supplies .....	(4,824,000)
Services Other Than Personal .....	(2,679,000)
Maintenance and Fixed Charges .....	(3,579,000)
Special Purpose:	
11 Fire Fighting Costs .....	(1,759,000)
12 Cape May Point State Park --	
Staffing .....	(85,000)
12 Green Acres/Open Space	
Administration .....	(4,683,000)
12 Liberty State Park Commission .....	(11,000)
12 Natural Lands Trust .....	(108,000)
12 Natural Areas Council .....	(3,000)
20 Wildlife Monitoring -	
West Nile Virus .....	(79,000)
20 Endangered Species Tax	
Check-Off Donations .....	(269,000)
21 Dam Safety .....	(1,254,000)
Additions, Improvements and Equipment ...	(908,000)

In addition to the amount hereinabove for Forest Resource Management, an amount not to exceed \$500,000 shall be made available from the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account, to support nonpoint source pollution and watershed management programs in the Bureau of Forestry.

Receipts in excess of the amount anticipated from fees and permit receipts from the use of State park and marina facilities, and the unexpended balance as of June 30, 2003 of such receipts, are appropriated for Parks Management, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from police court, stands, concessions and self-sustaining activities operated or supervised by the Palisades Interstate Park Commission, and the unexpended balance as of June 30, 2003 of such receipts, are appropriated.

Notwithstanding any other law to the contrary, an amount not to exceed \$4,683,000 shall be transferred from the Garden State Green Acres Preservation Trust Fund to the General Fund and is appropriated to the Department of Environmental Protection for Green Acres/Open Space Administration.

The amount hereinabove for the Hunters' and Anglers' License Fund is payable out of that Fund and any amount remaining therein and the unexpended balance as of June 30, 2003 in the Hunters' and Anglers' License Fund, together with any receipts in excess of the amount anticipated, are appropriated. If receipts to that Fund are less than anticipated, the appropriation shall be reduced proportionately.

Pursuant to section 2 of P.L.1993, c.303 (C.23:3-1f) there are appropriated such sums as may be necessary to offset revenue losses associated with the issuance of free hunting and fishing licenses to active members of the New Jersey State National Guard and disabled veterans. The amount to be appropriated shall be

certified by the Division of Fish and Wildlife and is subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Endangered Species Tax Check-Off Donations account is payable out of receipts, and the unexpended balances in the Endangered Species Tax Check-Off Donations account as of June 30, 2003, together with receipts in excess of the amount anticipated, are appropriated. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

An amount not to exceed \$1,852,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for costs attributable to planning, operation, and administration of the shore protection program, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$325,000 is allocated from the capital appropriation for HR-6 Flood Control for costs attributable to the operation and administration of the State Flood Control Program, subject to the approval of the Director of the Division of Budget and Accounting and subject to the enactment of enabling legislation.

An amount not to exceed \$390,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for the operation and maintenance of the Bayshore Flood Control facility.

#### **GRANTS-IN-AID**

12-4875 Parks Management . . . . . \$3,250,000

Total Grants-in-Aid Appropriation,

Natural Resource Management . . . . . \$3,250,000

#### ***Grants-in-Aid:***

12 Statewide Livable Communities . (\$3,250,000)

The unexpended balance as of June 30, 2003 for public and private dam repair, made available through a transfer to the Department of Environmental Protection from the unexpended balances in accounts established pursuant to the "Emergency Disaster Relief Act of 1999," and from the Emergency Services Fund allocation for Hurricane Floyd, is appropriated.

Loan repayments received from dam rehabilitation projects pursuant to P.L. 1999, c.347 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

#### **CAPITAL CONSTRUCTION**

21-4895 Natural Resources Engineering . . . . . \$36,294,000

Total Capital Construction Appropriation, Natural

Resource Management . . . . . \$36,294,000

#### ***Capital Projects:***

21 Shore Protection Fund Projects . (\$25,000,000)

21 HR-6 Flood Control . . . . . (8,294,000)

21 Dam Repairs . . . . . (3,000,000)

Notwithstanding the provisions of P.L. 1954, c.48 (C.52:34-6 et seq.), the Department of Environmental Protection may enter into a contract with the Waterloo

- Foundation for the Arts for improvements to existing State-owned structures or for the construction of new facilities at Waterloo Village.
- The amount hereinabove for Shore Protection Fund Projects is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Shore Protection Fund pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1).
- An amount not to exceed \$500,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for repairs to the Bayshore Flood Control facility.
- The unexpended balance as of June 30, 2003 for public and private dam repair, made available through a transfer to the Department of Environmental Protection from the unexpended balances in accounts established pursuant to the "Emergency Disaster Relief Act of 1999," and from the Emergency Services Fund allocation for Hurricane Floyd, is appropriated.
- Of the amount hereinabove for Dam Repairs, such sums as are necessary may be transferred to Grants-In-Aid for the repair of non-State owned dams, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$500,000 is allocated from the capital construction appropriation for eligible Shore Protection Fund Projects for repairs to shore protection structures at Palisades Interstate Park Commission facilities in New Jersey, subject to the approval of the Director of the Division of Budget and Accounting.

#### ***43 Science and Technical Programs***

##### **DIRECT STATE SERVICES**

05-4810 Water Supply and Watershed Management . . . . .	\$6,733,000
15-4890 Land Use Regulation . . . . .	8,450,000
18-4810 Science, Research and Technology . . . . .	2,986,000
29-4850 Environmental Remediation and Monitoring . . . . .	<u>13,347,000</u>
Total Direct State Services Appropriation, Science and Technical Programs . . . . .	<u>\$31,516,000</u>

##### ***Direct State Services:***

###### **Personal Services:**

Salaries and Wages . . . . .	(\$6,391,000)
Materials and Supplies . . . . .	(68,000)
Services Other Than Personal . . . . .	(1,305,000)
Maintenance and Fixed Charges . . . . .	(85,000)

###### **Special Purpose:**

05 Administrative Costs Water Supply Bond Act of 1981- Management . . . . .	(1,267,000)
05 Administrative Costs Water Supply Bond Act of 1981 - Watershed and Aquifer . . . . .	(1,424,000)
05 Administrative Costs Water Supply Bond Act of 1981 - Planning and Standards . . . . .	(943,000)

05 Water/Wastewater	
Operators Licenses . . . . .	(43,000)
05 Office of the Rivermaster . . . . .	(58,000)
05 Safe Drinking Water Fund . . . . .	(2,251,000)
15 Tidelands Resource Council . . . . .	(12,000)
15 Tidelands Peak Demands . . . . .	(2,114,000)
15 Office of Permit Information and Assistance . . . . .	(786,000)
18 Environmental Indicators and Monitoring . . . . .	(604,000)
18 Greenhouse Gas Action Plan . . . . .	(558,000)
18 Hazardous Waste Research . . . . .	(250,000)
29 Water Resources Monitoring and Planning - Constitutional Dedication . . . . .	(13,347,000)
Additions, Improvements and Equipment . . .	(10,000)
The amounts hereinabove for the Administrative Costs Water Supply Bond Act of 1981 - Water Supply Management; Watershed and Aquifer; and Planning and Standards accounts are appropriated from the "Water Supply Bond Act of 1981," P.L.1981, c.261, together with an amount, not to exceed \$62,000, for costs attributable to administration of water supply programs, subject to the approval of the Director of the Division of Budget and Accounting.	
In addition to the federal funds amount hereinabove for the Water Supply and Watershed Management program classification, such additional sums that may be received from the federal government for the Drinking Water State Revolving Fund program are appropriated.	
Notwithstanding the provisions of P.L.1991, c.235 (C.13:1D-35 et seq.) or any other law to the contrary, the amount appropriated hereinabove for Greenhouse Gas Action Plan is chargeable to receipts anticipated from the Pollution Prevention Fund, together with an amount not to exceed \$239,000 for costs attributable to administration of the Greenhouse Gas Action Plan, subject to the approval of the Director of the Division of Budget and Accounting.	
The amount hereinabove for the Hazardous Waste Research account is appropriated from interest earned by the New Jersey Spill Compensation Fund for research on the prevention and the effects of discharges of hazardous substances on the environment and organisms, on methods of pollution prevention and recycling of hazardous substances, and on the development of improved cleanup, removal and disposal operations, subject to the approval of the Director of the Division of Budget and Accounting.	
The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance as of June 30, 2003 in the Water Resources Monitoring and Planning - Constitu-	

tional Dedication account is appropriated to be used in a manner consistent with the requirements of the constitutional dedication.

The amounts hereinabove for the Safe Drinking Water Fund account are payable out of receipts, and receipts in excess of the amount anticipated, not to exceed \$1,080,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

There is appropriated from the Safe Drinking Water Fund an amount not to exceed \$600,000 to administer the Private Well Testing Program.

Notwithstanding any law to the contrary, funds shall be made available from the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account to support nonpoint source pollution and watershed management programs within the Department of Environmental Protection in the amounts of \$1,536,000 for Water Monitoring and Planning, \$1,264,000 for Water Supply and Watershed Management, \$1,392,000 for New Jersey Geological Survey, \$157,000 for Watershed Management, \$500,000 for Forestry Management, and \$900,000 for Water Quality - Stormwater Management, and \$540,000 transferred to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2003.

Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) and the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the Commissioner of the Department of Environmental Protection may utilize the funds appropriated hereinabove, such sums as the commissioner may determine are necessary to broaden the department's research efforts to address emerging environmental issues.

In addition to the amount appropriated hereinabove for Land Use Regulation, Water Supply and Watershed Management, and Science, Research and Technology, an amount not to exceed \$1,500,000 shall be made available as necessary to expedite Smart Growth regulatory permitting, subject to the approval of the Director of the Division of Budget and Accounting, provided however, that any such costs which are consistent with the purposes of the Water Resources Monitoring and Planning - Constitutional Dedication appropriation shall first be applied there.

#### **GRANTS-IN-AID**

29-4850 Environmental Remediation and Monitoring . . . .	<u>\$6,000,000</u>
Total Grants-in-Aid Appropriation, Science	
and Technical Programs . . . . .	<u>\$6,000,000</u>

#### ***Grants-in-Aid:***

29 Stormwater Management Grants . . . . (\$6,000,000)

Notwithstanding any law to the contrary, the amount appropriated hereinabove for Stormwater Management Grants shall be payable from revenues received from the Corporation Business Tax, pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the New Jersey Constitution.

Of the amount hereinabove for Stormwater Management Grant Program, such sums as are necessary or required may be transferred to the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account, subject to the approval of the Director of the Division of Budget and Accounting.

#### ***44 Site Remediation and Waste Management***

##### **DIRECT STATE SERVICES**

23-4910 Solid and Hazardous Waste Management . . . . .	\$8,700,000
27-4815 Remediation Management and Response . . . . .	30,164,000
29-4815 Environmental Remediation and Monitoring . . . . .	<u>6,740,000</u>
Total Direct State Services Appropriation, Site Remediation . . . . .	<u>\$45,604,000</u>

##### ***Direct State Services:***

###### **Personal Services:**

Salaries and Wages . . . . .	(\$14,884,000)
Materials and Supplies . . . . .	(251,000)
Services Other Than Personal . . . . .	(3,526,000)
Maintenance and Fixed Charges . . . . .	(353,000)

###### **Special Purpose:**

23 Office of Dredging and Sediment Technology . . . . .	(338,000)
23 Recycling of Solid Waste . . . . .	(1,014,000)
27 Hazardous Discharge Site Cleanup Fund -- Responsible Party . . . . .	(17,385,000)
27 Underground Storage Tanks . . . . .	(795,000)
29 Cleanup Projects Administrative Costs -- Constitutional Dedication . . . . .	(6,740,000)
Additions, Improvements and Equipment . . . . .	(318,000)

In addition to site specific charges, the amounts hereinabove for the Remediation Management and Response program classification, excluding the Hazardous Discharge Site Cleanup Fund - Responsible Party and the Underground Storage Tanks accounts, are appropriated from the New Jersey Spill Compensation Fund, in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), together with an amount not to exceed \$5,297,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the federal funds amount for the Remediation Management and Response program classification, such additional sums that may be received from the federal government for the Superfund Grants program are appropriated.

There are appropriated from the New Jersey Spill Compensation Fund such sums as may be required for cleanup operations, adjusters and paying approved claims for damages in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Discharge Site Cleanup Fund - Responsible Party account is appropriated from responsible party cost

recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed \$8,581,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Underground Storage Tanks account is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed \$448,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance as of June 30, 2003 in the Cleanup Projects Administrative Costs - Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding section 5 of P.L.1981, c.278 (C.13:1E-96), the amount hereinabove for the Recycling of Solid Waste account is appropriated from the State Recycling Fund, together with an amount not to exceed \$380,000, for the administration of the Recycling of Solid Waste program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

There are appropriated from the Sanitary Landfill Facility Contingency Fund such sums as may be required to carry out the provisions of the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.).

Receipts derived from the sale of salvaged materials are appropriated to offset costs incurred in the cleanup and removal of hazardous substances.

Receipts deposited to the Resource Recovery Investment Tax Fund and the Solid Waste Services Tax Fund are appropriated.

There is appropriated from the Clean Communities Program Fund such sums as may be available to meet the following requirements: 1) 25% of the estimated annual balance up to \$4,000,000, as determined by the Director of the Division of Budget and Accounting, to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96); 2) \$300,000 of the estimated annual balance to the Department of Environmental Protection for an organization under contract with the department which meets the requirements pursuant to subsection d. of section 6 of P.L.2002, c.128 (C.13:1E-218); and 3) the balance, as determined by the Director of the Division of Budget and Accounting, of the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and d. of that section.

The amount hereinabove for the Office of Dredging and Sediment Technology is appropriated from the "1996 Dredging and Containment Facility Fund," created pursuant to section 18 of P.L.1996, c.70, the "Port of New Jersey Revitalization, Dredging,, Environmental Cleanup, Lake Restoration, and Delaware Bay

Area Economic Bond Act of 1996," subject to the approval of the Director of the Division of Budget and Accounting.

### **CAPITAL CONSTRUCTION**

29-4815 Environmental Remediation and Monitoring . . . . \$90,170,000  
 Total Capital Construction Appropriation,  
 Site Remediation . . . . . \$90,170,000

#### ***Capital Projects:***

29 Hazardous Substance Discharge  
 Remediation -- Constitutional  
 Dedication . . . . . (\$51,400,000)  
 29 Private Underground Tank  
 Remediation -- Constitutional  
 Dedication . . . . . (38,770,000)

The amounts hereinabove for Hazardous Substance Discharge Remediation - Constitutional Dedication and Private Underground Storage Tank Remediation - Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

Of the amount hereinabove appropriated for Hazardous Substance Discharge Remediation - Constitutional Dedication, an amount up to \$5,000,000, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State-owned properties.

Of the unexpended balances in the hereinabove account for Hazardous Substance Discharge Remediation - Constitutional Dedication, such sums as necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State-owned underground storage tanks.

All natural resource damages recovered by the State shall be deposited in the Hazardous Discharge Site Cleanup Fund established pursuant to section 1 of P.L.1985, c.247 (C.58:10-23.34), and are appropriated for the direct and indirect costs of restoration and associated consulting and legal services.

### ***45 Environmental Regulation*** **DIRECT STATE SERVICES**

01-4820 Radiation Protection . . . . . \$5,196,000  
 02-4892 Air Pollution Control . . . . . 16,391,000  
 08-4891 Water Pollution Control . . . . . 7,586,000  
 09-4860 Public Wastewater Facilities . . . . . 2,908,000  
 Total Direct State Services Appropriation,  
 Environmental Regulation . . . . . \$32,081,000

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages . . . . . (\$18,423,000)



Materials and Supplies . . . . . (245,000)  
 Services Other Than Personal . . . . . (3,841,000)  
 Maintenance and Fixed Charges . . . . . (238,000)

**Special Purpose:**

01 Nuclear Emergency Response . . . . (1,317,000)  
 01 Quality Assurance -- Lab  
     Certification Programs . . . . . (1,658,000)  
 02 Pollution Prevention . . . . . (1,789,000)  
 02 Toxic Catastrophe Prevention . . . . (827,000)  
 02 Worker and Community Right to  
     Know Act . . . . . (1,051,000)  
 02 Oil Spill Prevention . . . . . (2,516,000)  
 Additions, Improvements and Equipment . . . (176,000)

The amount hereinabove for the Nuclear Emergency Response account is payable from receipts received pursuant to the assessments of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.), and the unexpended balances as of June 30, 2003 in the Nuclear Emergency Response account, together with receipts in excess of the amount anticipated, not to exceed \$838,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

There is allocated from the Commercial Vehicle Enforcement Fund, established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), such sums as may be necessary to fund the costs of the regulation of the Diesel Exhaust Emissions program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Fund, and the receipts in excess of the amount anticipated, not to exceed \$458,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Oil Spill Prevention program is payable out of the New Jersey Spill Compensation Fund, and the receipts in excess of those anticipated, not to exceed \$1,098,000, from the New Jersey Spill Compensation Fund for the Oil Spill Prevention program are appropriated, in accordance with the provisions of P.L.1990, c.76 (C.58:10-23.11f2 et seq.), P.L.1990, c.78 (C.58:10-23.11d1 et seq.), and P.L.1990, c.80 (C.58:10-23.11f1), subject to the approval of the Director of the Division of Budget and Accounting.

Any funds received by the New Jersey Environmental Infrastructure Trust from any State agency to offset the Trust's annual operating expenses are appropriated.

In addition to the federal funds amount for the Public Wastewater Facilities program classification, such additional sums that may be received from the federal government for the Clean Water State Revolving Fund program are appropriated.

The amount hereinabove for the Pollution Prevention account is appropriated from receipts received pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), together with an amount not to exceed \$701,000, subject

to the approval of the Director of the Division of Budget and Accounting, for administration of the Pollution Prevention program. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

**46 Environmental Planning and Administration**

**DIRECT STATE SERVICES**

26-4805 Regulatory and Governmental Affairs ..... \$2,153,000  
 99-4800 Administration and Support Services ..... 17,705,000  
 Total Direct State Services Appropriation,  
 Environmental Planning and Administration ..... \$19,858,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$15,862,000)  
 Materials and Supplies ..... (152,000)  
 Services Other Than Personal ..... (975,000)  
 Maintenance and Fixed Charges ..... (258,000)

Special Purpose:

99 New Jersey Environmental  
 Management System ..... (1,500,000)  
 99 Affirmative Action and Equal  
 Employment Opportunity ..... (98,000)  
 Additions, Improvements and Equipment . (1,013,000)

The amount hereinabove for the New Jersey Environmental Management System is payable from receipts attributable to the increase in the New Jersey Pollutant Discharge Elimination System Permit fees, Stormwater Permit fees, Air Pollution fees, Solid and Hazardous Waste fees and Land Use Regulation fees.

**STATE AID**

99-4800 Administration and Support Services ..... \$12,255,000  
*(From General Fund ..... \$4,255,000)*  
*(From Property Tax Relief Fund ..... 8,000,000)*  
 Total State Aid Appropriation, Environmental  
 Planning and Administration ..... \$12,255,000  
*(From General Fund ..... \$4,255,000)*  
*(From Property Tax Relief Fund ..... 8,000,000)*

**State Aid:**

99 Mosquito Control, Research,  
 Administration and Operations .. (\$1,301,000)  
 99 Payment in Lieu of  
 Taxes (PTRF) ..... (8,000,000)  
 99 Administration, Planning and  
 Development Activities of the  
 Pinelands Commission ..... (2,954,000)

Receipts derived from permit fees issued by the Pinelands Commission on behalf of the Department of Environmental Protection, pursuant to a memorandum of

agreement between the Pinelands Commission and the Department of Environmental Protection, are appropriated to the Pinelands Commission.

If the amount appropriated herein for Payment in Lieu of Taxes is insufficient to compensate municipalities for land owned by the State for conservation and recreation purposes, as determined according to the formula for payments in lieu of taxes in the "Garden State Preservation Trust Act" P.L.1999, c.152 (C.13:8C-1 et seq.), such additional sums as are necessary are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection d. of section 29 of P.L.1999, c.152 (C.13:8C-29) or subsection d. of section 30 of P.L.1999, c.152 (C.13:8C-30), or any other law to the contrary, all payments to municipalities in lieu of taxes for lands acquired by the State for recreation and conservation purposes shall be retained by the municipality and not apportioned in the same manner as the general tax rate of the municipality.

#### ***47 Compliance and Enforcement***

##### **DIRECT STATE SERVICES**

02-4825 Air Pollution Control .....	\$3,907,000
04-4835 Pesticide Control .....	2,232,000
08-4855 Water Pollution Control .....	5,868,000
15-4855 Land Use Regulation .....	1,805,000
23-4855 Solid and Hazardous Waste Management .....	<u>3,755,000</u>
Total Direct State Services Appropriation,	
Compliance and Enforcement .....	<u>\$17,567,000</u>

##### ***Direct State Services:***

###### **Personal Services:**

Salaries and Wages .....	(\$15,188,000)
Materials and Supplies .....	(90,000)
Services Other Than Personal .....	(1,024,000)
Maintenance and Fixed Charges .....	(369,000)

###### **Special Purpose:**

15 Tidelands Peak Demands .....	(816,000)
Additions, Improvements and Equipment ....	(80,000)

Receipts deposited into the Coastal Protection Trust Fund pursuant to P.L.1993, c.168 (C.39:3-27.47 et seq.) are appropriated in an amount not to exceed \$600,000 for the cleanup or maintenance of beaches or shores, an amount not to exceed \$200,000 for the cost of providing monitoring, surveillance and enforcement activities for the Cooperative Coastal Monitoring Program, an amount not to exceed \$50,000 for the implementation of the "New Jersey Adopt a Beach Act," P.L.1992, c.213 (C.13:19-22 et seq.), and an amount not to exceed \$150,000 for a program of grants for the operation of a sewage pump-out boat and the construction of sewage pump-out devices for marine sanitation devices and portable toilet emptying receptacles at public and private marinas and boatyards in furtherance of the provisions of P.L.1988, c.117 (C.58:10A-56 et seq.). Receipts deposited to the Coastal Protection Trust Fund in excess of

\$1,000,000 are appropriated to finance emergency shore protection projects and the cleanup of discharges into the ocean.

#### STATE AID

08-4855 Water Pollution Control .....	<u>\$2,453,000</u>
( <i>From Property Tax Relief Fund</i> . . . )	<u>\$2,453,000</u>
Total State Aid Appropriation, Compliance and	
Enforcement Policy .....	<u>\$2,453,000</u>
( <i>Total From Property Tax</i>	
<i>Relief Fund</i> .....	<u>\$2,453,000</u> )
<i>State Aid:</i>	
08 County Environmental	
Health Act (PTRF) .....	(\$2,453,000)
Department of Environmental Protection,	
Total State Appropriation .....	<u>\$357,268,000</u>

The amounts hereinabove for the Tidelands Peak Demands account are appropriated from receipts derived from the sales, grants, leases, licensing, and rentals of State riparian lands, together with an amount not to exceed \$1,772,000, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding any other law, the Commissioner of the Department of Environmental Protection shall obtain concurrence from the Director of the Division of Budget and Accounting before altering fee schedules or any other revenue-generating mechanism under the department's purview.

Notwithstanding the provisions of the "Environmental Fee Accountability Act of 1991," P.L. 1991, c.426 (C.52:27B-20.1 et seq.) and P.L. 1991, c.427 (C.13:1D-9.1 et seq.), all revenues from fees and fines collected by the Department of Environmental Protection, unless otherwise dedicated herein, shall be deposited into the State General Fund without regard to their specific dedication.

Notwithstanding any other provisions in this act, of the Federal Fund amounts appropriated for the programs included in the Performance Partnership Grant Agreement with the United States Environmental Protection Agency, the Department of Environmental Protection is authorized to reallocate the appropriations, in accordance with the Grant Agreement and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L. 1954, c.48 (C.52:34-6 et seq.) or any other law to the contrary, the Department of Environmental Protection may enter into a contract with the United States Environmental Protection Agency (EPA) to provide the State's statutory matching share for EPA-led Superfund remedial actions pursuant to the State Superfund Contract (SSC).

Notwithstanding any other law to the contrary, any grants awarded during the fiscal year ending June 30, 2003, or during any preceding fiscal year, by the Department of Environmental Protection, or its predecessors, from the proceeds

of bonds issued pursuant to P.L.1969, c.127; P.L.1976, c.92; P.L.1980, c.70; P.L.1981, c.261; P.L.1985, c.329; P.L.1989 c.181 or P.L.1992, c.88 or other grants awarded pursuant to other grant programs administered by the department, shall not be considered to be impaired by a structured financing transaction undertaken by a governmental entity which is authorized by section 10 of P.L.1999, c.157 (C.52:31C-10) as amended by section 1 of P.L.2000, c.54, to undertake such transactions, nor shall any State interest created by the award of any such grant be determined to be so impaired by a structured financing transaction undertaken by any local governmental entity pursuant to section 10 of P.L.1999, c.157. Any such grant, and any provisions, covenants and conditions contained in the award thereof, shall not (i) limit, restrict or impair the rights of the local governmental entity to transfer or encumber its facilities or assets for purposes of entering into a structured financing transaction pursuant to that section, (ii) be violated by the completion of a structured financing transaction undertaken pursuant to that section and (iii) cause the Department of Environmental Protection to rescind or annul any grant, or undertake any other enforcement actions, including the revocation of any permit or license granted, in response to a structured financing transaction undertaken pursuant to that section.

Receipts in excess of the amount anticipated for Air Pollution, Clean Water Enforcement and Solid Waste fines, not to exceed \$1,500,000, are appropriated for the expansion of compliance, enforcement and permitting efforts in the department, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated for the Stormwater Management Program are appropriated to the Department of Environmental Protection for expansion of the Stormwater Management Program to meet new federal mandates relating to the regulation of municipal stormwater management, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Environmental Protection Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services .....	\$206,846,000
Grants-in-Aid .....	9,250,000
State Aid .....	14,708,000
Capital Construction .....	126,464,000

***Appropriations by Fund:***

General Fund .....	\$346,815,000
Property Tax Relief Fund .....	10,453,000

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES**

***20 Physical and Mental Health***

***21 Health Services***

**DIRECT STATE SERVICES**

01-4215 Vital Statistics .....	\$1,085,000
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02-4220 Family Health Services .....	4,799,000
03-4230 Public Health Protection Services .....	22,511,000
04-4240 Addiction Services .....	10,487,000
08-4280 Laboratory Services .....	8,089,000
12-4245 AIDS Services .....	<u>1,900,000</u>
Total Direct State Services Appropriation, Health Services .....	<u>\$48,871,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$15,034,000)
Materials and Supplies .....	(2,448,000)
Services Other Than Personal .....	(1,029,000)
Maintenance and Fixed Charges .....	(169,000)

**Special Purpose:**

02 WIC Farmers Market Program .....	(87,000)
02 Breast Cancer Public Awareness Campaign .....	(90,000)
02 Identification System for Children's Health and Disabilities .....	(300,000)
02 Public Awareness Campaign for Black Infant Mortality .....	(500,000)
02 Cancer Screening - Early Detection and Education Program .....	(2,700,000)
03 New Jersey Domestic Security Preparedness .....	(1,450,000)
03 Cancer Registry .....	(400,000)
03 Cancer Investigation and Education .....	(500,000)
03 Emergency Medical Services for Children .....	(50,000)
03 New Jersey State Commission on Cancer Research .....	(1,000,000)
03 Implementation of Comprehensive Cancer Control Program .....	(1,500,000)
03 Medical Emergency Disaster Preparedness for Bioterrorism ....	(5,000,000)
03 Medical Waste Management Program .....	(774,000)
03 Worker and Community Right to Know .....	(2,046,000)
03 First Response EMT Cardiac Training Program .....	(125,000)
03 Emergency Medical Services .....	(79,000)
03 South Jersey Regional Emergency Training Center .....	(900,000)

03 New Jersey Coalition to Promote  
Cancer Prevention, Early Detection  
and Treatment . . . . . (200,000)

04 School Based Programs and  
Youth Anti-Smoking . . . . . (6,000,000)

04 Anti-Smoking Programs . . . . . (4,000,000)

08 New Jersey Domestic Security  
Preparedness . . . . . (1,800,000)

08 West Nile Virus - Laboratory . . . . . (690,000)

In addition to the amount appropriated above for Emergency Medical Services for Children, \$150,000 is appropriated from the annual .53% assessment on New Jersey hospitals, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), for the same purpose.

The unexpended balance, as of June 30, 2003, in the New Jersey Emergency Medical Service Helicopter Response Program account is appropriated.

The amount hereinabove for the New Jersey State Commission on Cancer Research is charged to the Cancer Research Fund pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1).

The unexpended balance as of June 30, 2003 in the New Jersey State Commission on Cancer Research account is appropriated.

Amounts deposited in the "New Jersey Breast Cancer Research Fund" from the gross income tax check-offs pursuant to the provisions of P.L.1995, c.26 (C.54A:9-25.7 et al.) are appropriated to the New Jersey State Commission on Cancer Research for breast cancer research projects, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance, as of June 30, 2003, in the Comprehensive Regulated Medical Waste Management Act account, together with any receipts received by the Department of Health and Senior Services pursuant to the provisions of the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.), is appropriated.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know account is payable out of the Worker and Community Right to Know Fund, and the receipts in excess of the amount anticipated, not to exceed \$763,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L. 2002, c.34 (C.App.A:9-78), not to exceed \$7,500,000, are appropriated for the Medical Emergency Disaster Preparedness for Bioterrorism program and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Addiction Services is authorized to bill a patient, a patient's estate, the person chargeable for a patient's support or the county of residence for institutional, residential and outpatient support of patients treated for alcoholism or drug abuse, or both. Receipts derived from billings or fees and unexpended

balances, as of June 30, 2003, from these billings and fees are appropriated to the Department of Health and Senior Services, Division of Addiction Services for the support of the alcohol and drug abuse programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the amounts appropriated hereinabove for the two anti-smoking programs (School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs) shall be charged to the proceeds of the increase in the cigarette tax, established pursuant to P.L.2002, c.33.

In order to permit flexibility in the handling of the various appropriations for anti-tobacco initiative accounts hereinabove, funds may be transferred to and from the following items of appropriations: School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs. Such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

There are appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund such sums as may be necessary to carry out the provisions of P.L.1983, c.531 (C.26:2B-32 et al.).

There is transferred from the "Drug Enforcement and Demand Reduction Fund" \$350,000 to carry out the provisions of P.L.1995, c.318 (C.26:2B-36 et seq.) to establish an "Alcohol and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$700,000 from the "Drug Enforcement and Demand Reduction Fund," established pursuant to N.J.S. 2C:35-15, to the Department of Health and Senior Services for a grant to Partnerships for a Drug-Free New Jersey.

The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to the Department of Health and Senior Services for diagnostic laboratory services provided to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories, pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks, pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), are appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance, as of June 30, 2003, in the Rabies Control Program account, together with any receipts in excess of the amount anticipated, is appropriated.

The unexpended balances, as of June 30, 2003, in the Animal Population Control Program account, together with any receipts in excess of the amount anticipated, is appropriated.



**GRANTS-IN-AID**

02-4220 Family Health Services .....	\$17,560,000
<i>(From General Fund .....</i>	<i>\$17,060,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>500,000)</i>
03-4230 Public Health Protection Services .....	25,804,000
04-4240 Addiction Services .....	25,672,000
12-4245 AIDS Services .....	<u>17,012,000</u>
Total Grants-in-Aid Appropriation,	
Health Services .....	<u>\$86,048,000</u>
<i>(From General Fund .....</i>	<i>\$85,548,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>500,000)</i>
<b>Grants-in-Aid:</b>	
02 Family Planning Services .....	(\$4,180,000)
02 Hemophilia Services .....	(939,000)
02 Special Health Services for	
Handicapped Children .....	(2,059,000)
02 Chronic Renal Disease Services .....	(383,000)
02 Pharmaceutical Services for	
Adults with Cystic Fibrosis .....	(308,000)
02 Birth Defects Registry .....	(25,000)
02 Statewide Birth Defects	
Registry (CRF) .....	(500,000)
02 Maternal and Child	
Health Services .....	(3,403,000)
02 Lead Poisoning Program .....	(795,000)
02 Poison Control Center .....	(490,000)
02 Cleft Palate Programs .....	(565,000)
02 Tourette Syndrome Association of	
New Jersey .....	(200,000)
02 SIDS Assistance Act .....	(86,000)
02 Camden Optometric Eye Center .....	(250,000)
02 St. Barnabas Medical Center .....	(250,000)
02 Robert Wood Johnson Medical	
School at Camden .....	(2,989,000)
02 Services to Victims of	
Huntington's Disease .....	(138,000)
03 Tuberculosis Services .....	(1,304,000)
03 Immunization Services .....	(795,000)
03 AIDS Communicable	
Disease Control .....	(424,000)
03 Cancer Institute of New Jersey .....	(18,000,000)
03 Worker and Community	
Right to Know .....	(281,000)
03 Cancer Institute of New Jersey,	
South Jersey Program .....	(5,000,000)

- 04 Substance Abuse Treatment for  
DYFS/WorkFirst Mothers --  
Pilot Project . . . . . (1,400,000)
- 04 Community Based Substance  
Abuse Treatment and  
Prevention -- State Share . . . . . (20,900,000)
- 04 Compulsive Gambling . . . . . (650,000)
- 04 Mutual Agreement Parolee  
Rehabilitation Project for  
Substance Abusers . . . . . (695,000)
- 04 In-State Juvenile Residential  
Treatment Services . . . . . (2,027,000)
- 12 AIDS Grants . . . . . (17,012,000)

There are appropriated from the New Jersey Emergency Medical Service Helicopter Response Program Fund, established pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1), such sums as are necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical Service Helicopter Response Program, established pursuant to P.L.1986, c.106 (C.26:2K-35 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$1,830,000 is appropriated to the Department of Health and Senior Services from monies deposited in the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), to fund the Infant Mortality Reduction Program.

There is appropriated \$570,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Fetal Alcohol Syndrome Program.

The unexpended balance of appropriations, as of June 30, 2003, made to the Department of Health and Senior Services by section 20 of P.L.1989, c.51 for State-licensed or approved drug abuse prevention and treatment programs is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Community Based Substance Abuse Treatment and Prevention - State Share program, there is appropriated \$3,000,000 from the Drug Enforcement and Demand Reduction Fund for the same purpose.

Notwithstanding the provisions of any other law to the contrary, there is transferred \$1,000,000 to the Department of Health and Senior Services from the "Drug Enforcement and Demand Reduction Fund" for drug abuse services.

Notwithstanding the provisions of any other law to the contrary, there is transferred \$500,000 to the Department of Health and Senior Services from the "Drug Enforcement and Demand Reduction Fund" for the Sub-Acute Residential Detoxification Program.

An amount, not to exceed \$600,000, collected by the Casino Control Commission is payable to the General Fund pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

In addition to the amount hereinabove for Compulsive Gambling, an amount not to exceed \$200,000 is appropriated from the annual assessment against permit holders to the Department of Health and Senior Services for prevention, education and treatment programs for compulsive gambling pursuant to the provisions of section 34 of P.L.2001, c.199 (C.5:5-159), subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$420,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Local Alcoholism Authorities - Expansion account.

Notwithstanding the provisions of P.L.1983, c.531 (C.26:2B-32 et al.) or any other law to the contrary, the unexpended balance in the Alcohol Education, Rehabilitation and Enforcement Fund, as of June 30, 2003, is appropriated and shall be distributed to counties for the treatment of alcohol and drug abusers and for education purposes.

Notwithstanding any law to the contrary, an amount not to exceed \$2,000,000 is appropriated to the Department of Health and Senior Services to provide education and public awareness of HIV and AIDS prevention and treatment programs, including the use of the new rapid AIDS test, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Cancer Institute of New Jersey South Jersey Program shall be used by Cooper University Hospital, an affiliate of the Cancer Institute of New Jersey, to develop a cancer treatment program for southern New Jersey to be located in Voorhees, with the participation of the UMDNJ - Robert Wood Johnson Medical School - Camden and the UMDNJ - School of Osteopathic Medicine - Stratford.

From the amount appropriated hereinabove for the Cancer Institute of New Jersey there is allocated \$25,000 for a Department of Health and Senior Services grant to the Radiation and Public Health Project.

The amount appropriated hereinabove for the Robert Wood Johnson Medical School at Camden shall be used to enhance academic programs, support the faculty and benefit the education of medical students at the Camden campus.

#### STATE AID

02-4220 Family Health Services .....	\$42,946,000
03-4230 Public Health Protection Services .....	2,400,000
04-4240 Addiction Services .....	<u>6,000,000</u>
Total State Aid Appropriation, Health Services .....	<u>\$51,346,000</u>

#### State Aid:

02 Early Childhood Intervention Program .....	(\$42,946,000)
03 Public Health Priority Funding ...	(2,400,000)
04 Essex County - Delaney Hall ....	(6,000,000)

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for handicapped infants are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, in addition to the amount hereinabove for the Early Childhood Intervention Program, an amount not to exceed \$4,000,000 is appropriated from the Catastrophic Illness in Children Relief Fund, established pursuant to P.L.1987, c.370 (C.26:2-148 et seq.), subject to the approval of the Director of Budget and Accounting.

The capitation is set not to exceed 40 cents for the year ending June 30, 2004 for the purposes prescribed in P.L.1966, c.36 (C.26:2F-1 et seq.).

Notwithstanding any provision of law to the contrary, the amount appropriated hereinabove for Public Health Priority Funding shall not be allocated to county health departments.

#### **CAPITAL CONSTRUCTION**

08-4280 Laboratory Services ..... \$620,000  
 Total Capital Construction Appropriation,  
 Health Services ..... \$620,000

#### ***Capital Projects:***

08 Improvements to Laboratories and  
 Installed Equipment ..... (\$150,000)  
 08 Laboratory Equipment ..... (470,000)

#### ***22 Health Planning and Evaluation***

##### **DIRECT STATE SERVICES**

06-4260 Long Term Care Systems ..... \$3,949,000  
 07-4270 Health Care Systems Analysis ..... 1,185,000  
 Total Direct State Services Appropriation, Health  
 Planning and Evaluation ..... \$5,134,000

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages ..... (\$3,847,000)  
 Materials and Supplies ..... (60,000)  
 Services Other Than Personal ..... (179,000)  
 Maintenance and Fixed Charges ..... (69,000)

##### **Special Purpose:**

06 Nursing Home Background  
 Checks/Nursing Aide Certification  
 Program ..... (979,000)

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Planning and Evaluation, in excess of those anticipated, are appropriated subject to a plan approved by the Director of the Division of Budget and Accounting.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories, pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks, pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), are appropriated.

In addition to the amounts appropriated hereinabove, \$1,000,000 is appropriated for the Implementation of Statewide Health Information Network from the annual

.53% assessment on New Jersey hospitals, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62) for establishing HIPAA compliance. Of this amount, \$250,000 shall be allocated to Thomas A. Edison State College. Available funds are appropriated to the "Health Care Facilities Improvement Fund" to provide available resources in an emergency situation at a health care facility, as defined by the Commissioner of Health and Senior Services, or for closure of a health care facility, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees charged for processing Certificate of Need applications, and the unexpended balances of such receipts as of June 30, 2003, are appropriated for the cost of this program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

07-4270 Health Care Systems Analysis .....	<u>\$73,269,000</u>
Total Grants-in-Aid Appropriation,	
Health Planning and Evaluation. ....	<u>\$73,269,000</u>

#### ***Grants-in-Aid:***

07 Health Care Subsidy	
Fund Payments .....	(\$25,200,000)
07 Federally Qualified Health	
Centers - Services to Family	
Care Clients .....	(10,000,000)
07 Hospital Assistance Fund .....	(19,953,000)
07 Supplemental Charity Care .....	(18,116,000)

There are appropriated such sums as are necessary to pay prior-year obligations of programs within the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, \$6,000,000 of the amount hereinabove for the Health Care Subsidy Fund payments account is appropriated from the Admission Charge Hospital Assessment revenue item.

Notwithstanding the provisions of any other law to the contrary, up to \$25,000,000, representing increased payments for hospital charity care, are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, there is established a Supplemental Charity Care Fund account for disbursement of additional charity care funding to hospitals with documented charity care in calendar year 2002. The total amount to be disbursed from the Supplemental Charity Care Fund shall not exceed the amount appropriated. Hospitals, which have not received payments under the Charity Care Subsidy, pursuant to P.L. 1996, c.28, equal to at least \$0.30 per dollar of charity care provided, shall be eligible to receive payments from the Supplemental Charity Care Fund pursuant to a methodology established by the Commissioner of Health and Senior Services. These payments will be prorated so that payments to all hospitals from Supplemental Charity Care do not exceed the amount appropriated.

The amount appropriated hereinabove for the Hospital Assistance Fund shall be distributed as grants as follows: Capital Health System, Trenton, \$750,000; Saint Francis Medical Center, Trenton, \$750,000; Saint Mary's Hospital, Hoboken, \$1,000,000; Palisades General Hospital, \$1,000,000; Jersey City Medical Center, \$1,200,000; Saint Joseph's Hospital, Paterson, \$1,000,000; Cooper University Hospital, Camden, \$4,300,000; Hackensack University Medical Center, \$500,000; Muhlenburg Regional Medical Center, \$500,000; Cathedral Health Systems, \$1,500,000; Saint Barnabas Health Care System, \$5,000,000; Saint Peter's University Hospital, New Brunswick, \$500,000; Raritan Bay Medical Center, \$500,000, Our Lady of Lourdes Medical Center, \$1,453,000.

**25 Health Administration  
DIRECT STATE SERVICES**

99-4210 Administration and Support Services ..... \$5,376,000  
Total Direct State Services Appropriation,  
Health Administration ..... \$5,376,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$3,156,000)  
Materials and Supplies ..... (49,000)  
Services Other Than Personal ..... (587,000)

Special Purpose:

99 Office of Minority and  
Multicultural Health ..... (1,500,000)  
99 Affirmative Action and Equal  
Employment Opportunity ..... (84,000)

**26 Senior Services  
DIRECT STATE SERVICES**

22-4275 Medical Services for the Aged ..... \$4,946,000  
24-4275 Pharmaceutical Assistance to the  
Aged and Disabled ..... 9,654,000  
55-4275 Programs for the Aged ..... 1,333,000  
(From General Fund ..... \$462,000)  
(From Casino Revenue Fund ..... 871,000)  
56-4275 Office of the Ombudsman ..... 826,000  
57-4275 Office of the Public Guardian ..... 681,000  
Total Direct State Services Appropriation,  
Senior Services ..... \$17,440,000  
(Total From General Fund ..... \$16,569,000)  
(Total From Casino Revenue Fund ... 871,000)

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$8,735,000)  
Salaries and Wages (CRF) ..... (658,000)  
Employee Benefits (CRF) ..... (138,000)

Materials and Supplies ..... (170,000)  
 Materials and Supplies (CRF) ..... (14,000)  
 Services Other Than Personal ..... (2,172,000)  
 Services Other Than Personal (CRF) ..... (47,000)  
 Maintenance and Fixed Charges ..... (450,000)  
 Maintenance and Fixed Charges (CRF) ..... (2,000)

**Special Purpose:**

22 Fiscal Agent -- Medical Services  
     for the Aged ..... (737,000)  
 24 Payments to Fiscal Agent - PAA .. (4,134,000)  
 55 Federal Programs for the Aging  
     (State Share) ..... (143,000)  
 Additions, Improvements and Equipment .... (28,000)  
 Additions, Improvements and  
     Equipment (CRF) ..... (12,000)

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services in the Department of Human Services or the Department of Health and Senior Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services or the Department of Health and Senior Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding the provisions of any other State law to the contrary, any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Department of Health and Senior Services to permit and assist the matching of the Department of Health and Senior Services' program eligibility and/or adjudication claims files against that third party's eligibility and/or adjudicated claims files for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

The unexpended balances as of June 30, 2003 in the Payments to Fiscal Agent - PAA account are appropriated.

Such sums as may be necessary, not to exceed \$1,591,000, may be transferred from the Energy Assistance program account in the Board of Public Utilities to the Lifeline program account shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the Office of the Public Guardian for Elderly Adults are appropriated.

**GRANTS-IN-AID**

22-4275 Medical Services for the Aged ..... \$257,827,000  
     *(From General Fund ..... \$228,269,000)*  
     *(From Casino Revenue Fund ..... 29,558,000)*

24-4275 Pharmaceutical Assistance to the Aged and Disabled .....	319,778,000
<i>(From General Fund .....</i>	<i>64,596,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>255,182,000)</i>
55-4275 Programs for the Aged .....	<u>27,387,000</u>
<i>(From General Fund .....</i>	<i>13,025,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>14,362,000)</i>
Total Grants-in-Aid Appropriation, Senior Services .....	<u>\$604,992,000</u>
<i>(Total From General Fund .....</i>	<i>\$305,890,000)</i>
<i>(Total From Casino Revenue Fund .....</i>	<i>299,102,000)</i>
<b>Grants-in-Aid:</b>	
22 Assisted Living Program .....	(\$18,540,000)
22 Community Care Alternatives (CRF) ..	(29,123,000)
22 Payments for Medical Assistance Recipients -- Nursing Homes .....	(127,806,000)
22 Medical Day Care Services .....	(58,163,000)
22 Medicaid High Occupancy -- Nursing Homes .....	(9,000,000)
22 Elder Care Initiatives .....	(15,000,000)
22 Home Care Expansion (CRF) .....	(235,000)
22 Hearing Aid Assistance for the Aged and Disabled (CRF) .....	(200,000)
24 Pharmaceutical Assistance to the Aged -- Claims .....	(35,998,000)
24 Pharmaceutical Assistance to the Aged and Disabled -- Claims (CRF) .....	(255,182,000)
24 Senior Gold Prescription Assistance Program .....	(28,358,000)
55 Arthritis Quality of Life Initiative Act ..	(232,000)
55 Purchase of Social Services .....	(8,673,000)
55 ElderCare Advisory Commission Initiatives .....	(2,500,000)
55 Alzheimer's Disease Program .....	(775,000)
55 Demonstration Adult Day Care Center Program - Alzheimer's Disease (CRF) ..	(2,632,000)
55 Adult Protective Services .....	(845,000)
55 Adult Protective Services (CRF) .....	(1,780,000)
55 Senior Citizen Housing -- Safe Housing and Transportation (CRF) ...	(1,668,000)
55 Congregate Housing Support Services ..	(1,938,000)
55 Respite Care for the Elderly (CRF) ....	(5,359,000)
55 Home Delivered Meals Expansion (CRF) .....	(985,000)



The amounts hereinabove appropriated for Payments for Medical Assistance Recipients -- Nursing Homes are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2004 are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in the Medical Services for the Aged Grants-In-Aid accounts from initiatives included in the fiscal year 2004 Budget may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Medical Assistance and Health Services in the Department of Human Services and the Department of Health and Senior Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The Division of Medical Assistance and Health Services and the Department of Health and Senior Services shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Department of Health and Senior Services to fund the costs of enhanced audit recovery efforts of the department within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for Medicaid nursing facility reimbursement shall be expended for administrator or assistant administrator costs or nonfood general costs in excess of 100% of the median for those cost centers, subject to the notice provisions of 42 CFR 447.205.

Notwithstanding the provisions of any other law to the contrary, effective July 1, 2003, reimbursement for nursing facility services shall be 90% of the per diem rate when a Medicaid beneficiary is hospitalized. These payments shall be

limited to the first 10 days of the hospitalization. Medicaid reimbursement for nursing facility services shall be discontinued beyond the 10th day of the hospitalization.

The funds appropriated hereinabove for Payments for Medical Assistance Recipients - Medicaid High Occupancy- Nursing Homes shall be distributed for patient services among those nursing homes where Medicaid patient day occupancy level is at or above 75%. Each such facility shall receive its distribution through a prospective per diem rate adjustment according to the following formula:  $E = A \text{ Medicaid days} / T \text{ Medicaid days} \times F$ ; where E is the entitlement for a specific nursing home resulting from this allocation; A Medicaid days is an individual nursing home's reported Medicaid days on June 30, 2003; T Medicaid days is the total reported Medicaid days for all affected nursing homes; and F is the total amount of State and federal funds to be distributed. No nursing home shall receive a total allocation greater than the amount lost, due to adjustments in Medicaid reimbursement methodology, which became effective April 1, 1995. Any balances remaining undistributed, from the abovementioned amount, shall be deposited in a reserve account in the General Fund.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAA/D) program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), shall be the last resource benefits, notwithstanding any provisions contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAA/D or Senior Gold Prescription Discount Program benefits shall be void, and no PAA/D and Senior Gold Prescription Discount Program payments shall be made as a result of any such provision.

Notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00.

Notwithstanding the provisions of any other law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program shall continue during the fiscal year 2004. All revenues from such rebates during the fiscal year ending June 30, 2004 are appropriated for the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription

Discount Program for Maximum Allowable Cost (MAC) drugs shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, no State funds are appropriated for a Drug Utilization Review Council in the Department of Health and Senior Services and therefore the functions of the Council shall cease.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Assistance Program account shall be expended except under the following conditions: legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for an initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Assistance Program account shall be expended except under the following conditions: (a) reimbursement for prescription drugs, shall be based on the Average Wholesale Price less a 12.5% discount; (b) prescription drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for the initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill; (c) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2003 shall remain in effect through fiscal year 2004, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services; and (d) multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Department of Health and Senior Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or

brand name drugs with lower cost per unit than the generic may be excluded from prior authorization by the Department of Health and Senior Services.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program shall be used to pay for quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

In addition to the amount hereinabove, there are appropriated from the General Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAA/D) program and the Senior Gold Prescription Discount Program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly, but must agree to allow PAAD to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAAD. Beneficiaries are responsible for the applicable PAA/D or Senior Gold Prescription Discount Program copayment.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Health and Senior Services shall establish a retrospective Polypharmacy drug utilization review program to study the efficacy, necessity and safety of prescriptions in excess of ten per month per PAAD or Senior Gold client and shall approve or disallow future payments for clients whose prescriptions exceed ten per client per month if the prescriptions have been proven inefficient, unnecessary or unsafe.

Notwithstanding the provisions of any law or regulation to the contrary, the Department of Health and Senior Services shall have the authority to establish a voluntary prescription drug mail-order program. The mail-order program may waive, discount or rebate the beneficiary copay and mail-order pharmacy providers may dispense up to a 90 day supply on prescription refills with the voluntary participation of the beneficiary, subject to the approval of the Commissioner of the Department of Health and Senior Services and the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any law or contracts to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled and Senior Gold Prescription Discount programs pursuant to this act shall be expended unless participating manufacturing companies execute contracts with the Department of Health and Senior Services through the Department of Human Services providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through and including (c) of the federal Social Security Act, 42 U.S.C. s.1396 r-8 (a) - (c), with the exception that the

formula for the rebates for generic drugs, which will be determined by the Commissioners of the Departments of Health and Senior Services and Human Services, will be calculated on the same basis (best price of minimum of 15.1%) as brand name drugs. Rebates paid to the State for pharmaceuticals dispensed after January 1, 2003, shall be paid to the State on the same basis as provided for in section 1927 (a) through and including (c) of the federal Social Security Act, 42 U.S.C. s.1396 r-8 (a) - (c), provided that the manufacturer's rebates for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the Senior Gold Discount Program.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Health and Senior Services shall establish a disease management program to improve the quality of care and reduce costs in the Pharmaceutical Assistance to the Aged and Disabled and Senior Gold Prescription Discount programs.

From the amount appropriated hereinabove for the Senior Gold Prescription Discount Program, an amount not to exceed \$3,750,000 may be transferred to various accounts as required, including Direct State Services accounts, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Department of Health and Senior Services such sums as are necessary, not to exceed \$10,000,000, to increase the reasonableness limit for total nursing care up to 120% of the median costs in the Medicaid nursing home rate-setting system in recognition of the nursing shortage in the State, during State fiscal year 2004, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary and subject to the notice provisions of 42 CFR 447.205, for rates implemented on or after July 1, 2000, target occupancy as determined pursuant to N.J.A.C.10:63-3.16 shall not apply to those facilities receiving enhanced rates of reimbursement pursuant to N.J.A.C.10:63-2.21. The per diem amounts for all other expenses of the enhanced rates shall be based upon reasonable base period costs divided by actual base period patient days, but no less than 85% of licensed bed days shall be used.

Such sums as may be necessary are appropriated from the General Fund for the payment of increased nursing home rates to reflect the costs incurred due to the payment of a nursing home provider assessment (pending enactment of legislation), subject to the approval of the Director of the Division of Budget and Accounting of a plan to be submitted by the Commissioner of Health and Senior Services.

In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.), during the fiscal year ending June 30, 2004, are appropriated for payments to providers in the same program class from which the recovery originated.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

For the purposes of account balance maintenance, all object accounts in the Medical Services for the Aged program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification.

Notwithstanding the provisions of P.L.1988, c.92 (C.30:4E-5 et seq.) to the contrary, funds appropriated for the Home Care Expansion Program (HCEP) shall be paid only for individuals enrolled in the program as of June 30, 1996 who are not eligible for the Community Care Program for the Elderly and Disabled or alternative programs, and only for so long as those individuals require services covered by the HCEP. Individuals enrolled in the HCEP as of June 30, 1996 and eligible for the Community Care Program for the Elderly and Disabled, may apply to be enrolled in that program.

Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in Casino Revenue Fund Medical Services for the Aged or Pharmaceutical Assistance to the Aged and Disabled Grants-In-Aid accounts from initiatives included in the fiscal year 2004 budget may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), shall be the last resource benefits, notwithstanding any provision contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAAD benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00.

Notwithstanding the provisions of any other law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the Pharmaceutical Assistance to the Aged and Disabled program shall continue throughout fiscal year 2004. All revenues from such rebates during the fiscal year ending June 30, 2004 shall be appropriated for the cost of the Pharmaceutical Assistance to the Aged and Disabled program.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program for Maximum Allowable Cost (MAC) drugs shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, no State funds are appropriated for a Drug Utilization Review Council in the Department of Health and Senior Services and therefore the functions of the Council shall cease.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification shall be expended except under the following conditions: legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for an initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Assistance Program account shall be expended except under the following conditions: (a) reimbursement for prescription drugs, shall be based on the Average Wholesale Price less a 12.5% discount; (b) prescription drugs dispensed by a retail pharmacy shall be limited to a maximum 34-day supply for an initial prescription and a 34-day or 100-unit dose supply, whichever is greater, for any prescription refill; (c) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2003 shall remain in effect through fiscal year 2004, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services; and (d) multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Department of Health and Senior Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or

brand name drugs with lower cost per unit than the generic may be excluded from prior authorization by the Department of Health and Senior Services.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program shall be used to pay for quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAA/D) program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly, but must agree to allow PAAD to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAAD. Beneficiaries are responsible for the applicable PAA/D copayment.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Health and Senior Services shall establish a retrospective Polypharmacy drug utilization review program to study the efficacy, necessity and safety of prescriptions in excess of ten per month per PAAD or Senior Gold client and shall approve or disallow future payments for clients whose prescriptions exceed ten per client per month if the prescriptions have been proven inefficient, unnecessary or unsafe.

Notwithstanding the provisions of any law or regulation to the contrary, the Department of Health and Senior Services shall have the authority to establish a voluntary prescription drug mail-order program. The mail-order program may waive, discount or rebate the beneficiary copay and mail-order pharmacy providers may dispense up to a 90 day supply on prescription refills with the voluntary participation of the beneficiary, subject to the approval of the Commissioner of the Department of Health and Senior Services and the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any law or contracts to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled and Senior Gold Prescription Discount programs pursuant to this act shall be expended unless participating manufacturing companies execute contracts with the Department of Health and Senior Services through the Department of Human Services providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through and including (c) of the federal Social Security Act, 42 U.S.C. s.1396 r-8 (a) - (c), with the exception that the formula for the rebates for generic drugs, which will be determined by the Commissioners of the Departments of Health and Senior Services and Human Services, will be calculated on the same basis (best price or minimum of 15.1%) as brand name drugs. Rebates paid to the State for pharmaceuticals dispensed after January 1, 2003, shall be paid to the State on the same basis as provided for in section 1927 (a) through and including (c) of the federal Social



Security Act, 42 U.S.C. s. 396 r-8 (a) - (c), provided that the manufacturer's rebates for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the Senior Gold Discount Program.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Health and Senior Services shall establish a disease management program to improve the quality of care and reduce costs in the Pharmaceutical Assistance to the Aged and Disabled and Senior Gold Prescription Discount programs.

Notwithstanding the provisions of section 2 of P.L.1988, c.114 (C.26:2M-10) to the contrary, private for-profit agencies shall be eligible grantees for funding from the Demonstration Adult Day Care Center Program - Alzheimer's Disease account.

Notwithstanding the provisions of any other law to the contrary, of the amount appropriated hereinabove for the Respite Care for the Elderly (CRF) account, \$700,000 shall be charged to the Casino Simulcasting Fund.

#### STATE AID

55-4275 Programs for the Aged ..... \$7,108,000

Total State Aid Appropriation, Senior Services ..... \$7,108,000

#### State Aid:

55 County Offices on Aging ..... (\$2,832,000)

55 Older Americans Act --

State Share ..... (4,276,000)

Department of Health and Senior Services,

Total State Appropriation ..... \$900,204,000

Notwithstanding the provisions of any other law to the contrary, there is appropriated to the Department of Health and Senior Services from the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), to continue to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, through the annual .53% assessment on New Jersey hospitals established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62). However, available funding shall first provide for the Community Care Program for the Elderly and Disabled, the expansion of Medicaid to 185% of poverty and the Infant Mortality Reduction Program. Of the funds remaining, \$11,000,000 is available for payments to federally qualified health centers. Any remaining available funds may be used to increase payments to federally qualified health centers and to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, as determined by the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Any unexpended balance as of June 30, 2003 in the Health Care Subsidy Fund received through the .53% annual assessment on hospitals made during fiscal year 2003 is appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57) or any other law to the contrary, the first \$1,200,000 in per adjusted admission charge assessment revenues, attributable to \$10.00 per adjusted admission charge assessments made by the Department of Health and Senior Services, shall be anticipated as revenue in the General Fund available for health-related purposes. Furthermore, it is recommended that the remaining revenue attributable to this fee shall be available to carry out the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57), as determined by the Commissioner of Health and Senior Services and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Treasurer shall transfer to the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), only those additional revenues generated from third party liability recoveries, excluding Medicaid, by the State arising from a review by the Director of the Division of Budget and Accounting of hospital payments reimbursed from the Health Care Subsidy Fund with service dates that are after the date of enactment of P.L.1996, c.29.

Notwithstanding the provisions of any other law to the contrary, the Commissioner of Health and Senior Services shall devise, at the commissioner's discretion, rules or guidelines that allocate reductions in health service grants to the extent possible toward administration, and not client services.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Health and Senior Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, fees, fines, penalties and assessments owed to the Department of Health and Senior Services shall be offset against payments due and owing from other appropriated funds.

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for health services-related programs throughout the Department of Health and Senior Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In order to permit flexibility in implementing the ElderCare Initiatives within the Medical Services for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

In order to permit flexibility in implementing the ElderCare Advisory Commission Initiatives within the Programs for the Aged program classification, amounts

may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

There are appropriated such sums as are necessary to counties with Class II Governmental Nursing Facilities, effective July 1, 2003, to satisfy obligations incurred in connection with the Intergovernmental Transfer Program.

Notwithstanding the provisions of any other law to the contrary, there are appropriated such amounts to the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting, as are necessary to pay such supplemental payments in accordance with the Medicaid State Plan amendments to any participating governmental entity for certain Class II Governmental Nursing Facilities. There are appropriated to the Department of Health and Senior Services and the Department of the Treasury such additional sums as are necessary to pay costs incurred by the State Treasurer or any other State agency in connection with the execution and delivery of any agreements authorized under P.L.2000, c.28 (C.30:4D-19.2 et seq.), including the costs of professional services and attorneys, and other costs necessary to complete the intergovernmental transfer.

Such sums as may be necessary are appropriated or transferred from existing appropriations within the Department of Health and Senior Services for the purpose of promoting awareness to increase participation in programs that are administered by the departments, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Health and Senior Services Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services .....	\$76,821,000
Grants-in-Aid .....	764,309,000
State Aid .....	58,454,000
Capital Construction .....	620,000

***Appropriations by Fund:***

General Fund .....	599,731,000
Casino Revenue Fund .....	300,473,000

**54 DEPARTMENT OF HUMAN SERVICES**

***20 Physical and Mental Health***

***23 Mental Health Services***

***7700 Division of Mental Health Services***

**DIRECT STATE SERVICES**

08-7700 Community Services .....	\$5,502,000
99-7700 Administration and Support Services .....	<u>5,078,000</u>
Total Direct State Services Appropriation, Division of Mental Health Services .....	<u>\$10,580,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$8,983,000)
Materials and Supplies .....	(21,000)
Services Other Than Personal .....	(496,000)
Maintenance and Fixed Charges .....	(155,000)
<b>Special Purpose:</b>	
99 Nursing Incentive Program .....	(625,000)
99 Fraud and Abuse Initiative .....	(300,000)

**GRANTS-IN-AID**

08-7700 Community Services .....	<u>\$234,751,000</u>
Total Grants-in-Aid Appropriation, Division of Mental Health Services .....	<u>\$234,751,000</u>

**Grants-in-Aid:**

08 Greystone Park Psychiatric Hospital Bridge Fund .....	(\$22,750,000)
08 Community Care .....	(193,936,000)
08 Community Mental Health Center -- University of Medicine and Dentistry, Newark .....	(6,205,000)
08 Community Mental Health Center -- University of Medicine and Dentistry, Piscataway .....	(11,860,000)

From the amount appropriated hereinabove for the Greystone Park Psychiatric Hospital Bridge Fund account, such funds as are necessary may be transferred to various accounts as required, including Direct State Services or State Aid accounts, subject to the approval of the Director of Budget and Accounting of a phase-in plan which relates to "Redirection II" as shall be submitted by the Commissioner of Human Services.

The amount appropriated hereinabove for the Community Mental Health Centers and the amount appropriated to the University of Medicine and Dentistry of New Jersey are first charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

With the exception of disproportionate share hospital revenues that may be received, federal and other funds received for the operation of community mental health centers at the New Jersey Medical School and the Robert Wood Johnson Medical School shall be available to the University of Medicine and Dentistry of New Jersey for the operation of the centers.

Revenues that may be received from fees derived from the licensing of all community mental health agencies as specified in N.J.A.C.10:37-10.1 et seq. are appropriated to the Division of Mental Health Services in the Department of Human Services to offset the costs of performing the required reviews.

**STATE AID**

08-7700 Community Services .....	<u>\$93,510,000</u>
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Total State Aid Appropriation, Division of  
Mental Health Services . . . . . \$93,510,000

**State Aid:**

08 Support of Patients in County  
Psychiatric Hospitals . . . . . (\$93,510,000)

The unexpended balance as of June 30, 2003 in the Support of Patients in County Psychiatric Hospitals account is appropriated.

The appropriation for the Support of Patients in County Psychiatric Hospitals account is available to pay liabilities applicable to prior fiscal years, subject to the approval of the Director of the Division of Budget and Accounting.

With the exception of all past, present and future revenues representing federal financial participation received by the State from the United States that is based on payments to hospitals that serve a disproportionate share of low-income patients, which shall be retained by the State, the sharing of revenues received to defray the costs of maintaining patients in State and county psychiatric hospitals and facilities for the developmentally disabled shall be based on the same percent as costs are shared.

State Aid reimbursement payments for maintenance of patients in county psychiatric facilities shall be limited to inpatient services only, except that such reimbursement shall be paid to a county for outpatient and partial hospitalization services as defined by the Department of Human Services, if outpatient and/or partial hospitalization services had been previously provided at the county psychiatric facility prior to January 1, 1998. These outpatient and partial hospitalization payments shall not exceed the amount of State Aid funds paid to reimburse outpatient and partial hospitalization services provided during calendar year 1997.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

**7710 Greystone Park Psychiatric Hospital**

**DIRECT STATE SERVICES**

10-7710 Patient Care and Health Services . . . . . \$45,147,000

99-7710 Administration and Support Services . . . . . 12,290,000

Total Direct State Services Appropriation,  
Greystone Park Psychiatric Hospital . . . . . \$57,437,000

**Direct State Services:**

**Personal Services:**

Salaries and Wages . . . . . (\$51,675,000)

Materials and Supplies . . . . . (3,306,000)

Services Other Than Personal . . . . . (1,346,000)

Maintenance and Fixed Charges . . . . . (948,000)

**Special Purpose:**

10 Interim Assistance . . . . . (50,000)

Additions, Improvements and Equipment . . . (112,000)

**7720 Trenton Psychiatric Hospital****DIRECT STATE SERVICES**

10-7720 Patient Care and Health Services .....	\$42,809,000
99-7720 Administration and Support Services .....	<u>10,662,000</u>
Total Direct State Services Appropriation, Trenton Psychiatric Hospital .....	<u>\$53,471,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$47,250,000)
Materials and Supplies .....	(2,954,000)
Services Other Than Personal .....	(1,818,000)
Maintenance and Fixed Charges .....	(799,000)

**Special Purpose:**

10 Interim Assistance .....	(150,000)
Additions, Improvements and Equipment ..	(500,000)

**7725 Ann Klein Forensic Center****DIRECT STATE SERVICES**

10-7725 Patient Care and Health Services .....	\$18,194,000
99-7725 Administration and Support Services .....	<u>2,485,000</u>
Total Direct State Services Appropriation, Ann Klein Forensic Center .....	<u>\$20,679,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$18,787,000)
Materials and Supplies .....	(1,214,000)
Services Other Than Personal .....	(520,000)
Maintenance and Fixed Charges .....	(98,000)
Additions, Improvements and Equipment ...	(60,000)

**7740 Ancora Psychiatric Hospital****DIRECT STATE SERVICES**

10-7740 Patient Care and Health Services .....	\$52,888,000
99-7740 Administration and Support Services .....	<u>12,984,000</u>
Total Direct State Services Appropriation, Ancora Psychiatric Hospital .....	<u>\$65,872,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$58,317,000)
Materials and Supplies .....	(3,670,000)
Services Other Than Personal .....	(1,974,000)
Maintenance and Fixed Charges .....	(967,000)

**Special Purpose:**

10 Interim Assistance .....	(120,000)
Additions, Improvements and Equipment ..	(824,000)

**7750 Arthur Brisbane Child Treatment Center****DIRECT STATE SERVICES**

10-7750 Patient Care and Health Services .....	\$8,052,000
99-7750 Administration and Support Services .....	<u>2,383,000</u>
Total Direct State Services Appropriation, Arthur Brisbane Child Treatment Center .....	<u>\$10,435,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$9,227,000)
Materials and Supplies .....	(456,000)
Services Other Than Personal .....	(326,000)
Maintenance and Fixed Charges .....	(132,000)
Additions, Improvements and Equipment ...	(294,000)

**7760 Senator Garrett W. Hagedorn Gero-Psychiatric Hospital****DIRECT STATE SERVICES**

10-7760 Patient Care and Health Services .....	\$23,376,000
99-7760 Administration and Support Services .....	<u>7,949,000</u>
Total Direct State Services Appropriation, Senator Garrett W. Hagedorn Gero-Psychiatric Hospital ...	<u>\$31,325,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$27,152,000)
Materials and Supplies .....	(1,941,000)
Services Other Than Personal .....	(1,052,000)
Maintenance and Fixed Charges .....	(426,000)

**Special Purpose:**

10 Interim Assistance .....	(14,000)
Additions, Improvements and Equipment ...	(740,000)

**Mental Health Services**

Receipts recovered from advances made under the interim assistance program in the mental health institutions during the fiscal year ending June 30, 2004 are appropriated for the same purpose.

The unexpended balances as of June 30, 2003, in the interim assistance program accounts in the mental health institutions are appropriated for the same purpose.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

**24 Special Health Services****7540 Division of Medical Assistance and Health Services****DIRECT STATE SERVICES**

21-7540 Health Services Administration and Management .....	<u>\$26,853,000</u>
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Total Direct State Services Appropriation, Division  
of Medical Assistance and Health Services . . . . . \$26,853,000

***Direct State Services:***

Personal Services:

Salaries and Wages . . . . . (\$13,455,000)  
Materials and Supplies . . . . . (180,000)  
Services Other Than Personal . . . . . (5,000,000)  
Maintenance and Fixed Charges . . . . . (308,000)

Special Purpose:

21 Payments to Fiscal Agents . . . . . (6,641,000)  
21 Professional Standards Review  
Organization--Utilization Review . (1,179,000)  
21 Drug Utilization Review Board --  
Administrative Costs . . . . . (90,000)

The unexpended balances as of June 30, 2003, in the Payments to Fiscal Agents account are appropriated.

Sufficient funds from the Health Care Subsidy Fund are appropriated to the Division of Medical Assistance and Health Services in the Department of Human Services for payment to disproportionate share hospitals for uncompensated care costs as defined in P.L.1992, c.160 (C.26:2H-18.51 et al.) and for subsidized children's health insurance in the NJ KidCare program (Children's Health Care Coverage Program) as defined in P.L.1997, c.272 (C.30:4I-1 et seq.) to maximize federal Title XXI funding.

Additional federal Title XIX revenue generated from the claiming of uncompensated care payments made to disproportionate share hospitals shall be deposited in the General Fund as anticipated revenue.

Notwithstanding any State law to the contrary, any third party as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty, workers' compensation or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Division of Medical Assistance and Health Services to permit and assist the matching no less frequently than on a quarterly basis of the Medicaid, Charity Care and Work First New Jersey General Assistance eligibility files and/or adjudicated claims files against that third party's eligibility file and/or adjudicated claims file for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

Notwithstanding the provisions of any law to the contrary, all past, present and future revenues representing federal financial participation received by the State from the United States and that are based on payments made by the State to hospitals that serve a disproportionate share of low-income patients shall be deposited in the General Fund and may be expended only upon appropriation by law.

Notwithstanding the provisions of any law to the contrary, all revenues received from health maintenance organizations shall be deposited in the General Fund. Additional federal Title XIX revenue generated from the claiming of medical service payments on behalf of individuals enrolled in the second year of



Medicaid Extension is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

#### GRANTS-IN-AID

22-7540 General Medical Services ..... \$1,977,496,000  
 Total Grants-in-Aid Appropriation, Division of  
 Medical Assistance and Health Services ..... \$1,977,496,000

***Grants-in-Aid:***

22 Payments for Medical Assistance  
     Recipients -- Personal Care ..... (\$9,560,000)  
 22 Managed Care Initiative ..... (538,078,000)  
 22 Hospital Relief Offset Payment ..... (28,812,000)  
 22 Payments for Medical Assistance  
     Recipients - Other Treatment  
     Facilities ..... (11,290,000)  
 22 Payments for Medical Assistance  
     Recipients - Inpatient Hospital .... (231,216,000)  
 22 Payments for Medical Assistance  
     Recipients - Prescription Drugs ... (350,604,000)  
 22 Payments for Medical Assistance  
     Recipients - Outpatient Hospital ... (183,305,000)  
 22 Payments for Medical Assistance  
     Recipients - Physician ..... (28,884,000)  
 22 Payments for Medical Assistance  
     Recipients - Home Health ..... (12,447,000)  
 22 Payments for Medical Assistance  
     Recipients - Medicare Premiums ... (74,368,000)  
 22 Payments for Medical Assistance  
     Recipients - Dental ..... (9,771,000)  
 22 Payments for Medical Assistance  
     Recipients - Psychiatric Hospital .... (8,595,000)  
 22 Payments for Medical Assistance  
     Recipients - Medical Supplies ..... (12,123,000)  
 22 Payments for Medical Assistance  
     Recipients - Clinic ..... (51,882,000)  
 22 Payments for Medical Assistance  
     Recipients - Transportation ..... (37,401,000)  
 22 Payments for Medical Assistance  
     Recipients - Other Services ..... (21,071,000)  
 22 Unit Dose Contract Services ..... (7,803,000)  
 22 Consulting Pharmacy Services ..... (3,200,000)  
 22 Eligibility Determination Services .... (4,800,000)  
 22 Health Benefit Coordination Services . (6,055,000)  
 22 General Assistance Medical  
     Services ..... (116,100,000)

22 NJ Family Care - Affordable and Accessible Health Coverage Benefits .....	(118,190,000)
22 Partnership for Children .....	(15,179,000)
22 Partnership for Children- Residential .	(88,762,000)
22 Program for Assertive Community Treatment .....	(3,500,000)
22 Adult Mental Health Residential .....	(4,500,000)

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from Payments for Medical Assistance Recipients-Personal Care and Payments for Medical Assistance Recipients-Other Services within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Payments for Medical Assistance Recipients-Personal Care and the Payments for Medical Assistance Recipients-Other Services accounts in the Division of Disability Services in the Department of Human Services. Amounts may also be transferred to and from various items of appropriations within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in the Division of Senior Services in the Department of Health and Senior Services, excluding the Partnership for Children and Partnership for Children-Residential accounts. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

For the purposes of account balance maintenance, all object accounts in the General Medical Services program classification, excluding the Partnership for Children and Partnership for Children-Residential accounts, shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification.

Notwithstanding any law to the contrary, of the amount appropriated hereinabove funding is available for the Department of Human Services to provide education and public awareness concerning the use of the new rapid AIDS test.

For the purposes of account balance maintenance, the Partnership for Children and Partnership for Children-Residential accounts shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program.

The State appropriation for Medicaid Title XIX is based on a federal financial participation rate of 48.7%, provided however, that if the federal financial participation rate exceeds this percentage, there will be placed in reserve a portion of the State appropriation equal to the amount of additional federal funds, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, the Commissioner of Human Services shall have the authority to convert individuals enrolled in a State-funded program who are also eligible for a federally matchable program, to the federally matchable program without the need for regulations.

In addition to the amounts hereinabove for payments to providers on behalf of medical assistance recipients, such additional sums as may be required are appropriated from the General Fund to cover costs consequent to the establishment of presumptive eligibility for children and pregnant women in the Medicaid (Title XIX) program and the NJ KidCare program (Children's Health Care Coverage Program) as defined in P.L.1997, c.272 (C.30:4I-1 et seq.).

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding the provisions of P.L.1962, c.222 (C.44:7-76 et seq.), the Medical Assistance for the Aged program is eliminated.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2003 are appropriated for payments to providers in the same program class from which the recovery originated.

The amount appropriated hereinabove for the Division of Medical Assistance and Health Services first is to be charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

Notwithstanding any other law to the contrary, a sufficient portion of receipts generated or savings realized in Medical Assistance Grants-in-Aid accounts from initiatives may be transferred to the Health Services Administration and Management accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary and subject to federal approval, the Commissioner of Human Services is authorized to develop and introduce Optional Service Plan Innovations to enhance client choice for users of Medicaid optional services, while containing expenditures.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, of the amount hereinabove for Personal Care Assistant services, Personal Care Assistant services shall be limited to no more than 25 hours per week. Additional hours for emergency utilization, up to 40 per week, shall be authorized by the Division of Medical Assistance and Health Services prior to the provision of services not provided by clinics under contract with the Division of Mental Health Services. The hourly weekend rate shall not exceed \$16.

The Division of Medical Assistance and Health Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division shall require, in the case of a married individual requiring long-term care services, that the

- portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.
- Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan as shall be submitted by the Commissioner of Human Services.
- The Division of Medical Assistance and Health Services is empowered to competitively bid and contract for performance of federally mandated inpatient hospital utilization reviews, and the funds necessary for the contracted utilization review of these hospital services are made available from the Payments for Medical Assistance Recipients- Inpatient Hospital account, subject to the approval of the Director of the Division of Budget and Accounting.
- Such sums as may be necessary are available from the Health Care Subsidy Fund to supplement Payments for Medical Assistance Recipients - Inpatient Hospital, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding any other laws to the contrary, State funding for the New Jersey Health ACCESS program shall cease, and all enrollment shall be terminated as of July 1, 2001, or at such later date as shall be established by the Commissioner of Human Services.
- Notwithstanding any law to the contrary, a New Jersey major teaching acute medical/surgical care hospital that has been recognized by the New Jersey Medicaid program as an eligible non-State owned or operated government facility shall be eligible to receive an enhanced payment for providing inpatient and outpatient services to New Jersey Medicaid fee-for-service and NJ FamilyCare fee-for-service beneficiaries. Effective July 1, 2003, interim payments shall be made in equal monthly lump sum amounts, based on an estimate of the total enhanced amount payable to a qualifying hospital, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of any law or regulation to the contrary, the New Jersey FamilyCare Health Coverage Program benefit service packages, premium contributions, copayment levels, enrollment levels and any other program features or operations may be modified as the Commissioner of Human Services deems necessary based upon a plan approved by the Director of the Division of Budget and Accounting to ensure that monies expended for the New Jersey FamilyCare Health Coverage Program do not exceed the amount appropriated hereunder.
- Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Human Services shall adopt immediately upon filing with the Office of Administrative Law such regulations as the commissioner deems necessary to ensure that monies expended for the New Jersey FamilyCare Health Coverage Program do not exceed the amount appropriated hereunder. Such regulations may change or adjust the financial and non-financial eligibility requirements for some or all of the applicants or beneficiaries in the program, the benefits provided,

cost-sharing amounts, or may suspend in whole or in part the processing of applications for any or all categories of individuals covered by the program.

Notwithstanding any other law to the contrary, those hospitals that are eligible to receive a Hospital Relief Subsidy Fund (HRSF) payment shall receive enhanced payments from the Medicaid program for providing services to Medicaid and NJ FamilyCare beneficiaries. The total payments shall not exceed the amount appropriated and shall be allocated among hospitals proportionately based on the amount of HRSF payments (excluding any adjustments to the HRSF for other Medicaid payment increases). Effective July 1, 2003, interim payments shall be made from the Hospital Relief Offset Payment account, based on an estimate of the total enhanced amount payable to a qualifying hospital, and subject to cost settlement. The enhanced payment, determined at cost settlement, will be an amount approved by the Director of the Division of Budget and Accounting per Medicaid patient day, adjusted by a volume variance factor (the ratio of expected Medicaid inpatient days to actual Medicaid inpatient days for the rate year) and an HRSF factor (the ratio of the hospital's HRSF payments to total HRSF payments) and subject to a pro rata adjustment so that the total enhanced per diem amounts are equivalent to the total State and federal funds appropriated not to exceed an amount to be approved by the Director of the Division of Budget and Accounting. The total of these payments shall be reduced by an amount equal to any increase in Medicaid and NJ FamilyCare fee-for-service payments to New Jersey hospitals enacted herein or subsequent to this legislation.

Notwithstanding any other law to the contrary, for those hospitals that qualify for a Hospital Relief Subsidy Fund payment, the New Jersey Medicaid program shall reimburse those hospitals' Graduate Medical Education outpatient payments up to the amount the hospital would have received under Medicare principles of reimbursement for Medicaid and NJ FamilyCare fee-for-service beneficiaries. Effective July 1, 2003, payments shall be made from the Hospital Relief Offset Payment account and shall be based on the qualifying hospitals' first finalized 1996 cost reports. The amount that the qualifying hospital would otherwise be eligible to receive from the Hospital Relief Subsidy Fund shall be reduced by the amount of this Graduate Medical Education outpatient payment. The total amount of these payments shall not exceed an amount approved by the Director of the Division of Budget and Accounting in combined State and federal funds. In no case shall these payments and all other enhanced payments related to those services primarily used by Medicaid and NJ FamilyCare beneficiaries that the hospital receives exceed the amount the hospital would otherwise have been eligible to receive from the Hospital Relief Subsidy Fund in the State fiscal year.

Of the amounts appropriated in State and federal funds in the Hospital Relief Offset Payment accounts in the Division of Medical Assistance and Health Services, such sums as may be necessary shall be transferred to the Hospital Relief Subsidy Fund within the Health Care Subsidy Fund established pursuant to P.L.1992, c.160 (C.26:2H-18.51 et seq.) to maximize federal revenues related to these

accounts and maintain an appropriate level of hospital payments, subject to the approval of the Director of the Division of Budget and Accounting.

Rebates from pharmaceutical manufacturing companies during the fiscal year ending June 30, 2003 for prescription expenditures made to providers on behalf of Medicaid clients are appropriated for the Payments for Medical Assistance Recipients - Prescription Drugs account.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, or at the earliest date thereafter consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated for prescription drugs in the Payments for Medical Assistance Recipients - Prescription Drugs or General Assistance Medical Services account shall be expended except under the following conditions: (a) reimbursement for the cost of legend and non-legend drugs and nutritional supplements shall not exceed their Average Wholesale Price (AWP) less a 12.5% discount; (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2003 shall remain in effect through fiscal year 2004, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services; and (c) multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Division of Medical Assistance and Health Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or brand name drugs with lower cost per unit than the generic, may be excluded from prior authorization by the Division of Medical Assistance and Health Services.

Notwithstanding any laws or regulations to the contrary, payments from the Payments for Medical Assistance Recipients - Prescription Drugs account, the General Assistance drug program or the fee-for-service portion of NJ FamilyCare shall not cover quantities of erectile dysfunction drug therapies, in excess of four treatments per month. Moreover, payments will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, effective July 1, 2003, approved nutritional supplements will be reimbursed in accordance with a fee schedule set by the Director of the Division of Medical Assistance and Health Services.

Effective July 1, 2003, no funding shall be provided from the Payments for Cost of General Assistance or NJ FamilyCare programs for anti-retroviral drugs for the treatment of HIV/AIDS, as specified in the Department of Health and Senior Services' formulary for the AIDS Drugs Distribution Program (ADDP).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, the following provisions shall apply to the dispensing of prescription drugs through the General Assistance Medical Services account: (a) all Maximum Allowable Cost (MAC) drugs dispensed shall state "Brand

Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs; and (b) each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to all requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Notwithstanding the provision of any law or contracts to the contrary, no funds appropriated for the Payments for Medical Assistance Recipients - Prescription Drugs program pursuant to this act shall be expended unless participating manufacturing companies execute contracts with the Department of Human Services providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through and including (c) of the federal Social Security Act, 42 U.S.C. s.1396 r-8 (a) - (c), with the exception that the formula for the rebates for generic drugs, which will be determined by the Commissioner of the Department Human Services, will be calculated on the same basis (best price or minimum of 15.1%) as brand name drugs. Rebates paid to the State for pharmaceuticals dispensed after January 1, 2003, shall be paid to the State on the same basis as provided for in section 1927 (a) through and including (c) of the federal Social Security Act, 42 U.S.C. s.1396 r-8 (a) - (c). Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Division of Medical Assistance and Health Services to fund the costs of enhanced audit recovery efforts of the division within the General Medical Services program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, each prescription order for protein nutritional supplements and specialized infant formulas dispensed in the Medicaid, General Assistance Medical Services, NJ FamilyCare and NJ KidCare fee-for-services programs shall be filled with the generic equivalent unless the prescription order states "Brand Medically Necessary" in the prescriber's own handwriting.

Of the amount hereinabove for Payments for Medical Assistance Recipients - Outpatient Hospital, an amount not to exceed \$1,900,000 is allocated for limited prenatal medical care for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

Notwithstanding the provisions of any other law or regulation to the contrary, reimbursement rates for outpatient hospital services are limited to the payment level in effect during State fiscal year 2003.

Of the revenues received as a result of sanctions to health maintenance organizations participating in Medicaid Managed Care, an amount not to exceed \$500,000 is appropriated to the Payments for Medical Assistance Recipients - Physician account, subject to the approval of the Director of the Division of Budget and Accounting.

Non-contracted hospitals providing emergency services to Medicaid or NJ FamilyCare members enrolled in the managed care program shall accept, as payment in full, the amounts that the non-contracted hospital would receive

- from Medicaid for the emergency services and/or any related hospitalization if the beneficiary were enrolled in Medicaid fee-for-service.
- Notwithstanding the provisions of subsection (b) of N.J.A.C.10:60-5.3 and subsection (a) of N.J.A.C.10:60-5.4 to the contrary, a person receiving the maximum number of Early and Periodic Screening, Diagnosis and Treatment/Private Duty Nursing (EPSDT/PDN) services, that is, 16 hours in any 24-hour period, may be authorized to receive additional PDN hours if private health insurance is available to cover the cost of the additional hours and appropriate medical documentation is provided which indicates that additional PDN hours are required and that the primary caregiver is not qualified to provide the additional PDN hours.
- Of the amount hereinabove for Payments for Medical Assistance Recipients - Clinic, an amount not to exceed \$1,900,000 is allocated for limited prenatal medical care provided by clinics, or in the case of radiology and clinical laboratory services ordered by a clinic, for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.
- Additional federal Title XIX revenue generated from the claiming of family planning services payments on behalf of individuals enrolled in the Medicaid managed care program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Effective July 1, 2003, the Division of Medical Assistance and Health Services (DMAHS) is authorized to pay financial rewards to individuals or entities who report instances of health care-related fraud and/or abuse involving the programs administered by DMAHS (including, but not limited to, the New Jersey Medicaid, NJ FamilyCare and NJ KidCare programs) or the Pharmaceutical Assistance to the Aged and Disabled (PAAD) or Work First New Jersey General Public Assistance programs. Rewards may be paid only when the reports result in a recovery by DMAHS, and only if other conditions established by DMAHS are met, and shall be limited to 10% of the recovery or \$1,000, whichever is less. Notwithstanding any State law to the contrary, but subject to any necessary federal approval and/or change in federal law, receipt of such rewards shall not affect an applicant's individual financial eligibility for the programs administered by DMAHS or for PAAD or Work First New Jersey General Public Assistance programs.
- The Division of Medical Assistance and Health Services, in coordination with the county welfare agencies, shall continue a program to outstation eligibility workers in disproportionate share hospitals and federally qualified health centers.
- Of the amount hereinabove for Eligibility Determination, an amount not to exceed \$630,000 is allocated for increased eligibility determination costs related to immigrant services.
- Premiums received from families enrolled in the NJ KidCare program (Children's Health Care Coverage Program) established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) are appropriated for NJ KidCare payments.



- Premiums received from families enrolled in the NJ FamilyCare program (FamilyCare Health Coverage program) established pursuant to P.L.2001, c.71 (C.30:4J-1 et seq.) are appropriated for NJ FamilyCare payments.
- Of the amount hereinabove for the NJ FamilyCare program, there shall be transferred to various accounts, including Direct State Services and State Aid accounts, such amounts not to exceed \$6,000,000, as are necessary to pay for the administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.
- The Commissioner of Human Services shall develop and implement a program wherein federally qualified health centers provide primary health care and related services to persons enrolled in the NJ FamilyCare program.
- Notwithstanding the provisions of N.J.A.C.10:49-7.3 et seq. to the contrary and subject to approval by the federal government, the Division of Medical Assistance and Health Services shall increase reimbursement for ambulance services provided to Medicaid recipients who are also Medicare eligible to the applicable Medicare rate.
- The Commissioners of the Department of Human Services and Health and Senior Services shall establish a system to utilize unopened prescription drugs at Nursing Facilities issued to patients at such facilities and which have not exceeded their expiration date.
- Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Human Services shall establish a disease management program to improve the quality of care and reduce costs in the General Medical Services program.
- The unexpended balance as of June 30, 2003, in the NJ Family Care - Affordable and Accessible Health Coverage Benefits account is appropriated.

### **27 Disability Services**

#### **7545 Division of Disability Services**

##### **DIRECT STATE SERVICES**

27-7545 Disability Services .....	<u>\$984,000</u>
Total Direct State Services Appropriation, Division of Disability Services .....	<u>\$984,000</u>

##### **Direct State Services:**

Personal Services:	
Salaries and Wages .....	(\$942,000)
Materials and Supplies .....	(4,000)
Services Other Than Personal .....	(29,000)
Maintenance and Fixed Charges .....	(9,000)

##### **GRANTS-IN-AID**

27-7545 Disability Services .....	<u>\$161,100,000</u>
( <i>From General Fund</i> .....	<i>\$80,772,000</i> )
( <i>From Casino Revenue Fund</i> .....	<i>80,328,000</i> )
Total Grants-in-Aid Appropriation, Division of Disability Services .....	<u>\$161,100,000</u>
( <i>From General Fund</i> .....	<i>\$80,772,000</i> )

**(From Casino Revenue Fund . . . . . 80,328,000)**

**Grants-in-Aid:**

- 27 Personal Assistance Services Program . . . . . (\$3,251,000)
- 27 Personal Assistance Services Program (CRF) . . . . . (3,734,000)
- 27 Community Supports to Allow Discharge from Nursing Homes . . . . . (2,000,000)
- 27 Payments for Medical Assistance Recipients -- Personal Care . . . . . (72,352,000)
- 27 Payments for Medical Assistance Recipients -- Personal Care (CRF) . . . . . (60,092,000)
- 27 Payments for Medical Assistance Recipients -- Waiver Initiatives (CFR) . . . . . (16,502,000)
- 27 Payments for Medical Assistance Recipients -- Other Services . . . . . (3,169,000)

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Disability Services program classification. Amounts may also be transferred to and from Payments for Medical Assistance Recipients - Personal Care and Payments for Medical Assistance Recipients - Other Services within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Payments for Medical Assistance Recipients - Personal Care and the Payments for Medical Assistance Recipients - Other Services accounts in the Division of Disability Services in the Department of Human Services. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, of the amount appropriated hereinabove for Personal Care Assistant services, Personal Care Assistant services shall be limited to no more than 25 hours per week. Additional hours for emergency utilization, up to 40 per week, shall be authorized by the Director of the Division of Disability Services as appropriate prior to the provision of services not provided by clinics under contract with the Division of Mental Health Services. The hourly weekend rate shall not exceed \$16.

**30 Educational, Cultural and Intellectual Development**

**32 Operation and Support of Educational Institutions**

**7600 Division of Developmental Disabilities**

**DIRECT STATE SERVICES**

99-7600 Administration and Support Services . . . . . \$10,803,000

**(From General Fund . . . . . \$4,351,000)**

<i>(From Federal Funds</i> . . . . .	<b>6,452,000)</b>	
Total Appropriation, State and Federal Funds . . . . .		<b><u>\$10,803,000</u></b>
<i>(From General Fund</i> . . . . .	<b>\$4,351,000)</b>	
<i>(From Federal Funds</i> . . . . .	<b>6,452,000)</b>	
<b>Less:</b>		
<b>Federal Funds</b> . . . . .	<b>\$6,452,000</b>	
<b>Total Deductions</b> . . . . .	<b><u>\$6,452,000</u></b>	
Total Direct State Services Appropriation, Division of Developmental Disabilities . . . . .		<b><u>\$4,351,000</u></b>
<b>Direct State Services:</b>		
Personal Services:		
Salaries and Wages . . . . .	<b>(\$8,763,000)</b>	
Materials and Supplies . . . . .	<b>(64,000)</b>	
Services Other Than Personal . . . . .	<b>(252,000)</b>	
Maintenance and Fixed Charges . . . . .	<b>(99,000)</b>	
Special Purpose:		
99 Foster Grandparents Program . . . . .	<b>(669,000)</b>	
99 Developmental Disabilities Council . . . . .	<b>(306,000)</b>	
99 Nursing Incentive Program . . . . .	<b>(625,000)</b>	
Additions, Improvements and Equipment . . . . .	<b>(25,000)</b>	
<b>Less:</b>		
<b>Federal Funds</b> . . . . .	<b>6,452,000</b>	
An amount not to exceed \$223,000 from receipts from individuals for whom the Division of Developmental Disabilities in the Department of Human Ser- vices is the representative payee is appropriated for participation in the Foster Grandparent and Senior Companions program.		

**7601 Community Programs****DIRECT STATE SERVICES**

01-7601 Purchased Residential Care . . . . .		<b>\$2,251,000</b>
<i>(From General Fund</i> . . . . .	<b>\$606,000)</b>	
<i>(From Federal Funds</i> . . . . .	<b>1,645,000)</b>	
02-7601 Social Supervision and Consultation . . . . .		<b>21,814,000</b>
<i>(From General Fund</i> . . . . .	<b>10,328,000)</b>	
<i>(From Federal Funds</i> . . . . .	<b>11,486,000)</b>	
03-7601 Adult Activities . . . . .		<b>1,894,000</b>
<i>(From General Fund</i> . . . . .	<b>1,055,000)</b>	
<i>(From Federal Funds</i> . . . . .	<b>839,000)</b>	
04-7601 Education and Day Training . . . . .		<b><u>30,096,000</u></b>
<i>(From General Fund</i> . . . . .	<b>9,405,000)</b>	
<i>(From Federal Funds</i> . . . . .	<b>1,506,000)</b>	
<i>(From All Other Funds</i> . . . . .	<b>19,185,000)</b>	
Total Appropriation, State, Federal and All Other Funds . . . . .		<b><u>\$56,055,000</u></b>
<i>(From General Fund</i> . . . . .	<b>\$21,394,000)</b>	
<i>(From Federal Funds</i> . . . . .	<b>15,476,000)</b>	

<i>(From All Other Funds . . . . . 19,185,000)</i>	
<b>Less:</b>	
<i>Federal Funds . . . . .</i>	<i>\$15,476,000</i>
<i>All Other Funds . . . . .</i>	<i>19,185,000</i>
<i>Total Deductions . . . . .</i>	<i><u>\$34,661,000</u></i>
Total Direct State Services Appropriation,	
Community Programs . . . . .	<u>\$21,394,000</u>
<b>Direct State Services:</b>	
Personal Services:	
Salaries and Wages . . . . .	(\$49,124,000)
Materials and Supplies . . . . .	(1,356,000)
Services Other Than Personal . . . . .	(1,928,000)
Maintenance and Fixed Charges . . . . .	(2,963,000)
Special Purpose:	
02 Guardianship Program . . . . .	(285,000)
02 Homemaker Services (State Share) . . . . .	(167,000)
Additions, Improvements and Equipment . . . . .	(232,000)
<b>GRANTS-IN-AID</b>	
01-7601 Purchased Residential Care . . . . .	\$506,288,000
<i>(From General Fund . . . . .)</i>	<i>\$271,865,000</i>
<i>(From Casino Revenue Fund . . . . .)</i>	<i>28,827,000</i>
<i>(From Federal Funds . . . . .)</i>	<i>166,966,000</i>
<i>(From All Other Funds . . . . .)</i>	<i>38,630,000</i>
02-7601 Social Supervision and Consultation . . . . .	48,207,000
<i>(From General Fund . . . . .)</i>	<i>40,243,000</i>
<i>(From Casino Revenue Fund . . . . .)</i>	<i>2,208,000</i>
<i>(From Federal Funds . . . . .)</i>	<i>5,756,000</i>
03-7601 Adult Activities . . . . .	<u>114,941,000</u>
<i>(From General Fund . . . . .)</i>	<i>77,275,000</i>
<i>(From Casino Revenue Fund . . . . .)</i>	<i>7,374,000</i>
<i>(From Federal Funds . . . . .)</i>	<i>30,292,000</i>
Total State, Federal and All Other Funds . . . . .	<u>\$669,436,000</u>
<i>(From General Fund . . . . .)</i>	<i>\$389,383,000</i>
<i>(From Casino Revenue Fund . . . . .)</i>	<i>38,409,000</i>
<i>(From Federal Funds . . . . .)</i>	<i>203,014,000</i>
<i>(From All Other Funds . . . . .)</i>	<i>38,630,000</i>
<b>Less:</b>	
<i>Federal Funds . . . . .</i>	<i>\$203,014,000</i>
<i>All Other Funds . . . . .</i>	<i>38,630,000</i>
<i>Total Deductions . . . . .</i>	<i><u>\$241,644,000</u></i>
Total Grants-in-Aid Appropriation,	
Community Programs.. . . .	<u>\$427,792,000</u>
<b>Grants-in-Aid:</b>	
01 Dental Program for Non-	
Institutionalized Children . . . . .	(\$814,000)
01 Private Institutional Care . . . . .	(32,868,000)

01 Private Institutional Care (CRF) . . . . .	(1,311,000)
01 Skill Development Homes . . . . .	(25,383,000)
01 Skill Development Homes (CRF) . . . . .	(1,141,000)
01 Group Homes . . . . .	(296,030,000)
01 Group Homes (CRF) . . . . .	(26,247,000)
01 Family Care . . . . .	(5,135,000)
01 Family Care (CRF) . . . . .	(128,000)
01 Community Nursing Care Initiative - FY2002 . . . . .	(1,604,000)
01 Community Services Waiting List Reduction Initiative - FY 2000 . . . . .	(36,259,000)
01 Community Services Waiting List Reduction Initiative - FY 2001 . . . . .	(33,044,000)
01 Community Services Waiting List Reduction Initiative - FY 2002 . . . . .	(27,068,000)
01 FY 2003 Planning Initiative . . . . .	(2,600,000)
01 Community Transition Initiative - FY 2001 . . . . .	(8,007,000)
01 Community Transition Initiative - FY 2002 . . . . .	(8,649,000)
02 Essex ARC - Expanded Respite Care for Families with Autistic Children . . . . .	(75,000)
02 Developmental Disabilities Council . . . . .	(1,170,000)
02 Autism Respite Care . . . . .	(1,000,000)
02 Home Assistance . . . . .	(37,697,000)
02 Home Assistance (CRF) . . . . .	(1,657,000)
02 Purchase of After School and Camp Services . . . . .	(1,339,000)
02 Purchase of After School and Camp Services (CRF) . . . . .	(551,000)
02 DDD Family Support Urban Outreach Project . . . . .	(199,000)
02 Social Services . . . . .	(4,048,000)
02 Case Management . . . . .	(471,000)
03 Purchase of Adult Activity Services . . . . .	(107,567,000)
03 Purchase of Adult Activity Services (CRF) . . . . .	(7,374,000)

**Less:**

**Federal Funds . . . . . 203,014,000**

**All Other Funds . . . . . 38,630,000**

The Division of Developmental Disabilities in the Department of Human Services is authorized to transfer funds from the Dental Program for Non-Institutionalized Children account to the Division of Medical Assistance and Health Services in the Department of Human Services, in proportion to the number of program participants who are Medicaid eligible.

Excess State funds realized by federal involvement through Medicaid in the Dental Program for Non-Institutionalized Children are committed for the program's support during the subsequent fiscal year, rather than for expansion.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts that become available as a result of the return of persons from private institutional care placements, including in-State and out-of-State placements, shall be available for transfer to community and community support programs, subject to the approval of the Director of the Division of Budget and Accounting.

Skill development homes cost recoveries during the fiscal year ending June 30, 2004, not to exceed \$12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The total amount appropriated in the Community Services Waiting List Reduction Initiatives - FY 2000, FY 2001 and FY 2002 and the Community Transition Initiative - FY 2001 and FY 2002 and the Community Nursing Care Initiative - FY 2002 accounts are available for transfer to community support programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of Title 30 of the Revised Statutes or any other law or regulation to the contrary, the Director of the Division of Developmental Disabilities is authorized to waive statutory, regulatory or licensing requirements for the implementation of a self-determination pilot program included in the Community Services Waiting List Reduction Initiatives - FY 1997, FY 1998, FY 1999, FY 2000, FY 2001 and FY 2002, subject to the approval of a plan by the Director of the Division of Developmental Disabilities, which will allow an individual to be removed from the waiting list. This waiver also applies to those persons identified as part of the Community Transition Initiative - FY 2001 and FY 2002 and the Community Nursing Care Initiative - FY 2002 who choose self-determination.

Cost recoveries from developmentally disabled patients and residents collected during the fiscal year ending June 30, 2004, not to exceed \$5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed \$20,000,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, the State Treasurer, in consultation with the Commissioner of Human Services, may transfer, pursuant to the terms and conditions the State Treasurer deems to be in the best interest of the State, the operation, care, custody, maintenance and control of State-owned buses utilized for transportation of clients of the Adult Activity Centers funded from appropriations in the Adult Activities program classification in the Division of Developmental Disabilities to any party under contract with the Department of Human Services to operate an Adult Activity Center. That transfer shall be for a time to run concurrent with the contract for the operation of the Adult Activity

Center. That transfer as a non-cash award, and in conjunction with a cash appropriation, shall complete the terms of any contract with the Department of Human Services for the operation of the Adult Activity Center. Upon termination of any contract for the operation of an Adult Activity Center, the operation, care, custody, maintenance and control of the State-owned buses shall revert to the State. The State Treasurer shall execute any agreements necessary to effectuate the purpose of this provision.

Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to State Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan to be submitted by the Commissioner of Human Services. Notwithstanding any other law to the contrary, only the federal share of funds anticipated from these assessments shall be available to the Department of Human Services for the purposes set forth in P.L.1998, c.40 (C.30:6D-43 et seq.).

From the amounts appropriated hereinabove for the Community Services Waiting List Reduction Initiative - FY2002 and the Community Transition Initiative - FY2002 accounts, such funds as are necessary may be transferred to various administrative accounts as required, subject to the approval of the Director of Budget and Accounting.

Notwithstanding any law to the contrary, expenditures of federal Community Care Waiver funds received for community-based programs in the Division of Developmental Disabilities are limited to \$184,282,000. Federal funding received above this level must be approved by the Director of the Division of Budget and Accounting in accordance with a plan submitted by the Department of Human Services.

In order to permit flexibility in the handling of appropriations and assure timely payment of provider services, funds may be transferred within the Grants-in-Aid accounts in the Division of Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from skill development homes during the fiscal year ending June 30, 2004, not to exceed \$12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from developmentally disabled patients and residents collected during the fiscal year ending June 30, 2004, not to exceed \$5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed \$20,000,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

**7610 Green Brook Regional Center****DIRECT STATE SERVICES**

05-7610 Residential Care and Habilitation Services . . . \$7,967,000  
     *(From General Fund . . . . . \$494,000)*  
     *(From Federal Funds . . . . . 7,473,000)*  
 99-7610 Administration and Support Services . . . . . 3,251,000  
     *(From General Fund . . . . . 898,000)*  
     *(From Federal Funds . . . . . 2,353,000)*  
 Total Appropriation, State and Federal Funds . . . . . \$11,218,000  
     *(From General Fund . . . . . \$1,392,000)*  
     *(From Federal Funds . . . . . 9,826,000)*

**Less:**

*Federal Funds . . . . . \$9,826,000*  
*Total Deductions . . . . . \$9,826,000*  
 Total Direct State Services Appropriation,  
     Green Brook Regional Center . . . . . \$1,392,000

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$9,826,000)  
 Materials and Supplies . . . . . (875,000)  
 Services Other Than Personal . . . . . (262,000)  
 Maintenance and Fixed Charges . . . . . (210,000)  
 Additions, Improvements and Equipment . . . (45,000)

**Less:**

*Federal Funds . . . . . 9,826,000*

**7620 Vineland Developmental Center****DIRECT STATE SERVICES**

05-7620 Residential Care and Habilitation Services . . . \$64,295,000  
     *(From General Fund . . . . . \$39,542,000)*  
     *(From Federal Funds . . . . . 24,753,000)*  
 99-7620 Administration and Support Services . . . . . 14,135,000  
     *(From General Fund . . . . . 12,197,000)*  
     *(From Federal Funds . . . . . 1,938,000)*  
 Total Appropriation, State and Federal Funds . . . . . \$78,430,000  
     *(From General Fund . . . . . \$51,739,000)*  
     *(From Federal Funds . . . . . 26,691,000)*

**Less:**

*Federal Funds . . . . . \$26,691,000*  
*Total Deductions . . . . . \$26,691,000*  
 Total Direct State Services Appropriation,  
     Vineland Developmental Center . . . . . \$51,739,000

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$71,193,000)  
 Materials and Supplies . . . . . (5,050,000)  
 Services Other Than Personal . . . . . (1,467,000)



Maintenance and Fixed Charges . . . . . (673,000)  
 Special Purpose:  
     05 Family Care . . . . . (6,000)  
 Additions, Improvements and Equipment . . . . (41,000)  
**Less:**  
**Federal Funds . . . . . 26,691,000**

**7630 North Jersey Developmental Center**

**DIRECT STATE SERVICES**

05-7630 Residential Care and Habilitation Services . . . . \$36,932,000  
     (*From General Fund . . . . . \$16,250,000*)  
     (*From Federal Funds . . . . . 20,682,000*)  
 99-7630 Administration and Support Services . . . . . 9,400,000  
     (*From General Fund . . . . . 7,526,000*)  
     (*From Federal Funds . . . . . 1,874,000*)  
 Total Appropriation, State and Federal Funds . . . . . \$46,332,000  
     (*From General Fund . . . . . \$23,776,000*)  
     (*From Federal Funds . . . . . 22,556,000*)  
**Less:**  
**Federal Funds . . . . . \$22,556,000**  
**Total Deductions . . . . . \$22,556,000**  
 Total Direct State Services Appropriation,  
     North Jersey Developmental Center . . . . . \$23,776,000

**Direct State Services:**

Personal Services:  
     Salaries and Wages . . . . . (\$40,174,000)  
 Materials and Supplies . . . . . (3,069,000)  
 Services Other Than Personal . . . . . (2,058,000)  
 Maintenance and Fixed Charges . . . . . (587,000)  
 Additions, Improvements and Equipment . . . (444,000)  
**Less:**  
**Federal Funds . . . . . 22,556,000**

**7640 Woodbine Developmental Center**

**DIRECT STATE SERVICES**

05-7640 Residential Care and Habilitation Services . . . . \$48,115,000  
     (*From General Fund . . . . . \$26,171,000*)  
     (*From Federal Funds . . . . . 21,944,000*)  
 99-7640 Administration and Support Services . . . . . 12,549,000  
     (*From General Fund . . . . . 9,054,000*)  
     (*From Federal Funds . . . . . 3,495,000*)  
 Total Appropriation, State and Federal Funds . . . . . \$60,664,000  
     (*From General Fund . . . . . \$35,225,000*)  
     (*From Federal Funds . . . . . 25,439,000*)  
**Less:**  
**Federal Funds . . . . . \$25,439,000**

<b>Total Deductions</b> .....	<b><u>\$25,439,000</u></b>
Total Direct State Services Appropriation, Woodbine Developmental Center .....	<b><u>\$35,225,000</u></b>
<b>Direct State Services:</b>	
Personal Services:	
Salaries and Wages .....	(\$53,625,000)
Materials and Supplies .....	(4,391,000)
Services Other Than Personal .....	(1,415,000)
Maintenance and Fixed Charges .....	(576,000)
Additions, Improvements and Equipment ..	(657,000)
<b>Less:</b>	
<b>Federal Funds</b> .....	<b>25,439,000</b>

**7650 New Lisbon Developmental Center**

**DIRECT STATE SERVICES**

05-7650 Residential Care and Habilitation Services .....	\$60,073,000
(From General Fund .....	<b>\$29,469,000</b> )
(From Federal Funds .....	<b>30,604,000</b> )
99-7650 Administration and Support Services .....	<u>9,764,000</u>
(From General Fund .....	<b>5,862,000</b> )
(From Federal Funds .....	<b>3,902,000</b> )
Total Appropriation, State and Federal Funds .....	<b><u>\$69,837,000</u></b>
(From General Fund .....	<b>\$35,331,000</b> )
(From Federal Funds .....	<b>34,506,000</b> )

**Less:**

<b>Federal Funds</b> .....	<b>\$34,506,000</b>
<b>Total Deductions</b> .....	<b><u>\$34,506,000</u></b>
Total Direct State Services Appropriation, New Lisbon Developmental Center .....	<b><u>\$35,331,000</u></b>

**Direct State Services:**

Personal Services:	
Salaries and Wages .....	(\$64,662,000)
Materials and Supplies .....	(3,436,000)
Services Other Than Personal .....	(1,125,000)
Maintenance and Fixed Charges .....	(533,000)
Additions, Improvements and Equipment ...	(81,000)

**Less:**

<b>Federal Funds</b> .....	<b>34,506,000</b>
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**7660 Woodbridge Developmental Center**

**DIRECT STATE SERVICES**

05-7660 Residential Care and Habilitation Services .....	\$49,752,000
(From General Fund .....	<b>\$24,128,000</b> )
(From Federal Funds .....	<b>25,569,000</b> )
(From All Other Funds .....	<b>55,000</b> )
99-7660 Administration and Support Services .....	<u>8,041,000</u>

(From General Fund ..... 6,614,000)  
 (From Federal Funds ..... 1,427,000)  
 Total Appropriation, State, Federal  
 and All Other Funds ..... \$57,793,000  
 (From General Fund ..... \$30,742,000)  
 (From Federal Funds ..... 26,996,000)  
 (From All Other Funds ..... 55,000)  
**Less:**  
 Federal Funds ..... \$26,996,000  
 All Other Funds ..... 55,000  
 Total Deductions ..... \$27,051,000  
 Total Direct State Services Appropriation,  
 Woodbridge Developmental Center ..... \$30,742,000  
**Direct State Services:**  
 Personal Services:  
     Salaries and Wages ..... (\$52,311,000)  
     Materials and Supplies ..... (3,746,000)  
     Services Other Than Personal ..... (1,049,000)  
     Maintenance and Fixed Charges ..... (468,000)  
     Additions, Improvements and Equipment ... (219,000)  
**Less:**  
 Federal Funds ..... 26,996,000  
 All Other Funds ..... 55,000

#### 7670 Hunterdon Developmental Center

##### DIRECT STATE SERVICES

05-7670 Residential Care and Habilitation Services ..... \$49,890,000  
 (From General Fund ..... \$24,036,000)  
 (From Federal Funds ..... 25,829,000)  
 (From All Other Funds ..... 25,000)  
 99-7670 Administration and Support Services ..... 11,907,000  
 (From General Fund ..... 8,516,000)  
 (From Federal Funds ..... 3,391,000)  
 Total Appropriation, State, Federal  
 and All Other Funds ..... \$61,797,000  
 (From General Fund ..... \$32,552,000)  
 (From Federal Funds ..... 29,220,000)  
 (From All Other Funds ..... 25,000)  
**Less:**  
 Federal Funds ..... \$29,220,000  
 All Other Funds ..... 25,000  
 Total Deductions ..... \$29,245,000  
 Total Direct State Services Appropriation,  
 Hunterdon Developmental Center ..... \$32,552,000  
**Direct State Services:**  
 Personal Services:

Salaries and Wages .....	(\$54,311,000)
Materials and Supplies .....	(5,618,000)
Services Other Than Personal .....	(1,089,000)
Maintenance and Fixed Charges .....	(567,000)
Additions, Improvements and Equipment ..	(212,000)
<b>Less:</b>	
<b>Federal Funds .....</b>	<b>29,220,000</b>
<b>All Other Funds .....</b>	<b>25,000</b>

### ***Division of Developmental Disabilities***

In addition to the amount hereinabove for Operation and Support of Educational Institutions of the Division of Developmental Disabilities in the Department of Human Services, such other sums as the Director of the Division of Budget and Accounting shall determine, provided in Inter-Departmental accounts for employee benefits, are considered as appropriated on behalf of the Developmental Centers and are available for matching federal funds.

The State appropriation is based on ICF/MR revenues of \$210,984,000, provided that if the ICF/MR revenues exceed \$210,984,000, there will be placed in reserve a portion of the State appropriation equal to the excess amount of ICF/MR revenues, subject to the approval of the Director of the Division of Budget and Accounting.

### ***33 Supplemental Education and Training Programs*** ***7560 Commission for the Blind and Visually Impaired*** **DIRECT STATE SERVICES**

11-7560 Services for the Blind and Visually Impaired .....	\$6,985,000
99-7560 Administration and Support Services .....	<u>1,350,000</u>
Total Direct State Services Appropriation, Commission for the Blind and Visually Impaired .....	<u>\$8,335,000</u>

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages .....	(\$6,788,000)
Materials and Supplies .....	(123,000)
Services Other Than Personal .....	(476,000)
Maintenance and Fixed Charges .....	(80,000)

##### **Special Purpose:**

11 Technology for the Visually Impaired .....	(848,000)
Additions, Improvements and Equipment .....	(20,000)

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other law to the contrary, local boards of education shall reimburse the Commission for the Blind and Visually Impaired for the documented costs of providing services to children who are classified as "educationally handicapped," provided however, that each local board of education shall pay that portion of cost which the number of children classified "educationally handicapped" bears to the total number of such children served, provided

further, however, that payments shall be made by each local board of education in accordance with a schedule adopted by the Commissioners of Education and Human Services, and further the Director of the Division of Budget and Accounting is authorized to deduct such reimbursements from the State aid payments to the local boards of education.

The unexpended balances as of June 30, 2003 in the Technology for the Visually Impaired account are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from funds recovered from audits or other collection activities, an amount sufficient to pay vendors' fees to compensate the recoveries and the administration of the State's vending machine program, subject to the approval of the Director of the Division of Budget and Accounting. Receipts in excess of \$130,000 are appropriated for the purpose of expanding vision screening services and other prevention services, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of such receipts as of June 30, 2003 are appropriated.

In addition to the amount hereinabove appropriated, the amount of \$300,000 is transferred from the Governor's Literacy Initiative to the Commission for the Blind and Visually Impaired for increased Braille lessons for blind children, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

11-7560 Services for the Blind and Visually Impaired . . . . \$4,178,000  
 Total Grants-in-Aid Appropriation, Commission  
 for the Blind and Visually Impaired . . . . . \$4,178,000

#### **Grants-in-Aid:**

11 Camp Marcella . . . . . (\$52,000)  
 11 Psychological Counseling . . . . . (154,000)  
 11 Recording for the Blind, Inc. . . . . (52,000)  
 11 Educational Services for Children . . . . (2,167,000)  
 11 Services to Rehabilitation Clients . . . . (1,753,000)

#### **50 Economic Planning, Development and Security**

##### **53 Economic Assistance and Security**

##### **7550 Division of Family Development**

#### **DIRECT STATE SERVICES**

15-7550 Income Maintenance Management . . . . . \$90,601,000  
*(From General Fund . . . . . \$25,502,000)*  
*(From Federal Funds . . . . . 65,099,000)*  
 Total Appropriation, State and Federal Funds . . . . . \$90,601,000  
*(From General Fund . . . . . \$25,502,000)*  
*(From Federal Funds . . . . . 65,099,000)*

#### **Less:**

**Federal Funds** . . . . . \$65,099,000  
**Total Deductions** . . . . . \$65,099,000  
 Total Direct State Services Appropriation,  
 Division of Family Development . . . . . \$25,502,000

**Direct State Services:****Personal Services:**

Salaries and Wages ..... (\$27,146,000)  
 Materials and Supplies ..... (779,000)  
 Services Other Than Personal ..... (20,201,000)  
 Maintenance and Fixed Charges ..... (1,490,000)

**Special Purpose:**

15 Electronic Benefit Transfer/  
 Distribution System ..... (3,173,000)  
 15 Child Support Medical Notice ... (4,921,000)  
 15 Hospital Paternity Program ..... (1,453,000)  
 15 Work First New Jersey Child  
 Support Initiatives ..... (10,032,000)  
 15 Work First New Jersey -  
 Technology Investment ..... (20,162,000)  
 15 SSI Attorney Fees ..... (1,000,000)

Additions, Improvements and Equipment .. (244,000)

**Less:**

**Federal Funds ..... 65,099,000**

Receipts derived from counties and local governments for data processing services and the unexpended balance of such receipts as of June 30, 2003 are appropriated.

The unexpended balances as of June 30, 2003 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L. 104-193 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

In addition to the amount appropriated hereinabove for the Work First New Jersey - Technology Investment account, such additional sums as may be required are appropriated from the General Fund, not to exceed \$3,000,000, to meet the timely implementation of Work First New Jersey technology initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

15-7550 Income Maintenance Management ..... \$625,253,000  
 (From General Fund ..... \$261,498,000)  
 (From Federal Funds ..... 363,755,000)  
 Total Appropriation, State and Federal Funds ..... \$625,253,000  
 (From General Fund ..... \$261,498,000)  
 (From Federal Funds ..... 363,755,000)

**Less:**

**Federal Funds ..... \$363,755,000**

<b>Total Deductions</b> .....	<b><u>\$363,755,000</u></b>
Total Grants-in-Aid Appropriation, Division of Family Development .....	<b><u>\$261,498,000</u></b>
<b>Grants-in-Aid:</b>	
15 DFD Homeless Prevention Initiative . (\$4,000,000)	
15 Restricted Grants .....	(375,000)
15 Work First New Jersey - Training Related Expenses .....	(17,905,000)
15 Work First New Jersey - Work Activities .....	(121,541,000)
15 Work First New Jersey - Community Housing for Teens .....	(200,000)
15 Work First New Jersey - Breaking the Cycle .....	(19,384,000)
15 Work First New Jersey - Child Care .....	(264,864,000)
15 Child Care Evaluation .....	(630,000)
15 TANF Abbott Expansion .....	(114,500,000)
15 Kinship Care Initiatives .....	(6,250,000)
15 Housing Diversion/Subsidy Program ..	(4,500,000)
15 Criminal Background Evaluations ..	(1,000,000)
15 Domestic Violence Prevention Training and Assessment .....	(450,000)
15 Pre-Early Childhood Education .....	(3,700,000)
15 Mental Health Assessments .....	(4,000,000)
15 Career Advancement Vouchers .....	(5,000,000)
15 Wage Supplement Program .....	(3,600,000)
15 Kinship Care Guardianship and Subsidy .....	(15,733,000)
15 Pharmaceuticals for Working GA Clients .....	(1,300,000)
15 Minority Male Initiative .....	(200,000)
15 Social Services for the Homeless ....	(10,947,000)
15 Substance Abuse Initiatives .....	(25,174,000)

**Less:**

**Federal Funds** ..... **363,755,000**

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances as of June 30, 2003 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, in addition to the amounts hereinabove for the Work First New Jersey - Work Activity and Work First New Jersey - Training Related Expenses accounts, an amount not to exceed \$25,500,000 is appropriated from the Workforce Development Partnership Fund established pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, of the amounts hereinabove for Work First New Jersey -Work Activity and Work First New Jersey - Training Related Expenses, \$35,000,000 is appropriated from the Workforce Development Partnership Fund established pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts appropriated for Work First New Jersey, amounts may be transferred to the various departments in accordance with Division of Family Development's agreements, subject to the approval of the Director of the Division of Budget and Accounting. Any unobligated balances remaining from funds transferred to the departments shall be transferred back to the Division of Family Development in the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, amounts may be transferred from the Division of Family Development to the Department of Labor to meet federal Welfare to Work grant requirements, subject to the approval of the Director of the Division of Budget and Accounting.

The Commissioner of Human Services shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations and Assembly Appropriations Committees, or the successor committees thereto, with quarterly reports, due within 60 days after the end of each quarter, containing written statistical and financial information on the Work First New Jersey program and any subsequent welfare reform program the State may undertake.

#### STATE AID

15-7550 Income Maintenance Management .....	<u>\$697,246,000</u>
(From General Fund .....	<u>\$204,753,000</u> )
(From Federal Funds .....	<u>486,381,000</u> )
(From All Other Funds .....	<u>6,112,000</u> )
Total Appropriation, State and Federal Funds .....	<u>\$697,246,000</u>
(From General Fund .....	<u>\$204,753,000</u> )
(From Federal Funds .....	<u>486,381,000</u> )
(From All Other Funds .....	<u>6,112,000</u> )
<b>Less:</b>	
<b>Federal Funds .....</b>	<b>\$486,381,000</b>
<b>All Other Funds .....</b>	<b>6,112,000</b>
<b>Total Deductions .....</b>	<b><u>\$492,493,000</u></b>
<b>Total State Aid Appropriation, Division of</b>	
<b>Family Development .....</b>	<b><u>\$204,753,000</u></b>



**State Aid:**

15 Miscellaneous State Aid . . . . .	(\$4,276,000)
15 County Administration Funding . . .	(196,689,000)
15 Work First New Jersey -	
Client Benefits . . . . .	(119,009,000)
15 Earned Income Tax Credit Program .	(86,000,000)
15 Federal Energy Assistance Program .	(35,544,000)
15 General Assistance Emergency	
Assistance Program . . . . .	(43,791,000)
15 Payments for Cost of General	
Assistance . . . . .	(53,033,000)
15 Work First New Jersey - Emergency	
Assistance . . . . .	(46,658,000)
15 Payments for Supplemental Security	
Income . . . . .	(68,554,000)
15 State Supplemental Security Income	
Administrative Fee to SSA . . . . .	(15,787,000)
15 General Assistance County	
Administration . . . . .	(16,105,000)
15 Food Stamp Administration - State . .	(8,600,000)
15 Food Stamps for Legal Aliens . . . .	(3,000,000)
15 Fair Labor Standards Act-Minimum	
Wage Requirements (TANF) . . . . .	(200,000)

**Less:**

**Federal Funds . . . . . 486,381,000**

**All Other Funds . . . . . 6,112,000**

The net State share of reimbursements and the net balances remaining after full payment of sums due the federal government of all funds recovered under R.S.44:7-14, P.L.1959, c.86 (C.44:10-1 et seq.), P.L.1950, c.166 (C.30:4B-1 et seq.) and P.L.1971, c.209 (C.44:13-1 et seq.), during the fiscal year ending June 30, 2003, are appropriated.

Receipts from State administered municipalities during the fiscal year ending June 30, 2003 are appropriated.

The sum hereinabove appropriated is available for payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the standards upon which or from which grants of categorical public assistance are determined, first shall be approved by the Director of the Division of Budget and Accounting.

In order to permit flexibility and ensure the timely payment of benefits to welfare recipients, amounts may be transferred between the various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding any law to the contrary, the Director of the Division of Budget and Accounting is authorized to withhold State Aid payments to municipalities to

- satisfy any obligations due and owing from audits of that municipality's General Assistance program.
- The unexpended balances as of June 30, 2003 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 and in the Payments for the Cost of General Assistance and General Assistance Emergency Assistance accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts from counties for persons receiving Old Age Assistance, Disability Assistance and Assistance for the Blind under the Supplemental Security Income (SSI) program are appropriated for the purpose of providing State aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.
- In addition to the provisions of section 3 of P.L.1973, c.256 (C.44:7-87), the Department of Human Services shall assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the federal categorical assistance programs in order to obtain the amount of each county's share of the supplementary payments for eligible persons in this State, based upon the number of eligible persons in the county. Welfare boards shall pay the amount assessed.
- There is appropriated an amount equal to the difference between actual revenue loss reflected in the Earned Income Tax Credit program and the amount anticipated as the revenue loss from the Earned Income Tax Credit to meet federal Maintenance of Effort requirements to allow the Department of Human Services to comply with the Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting.
- Additional funds as may be allocated by the federal government for New Jersey's Low Income Energy Assistance Block Grant Program (LIHEAP) are appropriated subject to the approval of the Director of the Division of Budget and Accounting. A pro-rata share of Low Income Energy Assistance Block Grant funds received by the Department of Human Services is to be allocated immediately upon receipt to the Departments of Community Affairs and Health and Senior Services to enable these departments to implement programs funded by this block grant.

***50 Economic Planning, Development and Security***

***55 Social Services Programs***

***7570 Division of Youth and Family Services***

**DIRECT STATE SERVICES**

16-7570 Services to Children and Families .....	\$220,672,000
(From General Fund .....	\$89,579,000)
(From Federal Funds .....	129,113,000)

*(From All Other Funds . . . . . 1,980,000)*  
 99-7570 Administration and Support Services . . . . . 19,125,000  
*(From General Fund . . . . . 8,695,000)*  
*(From Federal Funds . . . . . 10,430,000)*  
 Total Appropriation, State, Federal  
     and All Other Funds . . . . . \$239,797,000  
*(From General Fund . . . . . \$98,274,000)*  
*(From Federal Funds . . . . . 139,543,000)*  
*(From All Other Funds . . . . . 1,980,000)*

**Less:**

*Federal Funds . . . . . \$139,543,000*  
*All Other Funds . . . . . 1,980,000*  
*Total Deductions . . . . . \$141,523,000*  
 Total Direct State Services Appropriation,  
     Division of Youth and Family Services . . . . . \$98,274,000

**Direct State Services:**

## Personal Services:

    Salaries and Wages . . . . . (\$184,265,000)  
     Materials and Supplies . . . . . (2,142,000)  
     Services Other Than Personal . . . . . (8,774,000)  
     Maintenance and Fixed Charges . . . . . (10,232,000)

## Special Purpose:

    16 Services to Children  
         and Families . . . . . (4,189,000)  
     16 New Jersey Safe Haven Infant  
         Protection Act . . . . . (500,000)  
     16 DYFS Reform Initiative . . . . . (24,812,000)  
     Additions, Improvements and Equipment . . (4,883,000)

**Less:**

*Federal Funds . . . . . 139,543,000*  
*All Other Funds . . . . . 1,980,000*

Of the amount appropriated hereinabove for the DYFS Reform Initiative, \$300,000 shall be allocated to the Court Appointed Special Advocate Program.

Notwithstanding any other law to the contrary, amounts may be transferred from the DYFS Reform Initiative account to the Family Support Services, Child Abuse Prevention, Foster Care, Subsidized Adoption, and Residential Placements and Other Residential Placements grant-in-aid accounts, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated hereinabove for the Services to Children and Families special purpose account, \$800,000 is transferred to the UMDNJ - School of Osteopathic Medicine Academic Center - Stratford, for the Center for Children's Support to support the development of a model comprehensive diagnostic and treatment program to address both the medical and mental health needs of children experiencing abuse. The model program will demonstrate mental health treatment services that utilize measurable evidence-based outcomes with known effectiveness. This comprehensive model will be

designated to be replicable Statewide to directly benefit children and families throughout New Jersey.

#### GRANTS-IN-AID

16-7570 Services to Children and Families .....	\$292,005,000
<i>(From General Fund .....</i>	<i>\$237,887,000)</i>
<i>(From Federal Funds .....</i>	<i>50,864,000)</i>
<i>(From All Other Funds .....</i>	<i>3,254,000)</i>
99-7570 Administration and Support Services .....	<u>855,000</u>
<i>(From Federal Funds .....</i>	<i>855,000)</i>
Total Appropriation, State, Federal	
and All Other Funds .....	<u>\$292,860,000</u>
<i>(From General Fund .....</i>	<i>\$237,887,000)</i>
<i>(From Federal Funds .....</i>	<i>51,719,000)</i>
<i>(From All Other Funds .....</i>	<i>3,254,000)</i>
<b>Less:</b>	
<i>Federal Funds .....</i>	<i>\$51,719,000</i>
<i>All Other Funds .....</i>	<i>3,254,000</i>
<i>Total Deductions .....</i>	<i><u>\$54,973,000</u></i>
Total Grants-in-Aid Appropriation, Division of	
Youth and Family Services .....	<u>\$237,887,000</u>
<b>Grants-in-Aid:</b>	
16 Rutgers MSW Program .....	(\$950,000)
16 Group Homes .....	(12,701,000)
16 Treatment Homes .....	(2,530,000)
16 Public Awareness for Child Abuse	
Prevention Program .....	(277,000)
16 Other Residential Placements .....	(19,958,000)
16 Residential Placements .....	(10,436,000)
16 Family Support Services .....	(50,391,000)
16 Child Abuse Prevention .....	(11,278,000)
16 Foster Care .....	(62,535,000)
16 Subsidized Adoption .....	(58,205,000)
16 Recruitment of Adoptive Parents .....	(654,000)
16 Domestic Violence Program .....	(4,707,000)
16 Foster Care and Permanency	
Initiative .....	(7,777,000)
16 Amanda's Easel Art Therapy Project ...	(125,000)
16 Office of Refugee Resettlement --	
Social Services .....	(3,306,000)
16 Cuban-Haitian Community Outreach	
Program .....	(700,000)
16 County Human Services Advisory	
Board -Formula Funding .....	(7,833,000)
16 Children and Families Initiative .....	(1,304,000)
16 New Jersey Homeless Youth Act .....	(1,485,000)

16 Wynona M. Lipman Child Advocacy Center, Essex County .....	(973,000)
16 Purchase of Social Services .....	(24,221,000)
16 Adoption Assistance Incentives .....	(461,000)
16 Restricted Grant .....	(9,198,000)
99 Children's Justice Act .....	(245,000)
99 National Center for Child Abuse and Neglect .....	(610,000)

**Less:****Federal Funds .....** 51,719,000**All Other Funds .....** 3,254,000

The sums hereinabove for the Residential Placements, Group Homes, Treatment Homes, Other Residential Placements, Foster Care, Subsidized Adoption, and Family Support Services accounts are available for the payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the rates paid for the foster care and adoption subsidy programs shall first be approved by the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Foster Care and Subsidized Adoption, the Division of Youth and Family Services in the Department of Human Services may expend up to \$225,000 for recruitment of foster and adoptive families, provided however, that a plan for recruitment and training first shall be approved by the Director of the Division of Budget and Accounting.

Receipts in the Marriage License Fee Fund in excess of the amount anticipated are appropriated.

Of the amount hereinabove appropriated for the Domestic Violence Program, \$1,309,000 is payable out of the Marriage License Fee Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced by the amount of the shortfall.

The Department of Human Services shall provide a list of the County Human Services Advisory Boards contracts to the Director of the Division of Budget and Accounting on or before September 30, 2003. The listing shall segregate out the administrative costs of such contracts.

Funds recovered under P.L.1951, c.138 (C.30:4C-1 et seq.) during the fiscal year ending June 30, 2004, are appropriated.

Notwithstanding the provision of any law to the contrary, amounts that become available as a result of the return of persons from in-State and out-of-State residential placements to community programs within the State may be transferred from the Residential Placements account to the appropriate Services to Children and Families account, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons under the care and supervision of the Division of Youth and Family Services are appropriated for the purpose of providing State Aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

**50 Economic Planning, Development and Security****55 Social Services Programs****7580 Division of the Deaf and Hard of Hearing****DIRECT STATE SERVICES**

23-7580	Services for the Deaf . . . . .	<u>\$714,000</u>
	Total Direct State Services Appropriation, Division of the Deaf and Hard of Hearing . . . . .	<u>\$714,000</u>

**Direct State Services:****Personal Services:**

	Salaries and Wages . . . . .	(\$288,000)
	Materials and Supplies . . . . .	(41,000)
	Services Other Than Personal . . . . .	(39,000)
	Maintenance and Fixed Charges . . . . .	(1,000)

**Special Purpose:**

23	Services to Deaf Clients . . . . .	(290,000)
23	Communication Access Services . . . . .	(55,000)

**70 Government Direction, Management and Control****76 Management and Administration****7500 Division of Management and Budget****DIRECT STATE SERVICES**

96-7500	Institutional Security Services . . . . .	\$5,211,000
99-7500	Administration and Support Services . . . . .	<u>25,111,000</u>
	Total Direct State Services Appropriation, Division of Management and Budget . . . . .	<u>\$30,322,000</u>

**Direct State Services:****Personal Services:**

	Salaries and Wages . . . . .	(\$18,438,000)
	Materials and Supplies . . . . .	(258,000)
	Services Other Than Personal . . . . .	(6,982,000)
	Maintenance and Fixed Charges . . . . .	(172,000)

**Special Purpose:**

99	Clinical Services Scholarships . . . . .	(150,000)
99	Affirmative Action and Equal Employment Opportunity . . . . .	(255,000)
99	Transfer to State Police for Finger- printing/Background Checks of Job Applicants . . . . .	(560,000)
99	Institutional Staff Background Checks . . . . .	(407,000)

Additions, Improvements and Equipment . (3,100,000)

Notwithstanding the provision of any law to the contrary, the Department of Human Services is authorized to identify opportunities for increased recoveries to the General Fund and to the department. Such funds collected are appropriated, subject to the approval of the Director of the Division of Budget and Account-

ing in accordance with a plan approved by the Director of the Division of Budget and Accounting.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for these purposes, except that the total amount herein for these allowances shall not exceed \$1,375,000 and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Upon promulgation of federal regulations modifying the Medicare inpatient hospital reimbursement system, there are appropriated such additional sums as are required to fund the purchase of a Health Care Billing System, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

99-7500 Administration and Support Services . . . . . \$17,708,000  
 Total Grants-in-Aid Appropriation, Division of  
 Management and Budget . . . . . \$17,708,000

#### ***Grants-in-Aid:***

99 Office for Prevention of Mental  
 Retardation and Developmental  
 Disabilities . . . . . (\$690,000)  
 99 New Jersey Youth Corps . . . . . (3,048,000)  
 99 Social Services Emergency Grants . . . (3,970,000)  
 99 Family Friendly Centers . . . . . (2,000,000)  
 99 School Based Youth  
 Services Program . . . . . (8,000,000)

Notwithstanding any law to the contrary, of the amount hereinabove for New Jersey Youth Corps, \$1,850,000 is appropriated from the Workforce Development Partnership Fund established pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9).

Of the amounts appropriated for the School Based Youth Services Program, there shall be available \$400,000 for the After School Reading Initiative, \$200,000 for the After School Start-Up Fund, \$400,000 for School Health Clinics and \$530,000 for Positive Youth Development.

#### **CAPITAL CONSTRUCTION**

99-7500 Administration and Support Services . . . . . \$5,600,000  
 Total Capital Construction Appropriation,  
 Division of Management and Budget . . . . . \$5,600,000

#### ***Capital Projects:***

99 Statewide Automated Child Welfare  
 Information System . . . . . (\$5,600,000)

Department of Human Services,  
 Total State Appropriation . . . . . \$4,303,558,000

- Of the amount appropriated hereinabove for the Department of Human Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated February 4, 2003, first shall be charged to the State Lottery Fund.
- Balances on hand as of June 30, 2003 of funds held for the benefit of patients in the several institutions, and such funds as may be received, are appropriated for the use of the patients.
- Funds received from the sale of articles made in occupational therapy departments of the several institutions are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.
- Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Human Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.
- Notwithstanding any other provision of law to the contrary, receipts from payments collected from clients receiving services from the department, and collected from their chargeable relatives, are appropriated to offset administrative and contract expenses related to the charging, collecting and accounting of payments from clients receiving services from this department and from their chargeable relatives pursuant to R.S.30:1-12, subject to the approval of the Director of the Division of Budget and Accounting.
- Payment to vendors for their efforts in maximizing federal revenues is appropriated and shall be paid from the federal revenues received, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance as of June 30, 2003 in this account is appropriated.
- Unexpended State balances may be transferred among Department of Human Services accounts in order to comply with the State Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting. Notice of such transfers that would result in appropriations or expenditures exceeding the State's Maintenance of Effort requirement obligation shall be subject to the approval of the Joint Budget Oversight Committee. In addition, unobligated balances remaining from funds allocated to the Department of Labor for Work First New Jersey as of June 1 of each year are to be reverted to the Work First New Jersey - Client Benefits account in order to comply with the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, as required by section 4 of P.L.1997, c.38 (C.44:10-58).
- Of the amounts hereinabove appropriated for the Children's Initiative, the Department of Human Services may transfer appropriations for children's services and related administration within and across all divisions within the Department of Human Services based on a plan approved by the Director of the Division of Budget and Accounting.



**Summary of Department of Human Services Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services .....	\$677,285,000
Grants-in-Aid .....	3,322,410,000
State Aid .....	298,263,000
Capital .....	5,600,000

*Appropriations by Fund:*

General Fund .....	\$4,184,821,000
Casino Revenue Fund .....	118,737,000

**62 DEPARTMENT OF LABOR**

**50 Economic Planning, Development and Security**

**51 Economic Planning and Development**

**DIRECT STATE SERVICES**

99-4565 Administration and Support Services .....	<u>\$950,000</u>
Total Direct State Services Appropriation, Economic Planning and Development .....	<u>\$950,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$580,000)
Materials and Supplies .....	(12,000)
Services Other Than Personal .....	(265,000)
Maintenance and Fixed Charges .....	(28,000)

Special Purpose:

99 Affirmative Action and Equal Employment Opportunity .....	(62,000)
Additions, Improvements and Equipment .....	(3,000)

Of the amount hereinabove for the Administration and Support Services program classification, \$265,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

In addition to the amount hereinabove for Administration and Support Services, an amount not to exceed \$550,000 is appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove for Administration and Support Services, there are appropriated from the New Jersey Redevelopment Investment Fund and the Economic Development Fund an amount of \$142,000 to provide for administrative costs incurred by the Department of Labor for activities related to the New Jersey Redevelopment Authority and the New Jersey Economic Development Authority programs, as determined by the Director of the Division of Budget and Accounting.

Of the amounts hereinabove for Administration and Support Services, \$31,000 are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove there are appropriated from the State Disability Benefits Fund such additional sums as may be required to administer Administration and

Support Services, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Department of Labor to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide employer rebate awards as a result of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), are appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), the Department of Labor, based upon the authorization of the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission, shall make employer rebate awards.

Such sums as may be necessary to collect the contributions to the Health Care Subsidy Fund, pursuant to section 29 of the "Health Care Reform Act of 1992," P.L.1992, c.160 (C.43:21-7b), are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

### ***53 Economic Assistance and Security***

#### **DIRECT STATE SERVICES**

03-4520 State Disability Insurance Plan .....	\$21,128,000
04-4520 Private Disability Insurance Plan .....	4,047,000
05-4525 Workers' Compensation .....	11,938,000
06-4530 Special Compensation .....	<u>1,660,000</u>
Total Direct State Services Appropriation, Economic Assistance and Security .....	<u>\$38,773,000</u>

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages .....	(\$23,841,000)
Materials and Supplies .....	(269,000)
Services Other Than Personal .....	(5,209,000)
Maintenance and Fixed Charges .....	(3,073,000)

##### **Special Purpose:**

03 Reimbursement to Unemployment Insurance for Joint Tax Functions ..	(5,500,000)
06 Special Compensation .....	(70,000)
Additions, Improvements and Equipment ..	(811,000)

The amounts hereinabove for the State Disability Insurance Plan and Private Disability Insurance Plan are payable out of the State Disability Benefits Fund and, in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to pay

disability benefits, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for administrative costs associated with the State Disability Insurance Plan there is appropriated from the State Disability Benefits Fund an amount not to exceed \$6,350,000, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workers' Compensation program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Special Compensation Fund are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Special Compensation Fund shall be payable out of the Special Compensation Fund and, notwithstanding the \$12,500 limitation set forth in R.S.34:15-95, in addition to the amounts hereinabove, there are appropriated out of the Special Compensation Fund such additional sums as may be required for costs of administration and beneficiary payments.

There is appropriated out of the balance in the Second Injury Fund an amount not to exceed \$1,000,000 to be deposited to the credit of the "Uninsured Employer's Fund" for the payment of benefits as determined in accordance with section 11 of P.L.1966, c.126 (C.34:15-120.2). Any amount so transferred shall be included in the next "Uninsured Employer's Fund" surcharge imposed in accordance with section 10 of P.L.1966 c.126 (C.34:15-120.1) and any amount so transferred shall be returned to the Second Injury Fund without interest and shall be included in "net assets" of the Second Injury Fund pursuant to paragraph (4) of subsection c. of R.S.34:15-94.

The funds appropriated for Second Injury Fund benefits are available for the payment of obligations applicable to prior fiscal years.

Amounts to administer the "Uninsured Employer's Fund" are appropriated from the "Uninsured Employer's Fund," subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer the Private Disability Insurance Plan.

From the funds made available to the State under section 903 (d) (4) of the Social Security Act (42 U.S.C. s.1103 et seq.), as amended, the sum of \$30,000,000, or so much thereof as may be necessary, is to be used for the improvement of services to unemployment insurance claimants through the improvement and modernization of the benefit payment system and other technology improvements and to employment service clients through the continued development of one-stop offices throughout the State and other investments in technology and processes that will enhance job opportunities for clients.

#### ***54 Manpower and Employment Services***

##### **DIRECT STATE SERVICES**

07-4535 Vocational Rehabilitation Services . . . . . \$2,367,000

09-4545 Employment Services .....	8,989,000
10-4545 Employment and Training Services .....	92,000
12-4550 Workplace Standards .....	5,248,000
16-4556 Public Sector Labor Relations .....	3,123,000
17-4560 Private Sector Labor Relations .....	<u>476,000</u>
Total Direct State Services Appropriation, Manpower and Employment Services .....	<u>\$20,295,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$15,402,000)
Materials and Supplies .....	(67,000)
Services Other Than Personal .....	(242,000)
Maintenance and Fixed Charges .....	(93,000)

## Special Purpose:

09 Workforce Development Partnership Program .....	(1,087,000)
09 Workforce Development Partnership - Counselors .....	(81,000)
09 Workforce Literacy and Basic Skills Program .....	(2,000,000)
10 Council on Gender Parity .....	(92,000)
12 Worker and Community Right- to-Know Act .....	(42,000)
12 Public Employees Occupational Safety .....	(420,000)
12 Public Works Contractor Registration Act .....	(500,000)
12 Mine Safety Program Expansion ..	(160,000)
12 Safety Commission .....	(3,000)

Additions, Improvements and Equipment .. (106,000)

Notwithstanding the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative.

The amount hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

The amount hereinabove for the Vocational Rehabilitation Services program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

The amounts hereinabove for the Workforce Development Partnership Program shall be appropriated from receipts received pursuant to P.L.1992, c.44 (C.34:15D-12 et seq.), together with such additional sums as may be required to administer the Workforce Development Partnership Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), such

amounts as may be necessary are appropriated from the Workforce Development Partnership Fund to provide a State match to the federal Welfare-to-Work Grant program, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove for the Workforce Literacy and Basic Skills Program shall be appropriated from receipts received pursuant to P.L.2001, c.152 (C.34:15D-21 et seq.), together with such additional sums as may be required to administer the Workforce Literacy Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Supplemental Workforce Fund for Basic Skills" P.L.2001, c.152 (C.34:15D-21 et seq.), or any other law to the contrary, the unexpended balance in the Supplemental Workforce Fund for Basic Skills as of June 30, 2003 is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$5,669,000 shall be transferred from the Department of Human Services to be used as a State match to the federal Welfare-to-Work Grant program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workplace Standards Program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Public Works Contractor Registration program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance in the Public Works Contractor Registration Program as of June 30, 2003 is appropriated for the Public Works Contractor Registration Program.

Notwithstanding the provisions of the "Worker and Community Right To Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right To Know Act account is payable out of the "Worker and Community Right To Know Fund." If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately. In addition to the amounts hereinabove, there are appropriated out of the "Worker and Community Right To Know Fund" such additional sums, not to exceed \$8,400, to administer the Right To Know Program, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the Wage and Hour Trust Fund and the Prevailing Wage Act Trust Fund such sums as may be necessary for payments.

The amount hereinabove for the Private Sector Labor Relations program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

#### **GRANTS-IN-AID**

07-4535 Vocational Rehabilitation Services .....	\$29,719,000
<i>(From General Fund .....</i>	<i>\$27,279,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>2,440,000)</i>
09-4545 Employment Services .....	<u>4,000,000</u>

Total Grants-in-Aid Appropriation, Manpower and  
Employment Services ..... \$33,719,000  
(Total From General Fund ..... \$31,279,000)  
(Total From Casino Revenue Fund .. 2,440,000)

**Grants-in-Aid:**

07 Services to Clients (State Share) ..... (\$4,286,000)  
07 Sheltered Workshop - Transportation .. (1,060,000)  
07 Sheltered Workshop - Transportation  
(CRF) ..... (2,440,000)  
07 Supported Employment Services ..... (2,550,000)  
07 Sheltered Workshop Support ..... (18,234,000)  
07 Sheltered Workshop Employment  
Placement Incentive Program ..... (450,000)  
07 Services for Deaf Individuals ..... (170,000)  
07 Independent Living Centers ..... (525,000)  
07 Training (State Share) ..... (4,000)  
09 John J. Heldrich Center for  
Workforce Development ..... (4,000,000)

The sum hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.  
Of the amount hereinabove for the Vocational Rehabilitation Services program classification, an amount not to exceed \$14,422,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

Amounts appropriated hereinabove for the Sheltered Workshop Employment Placement Incentive Program shall be available to support expenditures under the Sheltered Workshop Support Program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the John J. Heldrich Center shall be reduced by the sum of funds received from the New Jersey Economic Development Authority. The funds shall be used to pay a portion of the costs associated with the acquisition, site preparation, design and construction of a Statewide workforce training center to be located in New Brunswick, New Jersey known as the Heldrich Center for Workforce Development at the Edward J. Bloustein School of Policy and Planning (the "Heldrich Center") and the infrastructure and site preparation costs associated with the redevelopment project. The authority's investment is subject to the terms and conditions set forth in an agreement between the authority and the New Brunswick Development Corporation. The agreement shall be subject to the approval of the State Treasurer who, upon such approval, shall report to the Joint Budget Oversight Committee on the terms and conditions of the agreement.

Department of Labor, Total State Appropriation ..... \$93,737,000

**Summary of Department of Labor Appropriations  
(For Display Purposes Only)**

**Appropriations by Category:**

Direct State Services ..... \$60,018,000

Grants-in-Aid .....	33,719,000
<i>Appropriations by Fund:</i>	
General Fund .....	\$91,297,000
Casino Revenue Fund .....	2,440,000

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY*****10 Public Safety and Criminal Justice******12 Law Enforcement*****DIRECT STATE SERVICES**

06-1200 State Police Operations .....	\$231,097,000
09-1020 Criminal Justice .....	27,154,000
11-1050 State Medical Examiner .....	600,000
30-1460 Gaming Enforcement .....	35,799,000
<i>(From Casino Control Fund .....</i>	
<i>\$35,799,000)</i>	
99-1200 Administration and Support Services .....	<u>32,607,000</u>
Total Direct State Services Appropriation,	
Law Enforcement .....	<u>\$327,257,000</u>
<i>(Total From General Fund .....</i>	
<i>\$291,458,000)</i>	
<i>(Total From Casino Control Fund ..</i>	
<i>35,799,000)</i>	

***Direct State Services:*****Personal Services:**

Salaries and Wages .....	(\$195,827,000)
Salaries and Wages (CCF) .....	(23,700,000)
Cash in Lieu of Maintenance .....	(21,637,000)
Cash in Lieu of Maintenance (CCF) ....	(646,000)
Employee Benefits (CCF) .....	(5,144,000)
<i>(From General Fund .....</i>	
<i>\$191,579,000)</i>	
<i>(From Casino Control Fund .....</i>	
<i>29,490,000)</i>	
Materials and Supplies .....	(5,959,000)
Materials and Supplies (CCF) .....	(389,000)
Services Other Than Personal .....	(12,079,000)
Services Other Than Personal (CCF) ....	(1,864,000)
Maintenance and Fixed Charges .....	(4,795,000)
Maintenance and Fixed Charges (CCF) ...	(2,440,000)

**Special Purpose:**

06 Nuclear Emergency	
Response Program .....	(1,591,000)
06 Nuclear Facilities Security Detail .	(1,600,000)
06 Drunk Driver Fund Program .....	(962,000)
06 Noncriminal Record Checks .....	(1,014,000)
06 Camden Initiative .....	(1,500,000)
06 Computer Aided	
Dispatch Maintenance .....	(600,000)
06 Office of Emergency Management	
Service Enhancement .....	(1,000,000)
06 Enhanced DNA Testing .....	(450,000)

06 Megan's Law DNA Testing . . . . .	(200,000)
06 State Police DNA Laboratory Enhancement . . . . .	(1,800,000)
06 Urban Search and Rescue . . . . .	(1,000,000)
06 State Police Forensic and Communication Equipment/ Hamilton Facilities . . . . .	(4,375,000)
06 Operation Dispatch Unit . . . . .	(1,400,000)
06 State Police Federal Monitor . . . . .	(500,000)
09 Criminal Justice - Corruption Prosecution Expansion . . . . .	(1,700,000)
09 Division of Criminal Justice -- State Match . . . . .	(1,500,000)
09 Human Relations Council . . . . .	(250,000)
09 Expenses of State Grand Jury . . . . .	(356,000)
09 Medicaid Fraud Investigation -- State Match . . . . .	(500,000)
30 Gaming Enforcement (CCF) . . . . .	(1,185,000)
99 Affirmative Action and Equal Employment Opportunity . . . . .	(193,000)
99 N.C.I.C. 2000 Project . . . . .	(2,000,000)
99 State Police Recruit Training . . . . .	(1,299,000)
99 Consent Decree Vehicles . . . . .	(2,800,000)
99 Telecommunications - 911 Call Takers . . . . .	(1,950,000)
99 Office of Counter-Terrorism . . . . .	(2,000,000)
99 State Police Cadet Pilot Program . . . . .	(174,000)
99 State Police Technology Enhancements . . . . .	(600,000)
99 State Police Enhanced Systems and Procedures . . . . .	(3,450,000)
Additions, Improvements and Equipment . . . . .	(14,397,000)
Additions, Improvements and Equipment (CCF) . . . . .	(431,000)

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from the recovery of costs associated with the implementation of the "Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.), are appropriated for the purpose of offsetting the costs of the Division of Criminal Justice, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2003 in the Victim Witness Advocacy Fund account, together with receipts derived pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) is appropriated.

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or



State statutory or common law and proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General.

The unexpended balance as of June 30, 2003 in the revolving fund established under the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) is appropriated for the administration of the act and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Such additional amounts as may be required to carry out the provisions of the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) are appropriated from the General Fund; provided however, that any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from license fees and/or audits conducted to ensure compliance with "The Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.), are appropriated to defray the cost of this activity.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of the Division of Alcoholic Beverage Control in excess of \$3,960,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for State Police Operations, such amounts as may be required for the purpose of offsetting costs of the provision of State Police services are appropriated from indirect cost recoveries, subject to the approval of the director of the Division of Budget and Accounting.

All fees and receipts collected, pursuant to paragraph (7) of subsection 1. of N.J.S.2C:39-6, the "Retired Officer Handgun Permit Program," and the unexpended balance as of June 30, 2003, are appropriated to offset the costs of administering the application process, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey Emergency Medical Service Helicopter Response Act under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 2003 is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Nuclear Emergency Response Program account is payable from receipts received pursuant to the assessment of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.). The unexpended balance as of June 30, 2003 in the Nuclear Emergency Response Program account is appropriated.

The unexpended balance as of June 30, 2003 in the Drunk Driver Fund program account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Drunk Driver Fund program is payable out of the Drunk Driving Enforcement Fund established pursuant to P.L.1984, c.4 (C.39:4-50.8) designated for this purpose and any amount remaining therein. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Noncriminal Record Checks is payable out of the dedicated fund designated for this purpose. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of section 3 of P.L.1985, c.69 (C.53:1-20.7), the unexpended balance as of June 30, 2003 in the Noncriminal Record Checks account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75) are appropriated to offset all reasonable and necessary expenses of the Division of State Police and Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

All registration fees, tuition fees, training fees, and all other fees received for reimbursement for attendance at courses conducted by Division of State Police and Division of Criminal Justice personnel are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove to the Divisions of State Police and Criminal Justice and the Office of the State Medical Examiner, there are appropriated to the respective State departments and agencies such sums as may be received or receivable from any instrumentality, municipality, or public authority for direct and indirect costs of all services furnished thereto, except as to such costs for which funds have been included in appropriations otherwise made to the respective State departments and agencies as the Director of the Division of Budget and Accounting shall determine; provided however, that payments from such instrumentalities, municipalities, or authorities for employer contributions to the State Police and Public Employees' Retirement Systems shall not be appropriated and shall be paid into the General Fund.

Notwithstanding the provisions of section 11 of P.L.1993, c.220 (C.2C:43-3.2), an amount not to exceed \$1,100,000 is appropriated from the Safe Neighborhoods Services Fund to provide Criminal Justice Statewide Law Enforcement Federal grant match, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove for the State Police-Enhanced DNA Testing account, there is appropriated an amount not to exceed \$450,000 to be offset by actual receipts pursuant to P.L.2000, c.118. Additional funding shall be based

upon the review of monthly workload data, collection data and spending plans, subject to the approval of the Director of the Division of Budget and Accounting. Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$1,900,000 for State Police salaries related to Statewide security services, are appropriated for those purposes and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2003 in the State Police Recruit Training account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 15 of P.L.1985, c.405 (C.49:3-66.1) to the contrary, the amounts appropriated hereinabove for State Police Recruit Training, Consent Decree Vehicles, Telecommunications - 911 Call Takers and Computer Aided Dispatch Maintenance are provided from the Securities Enforcement Fund program account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 15 of P.L.1985, c.405 (C.49:3-66.1) to the contrary, the amount appropriated hereinabove for the Office of Counter-Terrorism is provided from the Securities Enforcement Fund program account, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Gaming Enforcement, there are appropriated from the Casino Control Fund such additional sums as may be required for gaming enforcement, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

06-1200 State Police Operations .....	\$265,000
<i>(From General Fund .....</i>	<i>\$265,000)</i>
09-1020 Criminal Justice .....	<u>300,000</u>
Total Grants-in-Aid Appropriation, Law Enforcement ..	<u>\$565,000</u>

#### **Grants-in-Aid:**

06 Nuclear Emergency	
Response Program .....	(\$265,000)
09 Sex Offender Internet Registry Grants ...	(300,000)

The unexpended balance as of June 30, 2003, in the Division of Criminal Justice's Community Justice Grant program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

09-1020 Criminal Justice .....	<u>\$8,090,000</u>
Total State Aid Appropriation, Law Enforcement ....	<u>\$8,090,000</u>

#### **State Aid:**

09 Trigger Lock County Program .....	(\$90,000)
09 Statewide Local Domestic Preparedness Equipment Grant Program .....	(7,000,000)

**09 Safe and Secure Neighborhoods**

Program ..... (1,000,000)

The unexpended balance as of June 30, 2003 in the Statewide Local Domestic Preparedness Equipment Grant Program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**CAPITAL CONSTRUCTION**

06-1200 State Police Operations ..... \$3,846,000

Total Capital Construction Appropriation,

Law Enforcement ..... \$3,846,000

**Capital Projects:**

06 Hamilton Complex Troop "C" -

Building Equipment and

Furnishings ..... (\$3,846,000)

**13 Special Law Enforcement Activities****DIRECT STATE SERVICES**

03-1160 Office of Highway Traffic Safety ..... \$338,000

17-1420 Election Law Enforcement ..... 2,900,000

20-1450 Review and Enforcement of Ethical Standards ..... 590,000

21-1400 Regulation of Alcoholic Beverages ..... 1,489,000

25-1421 Election Management and Coordination ..... 2,177,000

Total Direct State Services Appropriation,

Special Law Enforcement Activities ..... \$7,494,000

**Direct State Services:****Personal Services:**

Salaries and Wages ..... (\$4,539,000)

Materials and Supplies ..... (209,000)

Services Other Than Personal ..... (713,000)

Maintenance and Fixed Charges ..... (40,000)

**Special Purpose:**

03 Federal Highway Safety Program --

-- State Match ..... (338,000)

17 Per Diem Payment to Members of

Election Law Enforcement

Commission ..... (15,000)

25 Help America Vote - State Match .. (1,200,000)

25 County Monitoring and Oversight .. (440,000)

The unexpended balance in the Federal Highway Safety Program - State Match account, including the accounts of the several departments, as of June 30, 2003, is appropriated for such highway safety projects.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of Alcoholic Beverage Control in excess of \$3,960,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the

- Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.
- Registration fees, tuition fees, training fees, and other fees received for reimbursement for attendance at courses administered or conducted by the Division of Alcoholic Beverage Control are appropriated for program costs.
- From the receipts derived from uncashed pari-mutuel winning tickets and the regulation, supervision, licensing, and enforcement of all New Jersey Racing Commission activities and functions, such sums as may be required are appropriated for the purpose of offsetting the costs of the administration and operation of the New Jersey Racing Commission, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts derived from breakage monies and uncashed pari-mutuel winning tickets resulting from off-track and account wagering and any reimbursement assessment against permit holders or successors in interest to permit holders shall be distributed to the New Jersey Racing Commission in accordance with the provisions of the "Off Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.
- All fees, fines, and penalties collected pursuant to P.L.1973, c.83 (C.19:44A-1 et al.) and section 11 of P.L.1991, c.244 (C.52:13C-23.1) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provision hereinabove, amounts received pursuant to P.L.1971, c.183 (C.52:13C-18 et seq.) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.
- Of the receipts derived from the regulation, supervision, and licensing of all State Athletic Control Board activities and functions, an amount is appropriated for the purpose of offsetting the costs of the administration and operation of the State Athletic Control Board, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts derived from the examination of voting machines by Election Management and Coordination and the unexpended balance as of June 30, 2003 of those receipts are appropriated for the costs of making such examinations.

#### STATE AID

25-1421 Election Management and Coordination . . . . .	<u>\$3,730,000</u>
Total State Aid Appropriation, Special Law	
Enforcement Activities . . . . .	<u>\$3,730,000</u>

***State Aid:***

25 Extended Polling Place Hours . . . (\$3,730,000)

**18 Juvenile Services**  
**1500 Division of Juvenile Services**  
**DIRECT STATE SERVICES**

34-1500 Juvenile Community Programs .....	\$23,168,000
40-1500 Aftercare Programs .....	4,365,000
99-1500 Administration and Support Services .....	<u>5,278,000</u>
Total Direct State Services Appropriation, Division of Juvenile Services .....	<u>\$32,811,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$25,008,000)
Materials and Supplies .....	(1,524,000)
Services Other Than Personal .....	(2,208,000)
Maintenance and Fixed Charges .....	(928,000)

Special Purpose:

34 Aftercare Initiative 2002 .....	(500,000)
34 Community Program Medical Initiative .....	(350,000)
34 Enhanced Information Technology Unit .....	(300,000)
34 Juvenile Justice Initiatives .....	(770,000)
34 Social Services Block Grant -- State Match .....	(42,000)
34 State Incentive Program .....	(186,000)
34 Female Substance Abuse Program ..	(302,000)
99 Juvenile Justice - State Matching Funds .....	(406,000)
99 Custody and Civilian Staff Training ..	(185,000)
Additions, Improvements and Equipment ..	(102,000)

**GRANTS-IN-AID**

34-1500 Juvenile Community Programs .....	<u>\$18,257,000</u>
Total Grants-in-Aid Appropriation, Division of Juvenile Services .....	<u>\$18,257,000</u>

**Grants-in-Aid:**

34 Alternatives to Juvenile Incarceration Programs .....	(\$2,573,000)
34 Crisis Intervention Program .....	(4,084,000)
34 State/Community Partnership Grants (7,939,000)	
34 State Incentive Program .....	(3,401,000)
34 Purchase of Services for Juvenile Offenders .....	(260,000)

**CAPITAL CONSTRUCTION**

99-1500 Administration and Support Services .....	<u>\$500,000</u>
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Total Capital Construction Appropriation,  
 Juvenile Services ..... \$500,000  
**Capital Projects:**  
 99 Suicide Prevention Improvements . (\$500,000)

**1505 New Jersey Training School for Boys**

**DIRECT STATE SERVICES**

35-1505 Institutional Control and Supervision ..... \$12,405,000  
 36-1505 Institutional Care and Treatment ..... 4,033,000  
 99-1505 Administration and Support Services ..... 4,085,000  
 Total Direct State Services Appropriation,  
 New Jersey Training School for Boys ..... \$20,523,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$15,909,000)  
 Food in Lieu of Cash ..... (89,000)  
 Materials and Supplies ..... (1,885,000)  
 Services Other Than Personal ..... (2,029,000)  
 Maintenance and Fixed Charges ..... (591,000)

Special Purpose:

99 Administration and Support Services .. (2,000)  
 Additions, Improvements and Equipment .... (18,000)  
 Receipts derived from the Eyeglass Program at the New Jersey Training School for  
 Boys and any unexpended balance as of June 30, 2003 are appropriated for the  
 operation of the program.

**1510 Juvenile Medium Security Center**

**DIRECT STATE SERVICES**

35-1510 Institutional Control and Supervision ..... \$22,134,000  
 36-1510 Institutional Care and Treatment ..... 3,859,000  
 99-1510 Administration and Support Services ..... 2,546,000  
 Total Direct State Services Appropriation, Juvenile  
 Medium Security Center ..... \$28,539,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$14,031,000)  
 Food in Lieu of Cash ..... (59,000)  
 Materials and Supplies ..... (782,000)  
 Services Other Than Personal ..... (2,118,000)  
 Maintenance and Fixed Charges ..... (199,000)

Special Purpose:

35 Juvenile Boot Camp ..... (4,046,000)  
 35 144 Bed Secure Facility ..... (6,536,000)  
 35 Mental Health Unit - State Match .... (66,000)  
 99 Johnstone Facility Maintenance .... (702,000)

**19 Central Planning, Direction and Management****DIRECT STATE SERVICES**

88-1000 Central Library Services .....	\$796,000
99-1000 Administration and Support Services .....	<u>12,408,000</u>
Total Direct State Services Appropriation, Central Planning, Direction and Management .....	<u>\$13,204,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....	(\$7,819,000)
Materials and Supplies .....	(362,000)
Services Other Than Personal .....	(366,000)
Maintenance and Fixed Charges .....	(88,000)

**Special Purpose:**

99 Fiscal Integrity Unit/Office of Government Integrity .....	(4,100,000)
99 Smart Growth Enforcement .....	(250,000)
99 Affirmative Action and Equal Employment Opportunity .....	(198,000)
Additions, Improvements and Equipment ...	(21,000)

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and the proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General; provided however, that receipts in excess of \$2,255,000 may only be used for non-recurring expenditures.

The Attorney General shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with written reports on August 1, 2003 and February 1, 2004, of the use and disposition by State law enforcement agencies, including the offices of the county prosecutors, of any interest in property or money seized, or proceeds resulting from seized or forfeited property, and any interest or income earned thereon, arising from any State law enforcement agency involvement in a surveillance, investigation, arrest or prosecution involving offenses under N.J.S.2C:35-1 et seq. and N.J.S.2C:36-1 et seq. leading to such seizure or forfeiture. The reports shall specify for the preceding period of the fiscal year the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended, whether obtained directly or as contributive share, including but not limited to the use thereof for asset maintenance, forfeiture prosecution costs, costs of extinguishing any perfected security interest in seized property and the contributive share of property and proceeds of other participating local law enforcement agencies. The reports shall provide an itemized accounting of all proceeds expended and shall specify with particularity the nature and purpose of each such expenditure.



Penalties, fines, and other fees collected pursuant to N.J.S.2C:35-20 and deposited in the State Forensic Laboratory Fund, together with the unexpended balance as of June 30, 2003, are appropriated to defray additional laboratory related administration and operational expenses of the "Comprehensive Drug Reform Act of 1987," P.L.1987, c.106 (C.2C:35-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for the Unit of Fiscal Integrity in School Construction/Office of Government Integrity, there shall be credited against such amounts such monies as are received by the Unit of Fiscal Integrity/Office of Government Integrity pursuant to a Memorandum of Understanding between the Unit of Fiscal Integrity and the New Jersey Economic Development Authority for oversight services including employee benefit costs in connection with the school construction program.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$7,200,000, are appropriated for the Office of Counter-Terrorism and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

## **70 Government Direction, Management and Control**

### **74 General Government Services**

#### **DIRECT STATE SERVICES**

12-1010 Legal Services .....	\$66,427,000
26-1430 Office of the Child Advocate .....	<u>2,000,000</u>
Total All Operations .....	<u>\$68,427,000</u>

#### **Less:**

**Reimbursement From Other Sources ... \$46,928,000**

**Total Deductions .....** **\$46,928,000**

Total Direct State Services Appropriation, General

Government Services .....

#### **Direct State Services:**

##### **Personal Services:**

Salaries and Wages .....	(\$16,994,000)
Materials and Supplies .....	(112,000)
Services Other Than Personal .....	(701,000)
Maintenance and Fixed Charges .....	(262,000)

##### **Special Purpose:**

12 Child Welfare Unit .....	(1,430,000)
26 Office of the Child Advocate ....	(2,000,000)

##### **Expense:**

Reimbursement from Other Sources . (46,928,000)

#### **Less:**

**Income Deductions .....** **46,928,000**

In addition to the \$46,927,626 attributable to Reimbursements from Other Sources and the corresponding additional amount associated with employee fringe benefit costs, there are appropriated such sums as may be received or receivable

from any State agency, instrumentality or public authority for direct or indirect costs of legal services furnished thereto and attributable to a change in or the addition of a client agency agreement, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to credit or transfer to the General Fund from any other department, branch, or non-State fund source, out of funds appropriated thereto, such funds as may be required to cover the costs of legal services attributable to that other department, branch, or non-State fund source as the Director of the Division of Budget and Accounting shall determine. Receipts in any non-State fund are appropriated for the purpose of such transfer.

**80 Special Government Services**

**82 Protection of Citizens' Rights**

**DIRECT STATE SERVICES**

14-1310 Consumer Affairs .....	\$12,191,000
15-1320 Operation of State Professional Boards .....	19,633,000
<i>(From General Fund .....</i>	<i>\$19,541,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>92,000)</i>
16-1350 Protection of Civil Rights .....	5,330,000
19-1440 Victims of Crime Compensation Board .....	<u>5,492,000</u>
Total Direct State Services Appropriation, Protection of Citizens' Rights .....	<u>\$42,646,000</u>
<i>(Total From General Fund .....</i>	<i>\$42,554,000)</i>
<i>(Total From Casino Revenue Fund .....</i>	<i>92,000)</i>

**Direct State Services:**

**Personal Services:**

Salaries and Wages .....	(\$7,849,000)
Salaries and Wages (CRF) .....	(75,000)
Employee Benefits (CRF) .....	(11,000)
Materials and Supplies .....	(610,000)
Services Other Than Personal .....	(16,076,000)
Services Other Than Personal (CRF) .....	(6,000)
Maintenance and Fixed Charges .....	(1,594,000)

**Special Purpose:**

14 Consumer Affairs Legalized Games of Chance .....	(1,390,000)
14 Securities Enforcement Fund .....	(6,994,000)
14 Consumer Affairs Weights and Measures Program .....	(2,612,000)
14 Consumer Affairs Charitable Registrations Program .....	(695,000)
15 Operation of State Professional Boards .....	(50,000)
15 Personal Care Attendants -- Background Checks .....	(500,000)

- 16 Civil Rights Case Tracking System . . (350,000)
- 19 Claims -- Victims of Crime . . . . . (3,630,000)
- 19 Victims of Crime
  - Outreach Program . . . . . (150,000)
- Additions, Improvements and Equipment . . . . (54,000)
- Receipts derived from the assessment and recovery of costs, fines, and penalties pursuant to the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), are appropriated for additional operational costs of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.
- All fees, penalties, and costs collected pursuant to P.L.1988, c.123 (C.56:12-29 et seq.) are appropriated for the purpose of offsetting costs associated with the handling and resolution of consumer automotive complaints.
- In addition to the amount appropriated hereinabove for Consumer Affairs, receipts in excess of the amount anticipated, attributable to changes in fee structure or fee increases, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Fees and cost recoveries collected pursuant to P.L.1989, c.331 (C.34:8-43 et al.) are appropriated in an amount not to exceed additional expenses associated with mandated duties, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated are appropriated to the Controlled Dangerous Substance Registration Program for the purpose of offsetting the costs of the administration and operation of the program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- Receipts in excess of the amount anticipated derived pursuant to P.L.1954, c.7 (C.5:8-1 et seq.) from the operations of the Division of Consumer Affairs Legalized Games of Chance program and the unexpended balances as of June 30, 2003, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Securities Enforcement Fund account is payable from receipts from fees and penalties deposited in the Securities Enforcement Fund pursuant to section 15 of P.L.1985, c.405 (C.49:3-66.1). If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- Notwithstanding the provisions of section 15 of P.L.1985, c.405 (C.49:3-66.1) to the contrary, receipts in excess of the amount anticipated and the unexpended balances as of June 30, 2003, are appropriated to the Securities Enforcement Fund program account to offset the cost of operating this program and for use by the Department of Law and Public Safety to provide State Police Recruit Training, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated derived pursuant to R.S.51:1-1 et seq. from the operations of the Division of Consumer Affairs Office of Weights and Measures program and the unexpended balances as of June 30, 2003, are

appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting. Receipts in excess of the amount anticipated derived pursuant to P.L.1994 c.16 (C.45:17A-18 et seq.) from the operations of the Division of Consumer Affairs Charitable Registration and Investigation program and the unexpended balances as of June 30, 2003, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from penalties and the unexpended balance as of June 30, 2003 in the Consumer Fraud Education Fund program account pursuant to P.L.1999, c.129 (C.56:8-14.2 et seq.) are appropriated for the purpose of offsetting the cost of operating the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for each of the several State professional boards, advisory boards, and committees shall be provided from receipts of those entities, and any receipts in excess of the amounts specifically provided to each of the entities are appropriated. The unexpended balances as of June 30, 2003 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of films, pamphlets, and other educational materials developed or produced by the Division on Civil Rights are appropriated to defray production costs.

Receipts derived from the provision of copies of transcripts and other materials related to officially docketed cases are appropriated.

Notwithstanding the provisions of section 2 of P.L.1983 c.412 (C.10:5-14.1a) any receipts derived from the assessment of fines, fees and penalties pursuant to P.L.1945 c.169 (C.10:5-1 et seq.) are appropriated to the Division on Civil Rights for additional operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Claims - Victims of Violent Crimes is available for payment of awards applicable to claims filed in prior fiscal years.

Receipts derived from assessments pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the unexpended balance as of June 30, 2003 in the Criminal Disposition and Revenue Collection Fund program account, are appropriated for the purpose of offsetting the costs of the design, development, implementation and operation of the Criminal Disposition and Revenue Collection program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from assessments under section 2 of P.L.1979, c.396 (C.2C:43-3.1) in excess of the amount anticipated and the unexpended balance as of June 30, 2003 are appropriated for payment of claims of victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs up to \$1,175,000, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2003 in the Office of Victim-Witness Assistance and in the Victim and Witness Advocacy Fund pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) are appropriated.

Receipts derived from licensing fees pursuant to subsection f. of N.J.S.2C:58-5 and registration fees pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the unexpended balance as of June 30, 2003 are appropriated for payment of claims for victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Law and Public Safety,  
Total State Appropriation ..... \$528,961,000

Receipts derived from the provision of copies, the processing of credit cards and other materials related to compliance with section 6 of P.L.2001, c.404 (C.47:1A-5), are appropriated for the purpose of offsetting costs related to public access of government records.

***Summary of Department of Law and Public Safety Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services ..... \$493,973,000  
Grants-in-Aid ..... 18,822,000  
State Aid ..... 11,820,000  
Capital Construction ..... 4,346,000

***Appropriations by Fund:***

General Fund ..... \$493,070,000  
Casino Control Fund ..... 35,799,000  
Casino Revenue Fund ..... 92,000

**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS**

***10 Public Safety and Criminal Justice***

***14 Military Services***

**DIRECT STATE SERVICES**

40-3620 New Jersey National Guard Support Services .. \$11,978,000  
60-3600 Joint Training Center Management  
and Operations ..... 494,000  
99-3600 Administrative and Support Services ..... 4,164,000  
Total Direct State Services Appropriation,  
Military Service ..... \$16,636,000

***Direct State Services:***

***Personal Services:***

Salaries and Wages ..... (\$7,278,000)  
Materials and Supplies ..... (1,257,000)  
Services Other Than Personal ..... (602,000)  
Maintenance and Fixed Charges ..... (1,053,000)

**Special Purpose:**

- 99 Nursing Initiative . . . . . (250,000)
  - 40 Weapons of Mass  
Destruction Program . . . . . (280,000)
  - 40 Nuclear Facilities Security Detail . . (3,180,000)
  - 40 State Active Duty . . . . . (500,000)
  - 40 New Jersey National Guard  
Challenge Youth Program . . . . . (920,000)
  - 40 Joint Federal-State Operations  
and Maintenance Contracts  
(State Share) . . . . . (1,302,000)
  - 99 Affirmative Action and Equal  
Employment Opportunity . . . . . (5,000)
  - Additions, Improvements and Equipment . . . . (9,000)
- The unexpended balance as of June 30, 2003 in the National Guard-State Active Duty account is appropriated for the same purpose.
- The unexpended balance as of June 30, 2003 in the Joint Federal-State Operations and Maintenance Contracts (State share) account is appropriated for the same purpose.
- Receipts derived from the rental and use of armories and the unexpended balance in the receipt account as of June 30, 2003 are appropriated for the operation and maintenance thereof, subject to the approval of the Director of the Division of Budget and Accounting.
- In addition to the amount hereinabove, funds received for Distance Learning Program usage are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amount appropriated hereinabove for National Guard operations, 50% of the proceeds of the sale of armory facilities in the City of West Orange, in addition to any lease savings realized as a result of the sale, shall be appropriated for the maintenance and capital improvement of National Guard armories throughout the State, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

- 40-3620 New Jersey National Guard Support Services . . . . . \$35,000
  - Total Grants-in-Aid Appropriation, Military Services . . . . \$35,000
- Grants-in-Aid:**
- 40 Civil Air Patrol . . . . . (\$35,000)

**CAPITAL CONSTRUCTION**

- 99-3600 Administration and Support Services . . . . . \$165,000
  - Total Capital Construction Appropriation,  
Military Services . . . . . \$165,000
- Capital Projects:**
- 99 Youth Challenge Program -

Building Renovations . . . . . (\$165,000)

**80 Special Government Services**

**83 Services to Veterans**

**3610 Veterans' Program Support**

**DIRECT STATE SERVICES**

50-3610 Veterans' Outreach and Assistance . . . . . \$3,283,000

51-3610 Veterans Haven . . . . . 494,000

70-3610 Burial Services . . . . . 1,910,000

Total Direct State Services Appropriation,

Veterans' Program Support . . . . . \$5,687,000

**Direct State Services:**

**Personal Services:**

Salaries and Wages . . . . . (\$3,853,000)

Materials and Supplies . . . . . (416,000)

Services Other Than Personal . . . . . (193,000)

Maintenance and Fixed Charges . . . . . (93,000)

**Special Purpose:**

50 Vietnam Memorial and

Education Center . . . . . (350,000)

50 Veterans' State Benefits Bureau . . . . . (131,000)

50 Korean War Memorial

Maintenance Program . . . . . (90,000)

50 Governor's Veterans'

Services Council . . . . . (5,000)

50 Veterans Haven, Yardville . . . . . (94,000)

70 Honor Guard Support Services . . . . . (462,000)

The unexpended balance as of June 30, 2003 in the Korean Veterans Memorial account is appropriated for the same purpose.

Funds collected by and on behalf of the Korean Veterans Memorial Fund are hereby appropriated for the purposes of the fund.

Funds received for Veterans' Transitional Housing from the federal Department of Veterans' Affairs and the individual residents, and the unexpended balance in the receipt account as of June 30, 2003, are appropriated for the same purpose.

Funds received for plot interment allowances from the federal Department of Veterans' Affairs, burial fees collected, and the unexpended program balances as of June 30, 2003 are appropriated for perpetual care and maintenance of burial plots and grounds at the Brigadier General Doyle Veterans' Memorial Cemetery.

**GRANTS-IN-AID**

50-3610 Veterans' Outreach and Assistance . . . . . \$1,009,000

Total Grants-in-Aid Appropriation,

Veterans' Program Support . . . . . \$1,009,000

**Grants-in-Aid:**

50 Veterans' Tuition Credit Program . . . . . (\$38,000)

50 POW/MIA Tuition Assistance .....	(11,000)
50 Vietnam Veterans' Tuition Aid .....	(7,000)
50 Veterans Homeless Shelter - Burlington County .....	(35,000)
50 Veterans Transportation .....	(300,000)
50 Veterans' Orphan Fund - Education Grants .....	(5,000)
50 Blind Veterans' Allowances .....	(46,000)
50 Paraplegic and Hemiplegic Veterans' Allowance .....	(267,000)
50 Post Traumatic Stress Disorder .....	(300,000)

The sums provided hereinabove and the unexpended balances as of June 30, 2003 in the Veterans' Tuition Credit, POW/MIA Tuition Assistance, and the Vietnam Veterans' Tuition Aid accounts are appropriated and available for payment of liabilities applicable to prior fiscal years.

### ***3630 Menlo Park Veterans' Memorial Home***

#### **DIRECT STATE SERVICES**

20-3630 Domiciliary and Treatment Services .....	\$12,343,000
99-3630 Administrative and Support Services .....	<u>4,660,000</u>
Total Direct State Services Appropriation, Menlo Park Veterans' Memorial Home .....	<u>\$17,003,000</u>

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages .....	(\$13,464,000)
Materials and Supplies .....	(1,961,000)
Services Other Than Personal .....	(1,295,000)
Maintenance and Fixed Charges .....	(237,000)
Additions, Improvements and Equipment ...	(46,000)

In addition to the amount hereinabove for Menlo Park Adult Day Care, such sums received from the federal Department of Veterans Affairs, New Jersey Department of Health and Senior Services, and New Jersey Assistance for Community Care Giving are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

### ***3640 Paramus Veterans' Memorial Home***

#### **DIRECT STATE SERVICES**

20-3640 Domiciliary and Treatment Services .....	\$12,885,000
99-3640 Administrative and Support Services .....	<u>3,943,000</u>
Total Direct State Services Appropriation, Paramus Veterans' Memorial Home .....	<u>\$16,828,000</u>

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages .....	(\$13,953,000)
Materials and Supplies .....	(1,625,000)
Services Other Than Personal .....	(1,025,000)



Maintenance and Fixed Charges . . . . . (184,000)  
 Additions, Improvements and Equipment . . . . (41,000)

**3650 Vineland Veterans' Memorial Home**

**DIRECT STATE SERVICES**

20-3650 Domiciliary and Treatment Services . . . . . \$12,072,000  
 99-3650 Administrative and Support Services . . . . . 4,129,000  
 Total Direct State Services Appropriation, Vineland  
 Veterans' Memorial Home . . . . . \$16,201,000

**Direct State Services:**

**Personal Services:**

Salaries and Wages . . . . . (\$13,512,000)  
 Materials and Supplies . . . . . (1,616,000)  
 Services Other Than Personal . . . . . (843,000)  
 Maintenance and Fixed Charges . . . . . (176,000)  
 Additions, Improvements and Equipment . . . . (54,000)

**Department of Military and Veterans' Affairs,**

**Total State Appropriation . . . . . \$73,564,000**

Balances on hand as of June 30, 2003 of funds held for the benefit of residents in the several veterans' homes, and such funds as may be received, are appropriated for the use of such residents.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for such purposes; provided however, that the allowance shall not exceed \$50 per month for any eligible resident of an institution and, provided further, that the total amount herein for such allowances shall not exceed \$100,000, and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Funds received from the sale of articles made in occupational therapy departments of the several veterans' homes are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Forty percent of the receipts in excess of the amount anticipated derived from resident contributions and federal reimbursements, as of June 30, 2003, are appropriated for veterans' program initiatives, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the expenditure of these amounts, as shall be submitted by the Adjutant General.

Fees charged to residents for personal laundry services provided by the veterans' homes are appropriated to supplement the operational and maintenance costs of these laundry services.

Of the amount appropriated hereinabove for the Department of Military and Veterans' Affairs, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's

Budget Recommendation Document dated February 4, 2003, first shall be charged to the State Lottery Fund.

***Summary of Department of Military and Veterans' Affairs Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services ..... \$72,355,000  
Grants-in-Aid ..... 1,044,000  
Capital Construction ..... 165,000

***Appropriations by Fund:***

General Fund ..... \$73,564,000

**68 DEPARTMENT OF PERSONNEL**

***70 Government Direction, Management and Control***

***74 General Government Services***

**DIRECT STATE SERVICES**

01-2710 Personnel Policy Development and  
General Administration ..... \$4,001,000  
02-2720 State and Local Government Operations ..... 14,563,000  
04-2740 Merit Services ..... 2,383,000  
05-2750 Equal Employment Opportunity  
and Affirmative Action ..... 725,000  
07-2770 Human Resource Development Institute ..... 4,264,000  
Total Direct State Services Appropriation, General  
Government Services ..... \$25,936,000

***Direct State Services:***

**Personal Services:**

Merit System Board ..... (\$28,000)  
Salaries and Wages ..... (19,458,000)  
Materials and Supplies ..... (523,000)  
Services Other Than Personal ..... (4,963,000)  
Maintenance and Fixed Charges ..... (237,000)

**Special Purpose:**

01 Affirmative Action and Equal  
Employment Opportunity ..... (93,000)  
02 Microfilm Service Charges ..... (29,000)  
02 Test Validation/Police Testing ..... (434,000)  
05 Americans with Disabilities Act .... (60,000)  
Additions, Improvements and Equipment ... (111,000)

Receipts derived from fees charged to applicants for open competitive or promotional examinations and the unexpended fee balance as of June 30, 2003 not to exceed \$600,000 collected from fire fighter examination receipts are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from training services and any unexpended balance as of June 30, 2003 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from Employee Advisory Services are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of N.J.S.11A:6-32, cash awards for suggestions shall be paid from the operating budget of the agency from savings generated by the suggestion, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Personnel, Total State Appropriation . . \$25,936,000

***Summary of Department of Personnel Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services . . . . . \$25,936,000

*Appropriations by Fund:*

General Fund . . . . . \$25,936,000

**74 DEPARTMENT OF STATE**

***30 Educational, Cultural and Intellectual Development***

***36 Higher Educational Services***

**DIRECT STATE SERVICES**

80-2400 Statewide Planning and Coordination  
for Higher Education . . . . . \$957,000

81-2400 Educational Opportunity Fund Programs . . . . . 405,000

Total Direct State Services Appropriation,  
Commission on Higher Education . . . . . \$1,362,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages . . . . . (\$1,208,000)

Materials and Supplies . . . . . (16,000)

Services Other Than Personal . . . . . (118,000)

Maintenance and Fixed Charges . . . . . (20,000)

**GRANTS-IN-AID**

80-2400 Statewide Planning and  
Coordination for Higher Education . . . . . \$5,963,000

81-2400 Educational Opportunity Fund Programs . . . . . 35,097,000

Total Grants-in-Aid Appropriation,  
Higher Educational Services . . . . . \$41,060,000

***Grants-in-Aid:***

80 College Bound . . . . . (\$2,900,000)

80 New Jersey Transfer Initiative . . . . . (563,000)

80 Support for Statewide Network . . . . . (350,000)

80 Higher Education for Special Needs Students .....	(1,100,000)
80 Program for the Education of Language Minority Students .....	(600,000)
80 Minority Faculty Advancement Program .....	(450,000)
81 Opportunity Program Grants .....	(21,910,000)
81 Supplementary Education Program Grants .....	(12,385,000)
81 Martin Luther King Physician - Dentist Scholarship Act of 1986 .....	(602,000)
81 Ferguson Law Scholarships .....	(200,000)

An amount not to exceed 5% of the total of Higher Education for Special Needs Students and the Program for the Education of Language Minority Students accounts is available for transfer to Direct State Services for the administrative expenses of these programs, as determined by the Director of the Division of Budget and Accounting.

An amount not to exceed \$60,000 of the College Bound account is available for transfer to Direct State Services for the administrative expenses of this program, as determined by the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2003 for the Minority Faculty Advancement Program are appropriated.

Refunds from prior years to the Educational Opportunity Fund Programs accounts are appropriated to those accounts.

Notwithstanding the provisions of any other law to the contrary, any funds appropriated as Grants-in-Aid and payable to any senior public college or university which requests approval from the Educational Facilities Authority and the Director of the Division of Budget and Accounting may be pledged as a guarantee for payment of principal and interest on any bonds issued by the Educational Facilities Authority or by the college or university. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of written notification by the Educational Facilities Authority or the Director of the Division of Budget and Accounting that the college or university does not have sufficient funds available for prompt payment of principal and interest on such bonds, and shall be paid by the State Treasurer directly to the holders of such bonds at such time and in such amounts as specified by the bond indenture, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

#### ***2405 Higher Education Student Assistance Authority***

##### **DIRECT STATE SERVICES**

45-2405 Student Assistance Programs .....	<u>\$2,293,000</u>
Total Direct State Services Appropriation, Higher Educational Student Assistance Authority .....	<u>\$2,293,000</u>

##### ***Direct State Services:***

Personal Services:

Salaries and Wages .....	(\$1,474,000)
Materials and Supplies .....	(43,000)
Services Other Than Personal .....	(754,000)
Maintenance and Fixed Charges .....	(22,000)

At any time prior to the issuance and sale of bonds or other obligations by the Higher Education Student Assistance Authority, the State Treasurer is authorized to transfer from any available moneys in any fund of the Treasury of the State to the credit of any fund of the authority such sums as the State Treasurer deems necessary. Any sums so transferred shall be returned to the same fund of the Treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of authority bonds or other authority obligations.

#### **GRANTS-IN-AID**

45-2405 Student Assistance Programs .....	<u>\$204,004,000</u>
Total Grants-in-Aid Appropriation, Higher	
Education Student Assistance Authority .....	<u>\$204,004,000</u>

#### ***Grants-in-Aid:***

45 Veterinary Medicine Education	
Program .....	(\$1,337,000)
45 Tuition Aid Grants .....	(178,657,000)
45 Survivor Tuition Benefits .....	(50,000)
45 Coordinated Garden State	
Scholarship Programs .....	(7,062,000)
45 Part-time Tuition Aid Grants for	
County Colleges .....	(3,500,000)
45 Part-Time Tuition Aid Grants --	
EOF Students .....	(620,000)
45 Miss New Jersey Educational	
Scholarship Program .....	(11,000)
45 Outstanding Scholar Recruitment	
Program .....	(12,301,000)
45 NJBEST Scholarship Program .....	(11,000)
45 Teaching Fellows Program .....	(155,000)
45 New Jersey World Trade Center	
Scholarship Program .....	(250,000)
45 Dana Christmas Scholarship for Heroism ..	(50,000)

The sums provided hereinabove and the unexpended balances as of June 30, 2003, in Student Assistance Programs shall be appropriated and available for payment of liabilities applicable to prior fiscal years.

Amounts from the unexpended balance as of June 30, 2003, including refunds recognized after July 31, 2003, in the Tuition Aid Grants account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the Higher Education Student Assistance Authority shall provide to students enrolled in public institutions of higher education who are eligible for maximum awards under the

Tuition Aid Grant Program an increase above the FY 2003 award amount equal to the difference between the in-state undergraduate 2001-2002 tuition rate for the institution and the institution's in-state undergraduate 2000-2001 tuition rate. The award amounts for students eligible for maximum awards under the Tuition Aid Grant Program who are enrolled in independent institutions of higher education and all other award amounts provided under the Tuition Aid Grant Program shall not exceed those levels provided by the Higher Education Student Assistance Authority in fiscal year 2003. Reappropriated balances shall be held as a contingency for unanticipated increases in the number of applicants qualifying for full-time Tuition Aid Grant awards or to fund shifts in the distribution of awards that result in an increase in total program costs.

In addition to the amount appropriated hereinabove for Tuition Aid Grants, there are appropriated such sums as are required to cover the costs of increases in the number of applicants qualifying for full-time Tuition Aid Grants awards or fund shifts in the distribution of awards that result in an increase in total program costs, subject to the approval of the Director of the Division of Budget and Accounting.

Each public institution of Higher Education participating in the Tuition Aid Grant program shall provide institutional grants to students eligible for the maximum Tuition Aid Grant (TAG) award for that institution in an amount not less than the difference between the maximum 2002-03 tuition rate for the institution and the institution's actual 2001-2002 tuition rate.

Notwithstanding any law or regulation to the contrary, any institution of higher education which participates in the Student Unit Record Enrollment data system may participate in the Outstanding Scholar Recruitment Program.

The amount appropriated hereinabove for the Dana Christmas Scholarship for Heroism shall be awarded in accordance with policies and procedures established by the Higher Education Student Assistance Authority. In general, recipients must have performed the act of heroism for which they are being recognized prior to reaching their twenty-second birthday, awards are for a one time only scholarship of up to \$10,000 and awards must be used for educational expenses related to attendance at a postsecondary institution that participates in the federal student assistance programs authorized under Title IV of the "Higher Education Act of 1965," as amended. (20 U.S.C. s.1070 et seq.).

The amount appropriated hereinabove for Part-Time Tuition Assistance Grants for County Colleges shall be used to provide funds for a pilot program of tuition aid grants for eligible, qualified part-time students enrolled at the county colleges established pursuant to N.J.S.18A:64A-1 et seq. The tuition aid grants shall be used to pay the tuition at a county college established pursuant to N.J.S.18A:64A-1 et seq. Within the limits of available appropriations as determined by the Higher Education Student Assistance Authority, part-time grant awards shall be pro-rated against the full-time grant award for the applicable institutional sector established pursuant to N.J.S.18A:71B-21 as follows: an eligible student enrolled with six to eight credits shall receive one-half of the value of a full-time award and an eligible student enrolled with nine to eleven credits shall receive three-quarters of a full-time award.

Students shall apply first for all other forms of federal student assistance grants and scholarships; student eligibility for the tuition aid grant awards program for part-time enrollment at a community college shall in other respects be determined by the authority in accordance with the criteria established pursuant to N.J.S.18A:71B-20, other than the criterion for full-time enrollment.

From the amount appropriated hereinabove for the Teaching Fellows Program the authority shall establish a Teaching Fellows Program that shall provide direct loans to finance the undergraduate study of academically talented students who have leadership potential and who are interested in teaching in a public school in the State. The program shall also provide for the redemption of a portion of each eligible student's loan expenses for each year of full-time employment as a teacher in a subject area of critical need or in a high-needs district.

**2410 Rutgers, The State University**  
**GRANTS-IN-AID**

82-2410 Institutional Support ..... \$1,346,965,000  
Subtotal General Operations ..... \$1,346,965,000

**Less:**

**General Services Income** ..... **\$344,521,000**  
**Auxiliary Funds Income** ..... **184,238,000**  
**Special Funds Income** ..... **388,097,000**  
**Employee Fringe Benefits** ..... **137,256,000**  
**Total Income Deductions** ..... **\$1,054,112,000**  
Total Appropriation, Rutgers,  
The State University ..... \$292,853,000

**Special Purpose:**

82 General Institutional  
Operations ..... (\$1,329,093,000)  
82 Tuition Incentive Grant ..... (17,698,000)  
82 Teacher Preparation ..... (174,000)

**Less:**

**Income Deductions** ..... **1,054,112,000**

Of the sums hereinabove appropriated for Rutgers, The State University, there is \$180,000 for the Masters in Government Accounting Program, \$105,000 for the Tomato Technology Transfer Program, \$95,000 for the Haskin Shellfish Research Laboratory, \$200,000 for the Camden Law School Clinical Legal Programs for the Poor, \$200,000 for the Newark Law School Clinical Legal Programs for the Poor, \$740,000 for the Civic-Square Project - Debt Service, \$75,000 for the Walter Rand Institute for Public Affairs, \$700,000 for In Lieu of Taxes to New Brunswick, \$250,000 for the Hale Center, and \$300,000 for the New Jersey EcoComplex, Burlington County. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

Receipts in excess of the amount hereinabove for the Clinical Legal Programs for the Poor are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at Rutgers, The State University shall be 6,678.  
From the amount appropriated hereinabove for Rutgers, The State University, \$90,000 is transferred to the Department of Agriculture for a grant to the New Jersey Museum of Agriculture.

**2415 Agricultural Experiment Station  
GRANTS-IN-AID**

82-2415 Institutional Support .....	\$77,057,000
Subtotal General Operations .....	<u>\$77,057,000</u>

**Less:**

<i>Special Funds Income</i> .....	\$38,162,000
<i>Federal Research and Extension</i>	
<i>Funds Income</i> .....	6,855,000
<i>Employee Fringe Benefits</i> .....	7,682,000
<i>Total Income Deductions</i> .....	<u>\$52,699,000</u>
Total Appropriation, Agricultural Experiment Station .....	<u>\$24,358,000</u>

**Special Purpose:**

    82 General Institutional Operations (\$77,057,000)

**Less:**

<i>Income Deductions</i> .....	52,699,000
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Of the sums hereinabove appropriated for the New Jersey Agricultural Experiment Station, there is \$900,000 for Strategic Initiatives Programs, \$250,000 for Blueberry and Cranberry Research, \$691,000 for the Snyder Farm Planning and Operation, and \$500,000 for Fruit Research. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at the Agricultural Experiment Station shall be 424.

For the purpose of implementing the fiscal year 2004 appropriations act, the fringe benefits for 126 positions, funded by the federal Hatch and Smith/Lever programs, are funded by the State.

**2420 University of Medicine and Dentistry of New Jersey  
GRANTS-IN-AID**

82-2420 Institutional Support .....	\$1,161,067,000
Subtotal General Operations .....	<u>\$1,161,067,000</u>

**Less:**

<i>Hospital Services Income</i> .....	\$485,164,000
<i>Core Affiliates Income</i> .....	5,764,000
<i>General Services Income</i> .....	99,621,000
<i>Auxiliary Funds Income</i> .....	6,148,000
<i>Special Funds Income</i> .....	250,895,000
<i>Employee Fringe Benefits</i> .....	130,633,000
<i>Total Income Deductions</i> .....	<u>\$978,225,000</u>



Total Appropriation, University of Medicine  
and Dentistry of New Jersey . . . . . \$182,842,000

Special Purpose:

82 General Institutional  
Operations . . . . . (\$1,142,814,000)

82 Tuition Incentive Grant . . . . . (\$11,053,000)

82 Governor's Council for Medical  
Research and Treatment of  
Infantile Autism . . . . . (500,000)

82 Cancer Institute of New Jersey and  
Ancillary Facilities . . . . . (5,000,000)

82 Child Health Institute . . . . . (1,700,000)

**Less:**

***Income Deductions*** . . . . . **978,225,000**

The University of Medicine and Dentistry of New Jersey is authorized to operate its continuing medical-dental education program as a revolving fund and the revenue collected therefrom, and any unexpended balance therein, is retained for such fund.

The unexpended balances as of June 30, 2003, in the accounts hereinabove are appropriated for the purposes of the University of Medicine and Dentistry of New Jersey.

In addition to the sums hereinabove appropriated to the University of Medicine and Dentistry of New Jersey, all revenues from lease agreements between the university and contracted organizations are appropriated.

From the amount hereinabove for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts as deemed necessary to the Division of Medical Assistance and Health Services to maximize federal Medicaid funds.

From the amount hereinabove for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts related to hospital employee fringe benefits costs equal to enhanced Medicaid inpatient hospital payments for a hospital that has been recognized as a nominal charge hospital for the three years prior to June 30, 2000.

Of the sums hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, there is \$100,000 for the Inflammatory Bowel Disease Center, \$800,000 for Emergency Medical Service - Camden, \$975,000 for the Regional Health Education Center - Physical Plant, \$750,000 for the Violence Institute of N.J. at UMDNJ, \$525,000 for the Regional Health Education Center - Educational Units, \$290,000 for the New Jersey Area Health Education Program, \$2,700,000 for Debt Service - School of Osteopathic Medicine Academic Center, Stratford. The University of Medicine and Dentistry of New Jersey shall provide no less than the level of funds from tuition revenues and from the sums hereinabove appropriated to the Robert Wood Johnson Medical School program in Camden and the School of Osteopathic Medicine than it did in Fiscal Year 2003. In addition to those funds, from the sums hereinabove appropriated, there is \$2,225,000 for the Robert Wood Johnson Medical School

program in Camden and \$2,325,000 for the School for the School of Osteopathic Medicine for the purpose of supporting costs associated with operating medical school programs, including medical school faculty. There are 105 students currently enrolled in the Robert Wood Johnson Medical School program at Camden and 329 students currently enrolled in the School of Osteopathic Medicine. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at the University of Medicine and Dentistry of New Jersey shall be 5,545.

**2430 New Jersey Institute of Technology  
GRANTS-IN-AID**

82-2430 Institutional Support ..... \$216,565,000  
Subtotal General Operations ..... \$216,565,000

**Less:**

*General Services Income* ..... \$73,450,000  
*Auxiliary Funds Income* ..... 9,337,000  
*Special Funds Income* ..... 62,600,000  
*Employee Fringe Benefits* ..... 22,388,000  
*Total Income Deductions* ..... \$167,775,000  
Total Appropriation, New Jersey Institute  
of Technology ..... \$48,790,000

**Special Purpose:**

82 General Institutional  
Operations ..... (\$213,615,000)  
82 Tuition Incentive Grant ..... (2,950,000)

**Less:**

*Income Deductions* ..... 167,775,000

Of the sums hereinabove appropriated for the New Jersey Institute of Technology, there is \$100,000 for the NJIT/Burlington County College Engineering Program. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at the New Jersey Institute of Technology shall be 805.

**2440 Thomas A. Edison State College  
GRANTS-IN-AID**

82-2440 Institutional Support ..... \$22,632,000  
Subtotal General Operations ..... \$22,632,000

**Less:**

*Self Sustaining Income* ..... \$4,444,000  
*General Services Income* ..... 9,475,000  
*Employee Fringe Benefits* ..... 3,077,000  
*Total Income Deductions* ..... \$16,996,000

Total Appropriation, Thomas A. Edison  
State College ..... \$5,636,000

Special Purpose:

82 General Institutional Operations (\$22,295,000)

82 Tuition Incentive Grant ..... (337,000)

**Less:**

***Income Deductions* ..... 16,996,000**

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at Thomas A. Edison State College shall be 171.

**2445 Rowan University**  
**GRANTS-IN-AID**

82-2445 Institutional Support ..... \$139,008,000

Subtotal General Operations ..... \$139,008,000

**Less:**

***General Services Income* ..... \$55,354,000**

***Auxiliary Funds Income* ..... 21,442,000**

***Special Funds Income* ..... 6,780,000**

***Employee Fringe Benefits* ..... 18,898,000**

***Total Income Deductions* ..... \$102,474,000**

Total Appropriation, Rowan University ..... \$36,534,000

Special Purpose:

82 General Institutional  
Operations ..... (\$136,268,000)

82 Tuition Incentive Grant ..... (2,209,000)

82 Teacher Preparation ..... (531,000)

**Less:**

***Income Deductions* ..... 102,474,000**

Of the sums hereinabove appropriated for Rowan University, there is \$500,000 for the School of Engineering and \$215,000 for the Camden Urban Center. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at Rowan University shall be 877.

**2450 New Jersey City University**  
**GRANTS-IN-AID**

82-2450 Institutional Support ..... \$109,885,000

Subtotal General Operations ..... \$109,885,000

**Less:**

***General Services Income* ..... \$27,593,000**

***A.H. Moore Program Receipts* ..... 3,965,000**

***Auxiliary Funds Income* ..... 16,152,000**

***Special Funds Income* ..... 16,714,000**

***Employee Fringe Benefits* ..... 15,019,000**

**Total Income Deductions** . . . . . \$79,443,000

Total Appropriation, New Jersey City University . . \$30,442,000

Special Purpose:

82 General Institutional  
Operations . . . . . (\$107,713,000)  
82 Tuition Incentive Grant . . . . . (1,841,000)  
82 Teacher Preparation . . . . . (331,000)

**Less:**

**Income Deductions** . . . . . 79,443,000

Of the sums hereinabove appropriated for New Jersey City University, there is \$1,078,000 for the A. Harry Moore Laboratory School, and \$145,000 for Tideland Athletic Fields. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at New Jersey City University shall be 784.

**2455 Kean University  
GRANTS-IN-AID**

82-2455 Institutional Support . . . . . \$127,165,000

Subtotal General Operations . . . . . \$127,165,000

**Less:**

**General Services Income** . . . . . \$35,969,000  
**Auxiliary Funds Income** . . . . . 10,531,000  
**Special Funds Income** . . . . . 24,012,000  
**Employee Fringe Benefits** . . . . . 18,203,000  
**Total Income Deductions** . . . . . \$88,715,000  
Total Appropriation, Kean University . . . . . \$38,450,000

Special Purpose:

82 General Institutional  
Operations . . . . . (\$123,603,000)  
82 Tuition Incentive Grant . . . . . (2,282,000)  
82 Teacher Preparation . . . . . (1,280,000)

**Less:**

**Income Deductions** . . . . . 88,715,000

Of the sums hereinabove appropriated for Kean University, there is \$180,000 for Emerging Needs/Academic Initiatives. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at Kean University shall be 888.

**2460 William Paterson University of New Jersey  
GRANTS-IN-AID**

82-2460 Institutional Support . . . . . \$128,320,000

Subtotal General Operations . . . . . \$128,320,000

**Less:**

**General Services Income** . . . . . \$39,981,000

<i>Auxiliary Funds Income</i> .....	<b>24,151,000</b>	
<i>Special Funds Income</i> .....	<b>5,761,000</b>	
<i>Employee Fringe Benefits</i> .....	<b>19,767,000</b>	
<i>Total Income Deductions</i> .....		<b><u>\$89,660,000</u></b>
Total Appropriation, William Paterson University of New Jersey .....		<b><u>\$38,660,000</u></b>

## Special Purpose:

82 General Institutional Operations .....	(\$125,742,000)
82 Tuition Incentive Grant .....	(2,331,000)
82 New Jersey Project on Inclusive Scholarship, Curriculum and Teaching .....	(100,000)
82 Teacher Preparation .....	(147,000)

**Less:**

<i>Income Deductions</i> .....	<b>89,660,000</b>
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Of the sums hereinabove appropriated for William Paterson University of New Jersey, there is \$100,000 for the New Jersey Project and \$65,000 for Outcomes Assessment. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at William Paterson University of New Jersey shall be 947.

**2465 Montclair State University****GRANTS-IN-AID**

82-2465 Institutional Support .....	<b>\$174,878,000</b>
Subtotal General Operations .....	<b><u>\$174,878,000</u></b>

**Less:**

<i>General Services Income</i> .....	<b>\$73,085,000</b>
<i>Conservation School Receipts</i> .....	<b>1,050,000</b>
<i>Auxiliary Funds Income</i> .....	<b>27,033,000</b>
<i>Special Funds Income</i> .....	<b>7,757,000</b>
<i>Employee Fringe Benefits</i> .....	<b>22,524,000</b>
<i>Total Income Deductions</i> .....	<b><u>\$131,449,000</u></b>
Total Appropriation, Montclair State University ..	<b><u>\$43,429,000</u></b>

## Special Purpose:

82 General Institutional Operations .....	(\$171,917,000)
82 Tuition Incentive Grant .....	(2,626,000)
82 Teacher Preparation .....	(335,000)

**Less:**

<i>Income Deductions</i> .....	<b>131,449,000</b>
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In addition to the sums hereinabove appropriated for Montclair State University, all revenues from lease agreements between Montclair State University and corporations operating satellite relay stations are appropriated.

Of the sums hereinabove appropriated for Montclair State University, there is \$1,050,000 for the New Jersey State School of Conservation. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at Montclair State University shall be 1,102.

**2470 The College of New Jersey  
GRANTS-IN-AID**

82-2470 Institutional Support ..... \$140,228,000  
Subtotal General Operations ..... \$140,228,000

**Less:**

*General Services Income* ..... *\$42,308,000*  
*Auxiliary Funds Income* ..... *41,170,000*  
*Special Funds Income* ..... *3,885,000*  
*Employee Fringe Benefits* ..... *17,246,000*  
*Total Income Deductions* ..... *\$104,609,000*  
Total Appropriation, The College of New Jersey .. \$35,619,000

**Special Purpose:**

82 General Institutional  
Operations ..... (\$137,924,000)  
82 Tuition Incentive Grant ..... (2,154,000)  
82 Teacher Preparation ..... (150,000)

**Less:**

*Income Deductions* ..... *104,609,000*

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at The College of New Jersey shall be 823.

**2475 Ramapo College of New Jersey  
GRANTS-IN-AID**

82-2475 Institutional Support ..... \$82,762,000  
Subtotal General Operations ..... \$82,762,000

**Less:**

*General Services Income* ..... *\$20,782,000*  
*Auxiliary Funds Income* ..... *27,936,000*  
*Special Funds Income* ..... *4,628,000*  
*Employee Fringe Benefits* ..... *10,437,000*  
*Total Income Deductions* ..... *\$63,783,000*  
Total Appropriation, Ramapo College  
of New Jersey ..... \$18,979,000

**Special Purpose:**

82 General Institutional  
Operations ..... (\$81,615,000)  
82 Tuition Incentive Grant ..... (1,147,000)

**Less:**

*Income Deductions* ..... *63,783,000*

Of the sums hereinabove appropriated for Ramapo College of New Jersey, there is \$200,000 for the Governor William T. Cahill Recognition Programs. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at Ramapo College of New Jersey shall be 481.

**2480 The Richard Stockton College of New Jersey**

**GRANTS-IN-AID**

82-2480 Institutional Support .....	<u>\$86,299,000</u>
Subtotal General Operations .....	<u>\$86,299,000</u>

**Less:**

<i>General Services Income</i> .....	<i>\$31,587,000</i>
<i>Auxiliary Funds Income</i> .....	<i>17,400,000</i>
<i>Special Funds Income</i> .....	<i>2,587,000</i>
<i>Employee Fringe Benefits</i> .....	<i>11,592,000</i>
<i>Total Income Deductions</i> .....	<i><u>\$63,166,000</u></i>
Total Appropriation, The Richard Stockton College of New Jersey .....	<u>\$23,133,000</u>

**Special Purpose:**

82 General Institutional Operations .....	(\$84,812,000)
82 Tuition Incentive Grant .....	(1,399,000)
82 Teacher Preparation .....	(88,000)

**Less:**

<i>Income Deductions</i> .....	<i>63,166,000</i>
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For the purpose of implementing the fiscal year 2004 appropriations act, the number of State-funded positions at the Richard Stockton College of New Jersey shall be 622.

**Higher Educational Services**

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated February 4, 2003, first shall be charged to the State Lottery Fund.

Public colleges and universities are authorized to provide a voluntary employee furlough program.

From the sums appropriated hereinabove for Higher Educational Services - Institutional Support in each of the State colleges and universities, there are allocated such sums as are required to provide the reimbursement to cover tuition costs of the National Guard members pursuant to subsection b. of section 21 of P.L.1999, c.46 (C.18A:62-24).

Notwithstanding any provision of law to the contrary, no amount appropriated hereinabove for the Tuition Incentive Program for any Senior Public College or University shall be paid to any college or university that adopts an increase

in its undergraduate 2003-2004 tuition rate of more than 9% above its undergraduate 2002-2003 tuition rate or shifts costs previously funded from other institutional sources to student fees during the 2003-2004 academic year, subject to the determination by the Director of the of the Division of Budget and Accounting based upon a report that shall be provided by the New Jersey Commission on Higher Education as to the tuition increase percentages and the shifting of any such costs to student fees.

From the amounts appropriated hereinabove for General Institutional Operations in the senior public institutions, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2003 General Institutional Operations grant payment to each senior public institution in July 2003.

### **30 Educational, Cultural and Intellectual Development**

#### **37 Cultural and Intellectual Development Services**

##### **DIRECT STATE SERVICES**

05-2530 Support of the Arts .....	\$500,000
06-2535 Museum Services .....	2,530,000
07-2540 Development of Historical Services .....	500,000
10-2570 Public Broadcasting Services .....	<u>7,098,000</u>
Total Direct State Services Appropriation, Cultural and Intellectual Development Services .....	<u>\$10,628,000</u>

##### **Direct State Services:**

###### **Personal Services:**

Salaries and Wages .....	(\$7,759,000)
Materials and Supplies .....	(211,000)
Services Other Than Personal .....	(810,000)
Maintenance and Fixed Charges .....	(203,000)

###### **Special Purpose:**

06 Maintenance of Old Barracks .....	(375,000)
06 War Memorial Operations .....	(250,000)
10 New Jersey Network, Equipment ..	(1,000,000)
10 Affirmative Action and Equal Employment Opportunity .....	(20,000)

A sum, not to exceed \$225,000, is appropriated from the "Cultural Centers and Historic Preservation Fund," established pursuant to section 20 of P.L.1987, c.265, for costs attributable to planning and administering grants for the development of cultural centers, subject to the approval of the Director of the Division of Budget and Accounting.

##### **GRANTS-IN-AID**

05-2530 Support of the Arts .....	\$18,430,000
06-2535 Museum Services .....	800,000
07-2540 Development of Historical Resources .....	<u>3,302,000</u>
Total Grants-in-Aid Appropriation, Cultural and Intellectual Development Services .....	<u>\$22,532,000</u>



**Grants-in-Aid:**

05 Cultural Projects . . . . . (\$16,000,000)

05 Newark Museum . . . . . (2,430,000)

06 War Memorial Operations . . . . . (800,000)

07 New Jersey Historical Commission --

Agency Grants . . . . . (2,700,000)

07 Ellis Island Foundation . . . . . (400,000)

07 Grants in New Jersey History . . . . . (189,000)

07 Grants in Afro-American History . . . . . (13,000)

Of the amount appropriated for Cultural Projects, Grants-In-Aid, an amount not to exceed \$75,000 may be used for administrative purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated for Cultural Projects, Grants-In-Aid, an amount not to exceed \$125,000 may be used for the assessment and oversight of cultural projects, including administrative costs attendant to this function, in compliance with all pertinent State and federal laws and regulations, including the Single Audit Act, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove for Cultural Projects, funds may be used for the purpose of matching federal grants.

Of the amount hereinabove for Cultural Projects, the value of project grants awarded within each county shall total not less than \$50,000.

Notwithstanding the provision of any other law to the contrary, of the amount appropriated for Cultural Projects 25% shall be awarded to cultural groups or artists based in the eight southernmost counties (Cape May, Salem, Cumberland, Gloucester, Camden, Ocean, Atlantic, and Burlington). In the calculation of the allocation percentage the first \$1,000,000 of any grants that may be awarded to the New Jersey Performing Arts Center or the South Jersey Performing Arts Center shall be disregarded.

**2541 Division of State Library****DIRECT STATE SERVICES**51-2541 Library Services . . . . . \$3,345,000

Total Direct State Services Appropriation,

Division of State Library . . . . . \$3,345,000**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$2,207,000)

Materials and Supplies . . . . . (418,000)

Services Other Than Personal . . . . . (193,000)

Maintenance and Fixed Charges . . . . . (27,000)

**Special Purpose:**

51 Supplies and Extended Services . . . . (500,000)

**STATE AID**51-2541 Library Services . . . . . \$16,827,000

Total State Aid Appropriation,  
Division of State Library ..... \$16,827,000

**State Aid:**

51 Per Capita Library Aid ..... (\$8,665,000)  
51 Library Network ..... (4,777,000)  
51 Virtual Library Aid ..... (1,300,000)  
51 Public Library Project Fund ..... (2,085,000)

**70 Government Direction, Management and Control**

**74 General Government Services**

**2505 Office of the Secretary of State**

**DIRECT STATE SERVICES**

01-2505 Office of the Secretary of State ..... \$3,948,000  
08-2545 Records Management ..... 1,586,000

Total Direct State Services Appropriation, Office of  
the Secretary of State ..... \$5,534,000

**Direct State Services:**

**Personal Services:**

Salaries and Wages ..... (\$3,842,000)  
Materials and Supplies ..... (124,000)  
Services Other Than Personal ..... (278,000)  
Maintenance and Fixed Charges ..... (38,000)

**Special Purpose:**

01 Affirmative Action and Equal  
Employment Opportunity ..... (34,000)  
01 Cultural Trust - Administration .... (250,000)  
01 Personal Responsibility Programs .. (500,000)  
01 Amistad Commission ..... (300,000)  
01 Martin Luther King, Jr.  
Commemorative Commission ..... (168,000)

The Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Records Management program classification a sum up to \$397,000 for cost recoveries in the Division of Records.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Microfilm Section any appropriation made to any department for microfilming/imaging costs which had been appropriated or allocated to such department for its share of the costs of the Microfilm/ Imaging Section.

Receipts derived from fees charged for microfilming/imaging services provided to local governments are appropriated for the same purpose.

An amount not to exceed \$550,000 from the unexpended balances in the Office of the Secretary of State as of June 30, 2003 is appropriated for the Governor's Study Commission on Discrimination in State Employment Contracting, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2003 in the Division of Records Management, Integrated Archives and Records Management Data System account, is

appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated hereinabove for the Amistad Commission, the commission shall expeditiously implement and perform its responsibilities and duties as provided in P.L.2002, c.75 (C.52:16A-86 et seq.).

#### **GRANTS-IN-AID**

01-2505 Office of the Secretary of State . . . . . \$2,500,000

Total Grants-in-Aid Appropriation, Office of the  
Secretary of State . . . . . \$2,500,000

#### **Grants-in-Aid:**

01 Cultural Trust . . . . . (\$500,000)

01 Office of Faith Based Initiatives . . (2,000,000)

Department of State, Total State Appropriation . . . \$1,129,810,000

Pursuant to the provisions of P.L.2003, c.114 (C.54:32D-1 et al.), the appropriations hereinabove for purposes of promoting cultural and tourism activities in this State are first charged to revenues derived from the hotel and motel occupancy fee.

#### **Summary of Department of State Appropriations (For Display Purposes Only)**

##### **Appropriations by Category:**

Direct State Services . . . . . \$23,162,000

Grants-in-Aid . . . . . 1,089,821,000

State Aid . . . . . 16,827,000

##### **Appropriations by Fund:**

General Fund . . . . . \$1,129,810,000

### **78 DEPARTMENT OF TRANSPORTATION**

#### **10 Public Safety and Criminal Justice**

##### **11 Vehicular Safety**

The unexpended balances as of June 30, 2003 of monies appropriated to the Division of Motor Vehicles are appropriated to the New Jersey Motor Vehicle Commission.

Notwithstanding the provisions of the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2, balances in the fund are available for other-Clean Air purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), are appropriated to offset all reasonable and necessary expenses of the Division of State Police and the Department of Transportation-Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey Medical Service Helicopter Response Program under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 2003 is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment, subject to the approval of the Director of the Division of Budget and Accounting.

**60 Transportation Programs**  
**61 State and Local Highway Facilities**  
**DIRECT STATE SERVICES**

06-6100 Maintenance and Operations .....	\$72,572,000
08-6120 Physical Plant and Support Services .....	<u>7,181,000</u>
Total Direct State Services Appropriation, State and	
Local Highway Facilities .....	<u>\$79,753,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$49,950,000)
Materials and Supplies .....	(12,167,000)
Services Other Than Personal .....	(3,037,000)
Maintenance and Fixed Charges .....	(13,313,000)
Additions, Improvements	
and Equipment .....	(1,286,000)

In addition to the amount appropriated hereinabove for Maintenance and Operations, such additional sums as may be required are appropriated for snow removal costs, not to exceed \$5,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2003 in excess of \$1,000,000 in the accounts hereinabove are appropriated.

Notwithstanding any other law to the contrary, of the amounts appropriated hereinabove for the Department of Transportation from the General Fund, \$24,500,000 thereof shall be paid from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities and the State as are determined to be eligible for such funding pursuant to such contracts, as shall be determined by the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from the Logo Sign program fees, which include the Trailblazer Sign Program, the Variable Message Advertising Program, the Excess Parcel Advertising Program, and the Land Service Road Advertising Program, are appropriated for the purpose of administering the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived from highway application and permit fees pursuant to subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) are appropriated for the purpose of administering the Access

Permit Review program, subject to the approval of the Director of the Division of Budget and Accounting.

The department is permitted to transfer an amount approved by the Director of the Division of Budget and Accounting from funds previously appropriated for State highway projects from the "Transportation Rehabilitation and Improvement Fund of 1979," established pursuant to section 15 of P.L.1979, c.165, for planning, engineering, design, right-of-way acquisition, or other costs related to the construction of projects financed from that fund.

#### **CAPITAL CONSTRUCTION**

60-6200 Trust Fund Authority ..... \$805,000,000  
 Total Capital Construction Appropriation, State  
 and Local Highway Facilities ..... \$805,000,000

#### ***Capital Projects:***

Transportation Trust

Fund Account ..... (\$805,000,000)

Receipts representing the State share from the rental or lease of property, and the unexpended balances as of June 30, 2003 of such receipts are appropriated for maintenance or improvement of transportation property, equipment and facilities.

The sum provided hereinabove for the Transportation Trust Fund Account shall first be provided from revenues received from motor fuel taxes, the petroleum products gross receipts tax, and the sales and use tax pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, together with such additional sums pursuant to P.L.1984, c.73 (C.27:1B-1 et al.) and R.S.54:39-27 as amended, as may be necessary to satisfy all fiscal year 2004 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Notwithstanding any other requirements of law, the department may expend necessary sums for improvements to streets and roads providing access to State facilities within the capital city without local participation.

Notwithstanding any other provision of law, the Department of Transportation may transfer Transportation Trust Fund monies to federal projects contracted in federal fiscal years 2001, 2002, 2003, and 2004 until such time as federal funds become available for the projects. These transfers shall be subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance federally funded projects.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of \$610,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified under the seven general program headings as follows:

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
1.	CONSTRUCTION	Access management	Various	(\$250,000)

Access permit application review	Various	(100,000)
Adopt-A-Highway program	Various	(100,000)
Airport Safety Fund	Various	(7,000,000)
Allaire airport	Monmouth	(3,000,000)
Baseline Document Update	Various	(100,000)
Betterments, bridge preservation	Various	(10,000,000)
Betterments, roadway preservation	Various	(7,000,000)
Betterments, safety	Various	(4,000,000)
Bicycle projects, local system	Various	(7,000,000)
Bridge Safety Program	Various	(1,000,000)
Bridge, concrete casement removal	Various	(100,000)
Bridge, emergency repair	Various	(5,500,000)
Camden Transit Street Improvements	Camden	(2,000,000)
Construction inspection	Various	(3,000,000)
Culvert inspection program	Various	(1,000,000)
Dams, betterments	Various	(200,000)
Drainage rehabilitation and maintenance, State	Various	(3,000,000)
Duck Island Landfill, Site Remediation	Mercer	(100,000)
Ecotourism grants	Various	(500,000)
Electrical and signal safety engineering program	Various	(250,000)
Electrical facilities	Various	(1,500,000)
Emergency response operations	Various	(250,000)
Environmental investigations	Various	(2,000,000)
Equipment: vehicles and construction equipment	Various	(7,000,000)
Equipment, overage reduction program	Various	(2,000,000)
Fast Move program	Various	(10,000,000)
First and Second Streets over NJ Transit	Essex	(3,000,000)
Freight program	Various	(10,000,000)
Good Neighbor landscaping	Various	(1,500,000)
Hackettstown remediation	Morris	(50,000)
Historic Bridge Preservation Program	Various	(1,000,000)
Interstate service facilities	Various	(250,000)
Land Information Management System	Various	(500,000)
Legal costs for right-of-way condemnation	Various	(1,300,000)
Local aid for Centers of Place	Various	(3,000,000)
Maritime transportation system	Various	(4,000,000)

Newark circulation improvements	Essex	(6,000,000)
Orphan bridge emergency repairs	Various	(900,000)
Pacific Avenue, westbound	Atlantic	(1,500,000)
Park and Ride/Transportation Demand Management Program	Various	(10,000,000)
Physical plant	Various	(5,000,000)
PRIMIS (Philadelphia Regional Integrated Multi-modal Information Sharing)	Various	(200,000)
Professional auditing services	Various	(450,000)
Program implementation costs	Various	(79,000,000)
Rail - Highway grade crossing program, State	Various	(1,000,000)
Regional action program	Various	(1,000,000)
Restriping program	Various	(3,000,000)
Resurfacing program, State	Various	(50,000,000)
Safe Streets to Schools Program	Various	(6,000,000)
Sign structure inspection	Various	(1,000,000)
Sign structure repair	Various	(1,000,000)
Signs Program, Statewide	Various	(10,000,000)
Smart Growth Initiative	Various	(4,000,000)
Smart Move Program	Various	(5,000,000)
Solid and hazardous waste cleanup, reduction and disposal	Various	(1,130,000)
State Police enforcement and safety services	Various	(2,500,000)
Survey program, National Highway System	Various	(100,000)
Technology evaluation	Various	(100,000)
Traffic signal relamping	Various	(1,500,000)
Traffic signal replacement	Various	(4,000,000)
Training and technology development	Various	(750,000)
TRANSCOM Membership	Various	(500,000)
Transit Village Program	Various	(500,000)
Trenton revitalization improvements	Mercer	(2,000,000)
Unanticipated design, right-of-way, and construction expenses	Various	(15,000,000)
Underground exploration for utility facilities	Various	(100,000)
University Transportation Research Technology	Various	(2,000,000)
Utility reconnaissance and relocation	Various	(1,000,000)

	CR 514	Woodbridge Center, grade-separated interchange at Main Street and Woodbridge Center Drive	Middlesex	(4,000,000)
1&9		4T, Elizabeth River Bridge	Union	(10,500,000)
1&9		McClellan Street Ramps	Essex	(5,000,000)
9	CR 524	Jackson Mills Road	Monmouth	(4,790,000)
9	CR 609	Crest Haven Road	Cape May	(2,100,000)
9W		Alpine/Tenafly, Montammy Drive to NY State Line	Bergen	(8,200,000)
13		Inland Waterway Canal Bridge	Ocean	(1,400,000)
17		Essex Street, drainage	Bergen	(12,540,000)
21		TSM 6, Contract 1 - Raymond Boulevard to I-280	Essex	(11,500,000)
21		TSM 6, Contract 2 - Lafayette Street to Raymond Boulevard	Essex	(4,200,000)
21		TSM 6, Contract 3 - I-280 to Passaic Street	Essex	(9,500,000)
28		Westfield Circle, West Broad Street to Prospect Street	Union	(2,430,000)
31	CR 518	Intersection Improvements	Mercer Hunterdon	(4,000,000)
40		(2) Malaga Lake dam over Scotland Run	Gloucester	(4,030,000)
46		Parsippany park and Ride, Waterview Boulevard	Morris	(1,300,000)
47		Operational Improvements, Sharp Street to Sherman Avenue	Cumberland	(8,900,000)
71		Wall Street Intersection	Monmouth	(1,891,000)
71		Wall Township, Drainage	Monmouth	(1,187,000)
78		Potterstown Road to I-287, resurfacing	Hunterdon Somerset	(4,000,000)
168	41	Runnemedde drainage	Camden	(1,200,000)
206	(39)	Old York Road/Rising Sun Road	Burlington	(4,702,000)
2.	DESIGN	Avenue P Bridge	Essex	(400,000)
		Design, Emerging projects	Various	(3,500,000)
3.	PLANNING	Planning and research	Various	(2,500,000)
4.	FEASIBILITY ASSESSMENT	Project development, preliminary engineering	Various	(10,000,000)
5.	PRELIMINARY DESIGN	Environmental Document Development	Various	(1,000,000)
		Maintenance management system	Various	(300,000)
33		Washington Township bypass	Mercer	(50,000)



## 6. RIGHT-OF-WAY

	Advance acquisition of right-of-way	Various	(2,500,000)
1	6V, North of Ryders Lane to south of Milltown Road	Middlesex	(5,000,000)
1&9	(6) Magnolia Avenue Bridge	Union	(2,000,000)
22	Mountainside Boro, Drainage	Union	(400,000)
27	South Plainfield Branch (Lake Avenue Bridge)	Middlesex	(200,000)
57	Corridor scenic preservation	Warren	(5,000,000)
80	Howard Boulevard NJ Transit Park & Ride	Morris	(1,000,000)

## 7. LOCAL AID

	Local Aid, Discretionary	Various	(15,000,000)
	Local County Aid, DVRPC	Various	(13,087,000)
	Local County Aid, NJTPA	Various	(46,474,000)
	Local County Aid, SJTPO	Various	(7,939,000)
	Local Municipal Aid, DVRPC	Various	(11,540,000)
	Local Municipal Aid, NJTPA	Various	(45,741,000)
	Local Municipal Aid, SJTPO	Various	(5,219,000)
	Local Municipal Aid, Urban Aid	Various	(5,000,000)

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner of Transportation may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner of Transportation shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of \$618,200,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified as follows:

## NEW JERSEY TRANSIT CORPORATION

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
		ADA -- platforms/stations	Various	(\$6,830,000)
		ADA -- vans for paratransit services	Various	(540,000)
		Amtrak Agreements	Various	(62,500,000)
		Bridge and tunnel rehabilitation	Various	(32,453,000)

Building capital leases	Various	(9,892,000)
Bus acquisition program	Various	(2,050,000)
Bus maintenance facilities	Various	(3,650,000)
Bus passenger facilities	Various	(5,060,000)
Bus support facilities and equipment	Various	(43,301,000)
Bus Vehicle and Facility Maintenance/Capital Maintenance	Various	(41,700,000)
Capital program implementation	Various	(18,530,000)
Claims support	Various	(5,730,000)
Environmental compliance	Various	(3,500,000)
GIS Development Projects	Various	(500,000)
Hudson - Bergen LRT System, MOS I	Hudson Bergen	(406,000)
Hudson - Bergen LRT System, MOS II	Hudson Bergen	(132,000,000)
Immediate action program	Various	(25,900,000)
Locomotive overhaul	Various	(560,000)
Miscellaneous	Various	(1,190,000)
Newark City Subway	Essex	(100,000)
Other rail station/terminal improvements	Various	(11,360,000)
Physical plant	Various	(8,500,000)
Private carrier equipment program	Various	(2,300,000)
PSNY Improvements	Various	(100,000)
Rail capital maintenance	Various	(49,170,000)
Rail fleet overhaul	Various	(16,648,000)
Rail park and ride	Various	(7,500,000)
Rail rolling stock procurement	Various	(7,000,000)
Rail support facilities and equipment	Various	(6,510,000)
Railroad associated capital maintenance	Various	(8,000,000)
Signals and communications/ electric traction systems	Various	(17,800,000)
Small/Special Services Program	Various	(100,000)
Southern New Jersey Light Rail Transit System	Burlington Camden Mercer	(48,000,000)
Study and development	Various	(2,750,000)
Technology improvements	Various	(20,400,000)
Track program	Various	(15,670,000)

The unexpended balances as of June 30, 2003 of appropriations from the New Jersey Transportation Trust Fund Authority are appropriated.

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the commissioner may transfer funds among

projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

**62 Public Transportation**  
**GRANTS-IN-AID**

04-6050 Railroad and Bus Operations ..... \$1,233,100,000  
Total State, Federal and All Other  
Funds Appropriation ..... \$1,233,100,000

**Less:**

*Farebox Revenue* ..... \$561,700,000  
*Other Resources* ..... 477,573,000  
**Total Income Deductions** ..... **\$1,039,273,000**  
Total State Grants-in-Aid Appropriation,  
Public Transportation ..... \$193,827,000

**Grants-in-Aid:**

Personal Services:

Salaries and Wages ..... (\$771,856,000)  
Materials and Supplies ..... (184,833,000)  
Services Other Than Personal ..... (62,777,000)

Special Purpose:

04 Leases and Rentals ..... (2,084,000)  
04 Purchased Transportation ..... (138,090,000)  
04 Insurance and Claims ..... (30,179,000)  
04 Tolls, Taxes and Other  
Operating Expenses ..... (43,281,000)

**Less:**

**Income Deductions** ..... **1,039,273,000**

**STATE AID**

04-6050 Railroad and Bus Operations ..... \$25,458,000  
(From Casino Revenue Fund ..... \$25,458,000)  
Total State Aid Appropriation,  
Public Transportation ..... \$25,458,000  
(Total From Casino Revenue  
Fund ..... \$25,458,000)

**State Aid:**

04 Transportation Assistance  
for Senior Citizens and  
Disabled Residents (CRF) . . . . . (\$25,458,000)

The unexpended balance as of June 30, 2003, in this account is appropriated.

Counties which provide para-transit services for sheltered workshop clients may seek reimbursement for such services pursuant to P.L.1987, c.455 (C.34:16-51 et seq.).

**64 Regulation and General Management****DIRECT STATE SERVICES**

05-6070 Access and Use Management . . . . . \$1,294,000  
99-6000 Administration and Support Services . . . . . 4,281,000  
Total Direct State Services Appropriation,  
Regulation and General Management . . . . . \$5,575,000

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$1,479,000)  
Materials and Supplies . . . . . (271,000)  
Services Other Than Personal . . . . . (1,979,000)  
Maintenance and Fixed Charges . . . . . (70,000)

**Special Purpose:**

05 Airport Safety Fund  
Administration . . . . . (965,000)  
99 Office of Maritime Resources . . . . . (350,000)  
99 Affirmative Action and Equal  
Employment Opportunity . . . . . (461,000)

The unexpended balance as of June 30, 2003 and the reimbursements in the department's Stock Purchase Revolving Fund for the purchase of materials and supplies required for the operation of the department are appropriated.

Receipts in excess of the amount anticipated derived from outdoor advertising application and permit fees are appropriated for the purpose of administering the Outdoor Advertising Permit and Regulation program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2003 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

Notwithstanding any other provision of law, the amount hereinabove for the Airport Safety Fund is payable out of the "Airport Safety Fund" established pursuant to section 4 of P.L.1983, c.264 (C.6:1-92) and is available for salary and operational costs incurred by the Bureau of Aeronautics in the administration of loans or grants; the acquisition of airports lands or rights in lands; the operation or provision of any program or activity which promotes aviation safety, promotes aviation education, or provides for the promotion of aeronautics; and for those aviation purposes which the department is empowered to undertake pursuant to the "New Jersey Airport Safety Act of 1983," P.L.1983, c.264 (C.6:1-89 et. seq.) or under Title 6 and Title 27 of the Revised Statutes.

If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from fees on placarded rail freight cars transporting hazardous materials in this State are appropriated to defray the expenses of the Placarded Rail Freight Car Transporting Hazardous Materials program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

The unexpended balance as of June 30, 2003 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

Department of Transportation,  
Total State Appropriation ..... \$1,109,613,000

Notwithstanding the provision of any law to the contrary, the revenues remitted to the New Jersey Motor Vehicle Commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36) shall be increased by \$1,885,000 and the revenues remitted to the General Fund shall be decreased by \$1,885,000.

#### ***Summary of Department of Transportation Appropriations (For Display Purposes Only)***

##### ***Appropriations by Category:***

Direct State Services .....	\$85,328,000
Grants-in-Aid .....	193,827,000
State Aid .....	25,458,000
Capital Construction .....	805,000,000

##### ***Appropriations by Fund:***

General Fund .....	\$1,084,155,000
Casino Revenue Fund .....	25,458,000

### **82 DEPARTMENT OF THE TREASURY**

#### ***30 Educational, Cultural and Intellectual Development***

#### ***36 Higher Educational Services***

#### **GRANTS-IN-AID**

47-2155 Support to Independent Institutions .....	\$24,159,000
49-2155 Miscellaneous Higher Education Programs .....	<u>80,075,000</u>
Total Grants-in-Aid Appropriation, Higher Educational Services .....	<u>\$104,234,000</u>

##### ***Grants-in-Aid:***

47 Aid to Independent Colleges and Universities .....	(\$22,762,000)
47 Clinical Legal Programs for the Poor -- Seton Hall University (P.L.1996, c.52) .....	(200,000)

47	Discrete Mathematics and Computer Science Center -- Institute for Advanced Study . . . . .	(80,000)
47	Institute for Advanced Study -- Park City Mathematics Institute . . . .	(80,000)
47	Research Under Contract with the Institute of Medical Research, Camden . . . . .	(1,037,000)
49	Garden State Savings Bonds Incentive . . . . .	(100,000)
49	Higher Education Capital Improvement Program -- Debt Service . . . . .	(22,878,000)
49	Equipment Leasing Fund -- Debt Service . . . . .	(15,963,000)
49	Higher Education Facilities Trust Fund -- Debt Service . . . . .	(21,019,000)
49	Higher Education Technology Bond -- Debt Service . . . . .	(6,445,000)
49	Higher Education Incentive Endowment Fund . . . . .	(3,000,000)
49	Marine Sciences Consortium . . . . .	(426,000)
49	Dormitory Safety Trust Fund -- Debt Service . . . . .	(9,044,000)
49	Statewide Systemic Initiative to Reform Mathematics and Science Education . . . . .	(1,200,000)

For the purpose of implementing the "Independent College and University Assistance Act," P.L.1979, c.132 (C.18A:72B-15 et seq.), the number of full-time equivalent students (FTE) at the eight State Colleges is 52,523 for fiscal year 2003.

Receipts in excess of the amount hereinabove for Clinical Legal Programs for the Poor - Seton Hall are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The sums provided hereinabove for Research under Contract with the Institute of Medical Research, Camden (Coriell Institute) shall be expended on support for research activities, and the Institute shall submit an annual audited financial statement to the Department of the Treasury which shall include a schedule showing the use of these funds.

In addition to the amounts hereinabove appropriated for the Higher Education Capital Improvement Fund account, the unexpended balances as of June 30, 2003 are appropriated for the same purpose.

From the amount appropriated hereinabove for Aid to Independent Colleges and Universities, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2003 Aid to Independent Colleges and Universities payments in July 2003.

**STATE AID**

48-2155 Aid to County Colleges .....	<u>\$208,330,000</u>
(From General Fund .....	<u>\$183,468,000</u> )
(From Property Tax Relief Fund ...	24,862,000)
Total State Aid Appropriation,	
Higher Educational Services .....	<u>\$208,330,000</u>
(From General Fund .....	<u>\$183,468,000</u> )
(From Property Tax Relief Fund ...	24,862,000)

**State Aid:**

48 Operational Costs .....	(\$155,562,000)
48 Debt Service for Chapter 12	
P.L.1971, c.12 (C.18A:64A-22.1)	
(PTRF) .....	(24,862,000)
48 Employer Contributions --	
Alternate Benefit Program .....	(17,514,000)
48 Teachers' Pension and Annuity	
Fund -- Post Retirement Medical ....	(322,000)
48 Post Retirement Medical Other	
Than TPAF .....	(9,538,000)
48 Employer Contributions -- FICA	
for County College Members	
of Teachers' Pension and	
Annuity Fund .....	(450,000)
48 Debt Service on Pension	
Obligation Bonds P.L.1997,	
c. 114 (C.34:1B-7.50 et seq.) .....	(82,000)

In addition to the amount hereinabove for operational costs, there is appropriated \$5,000,000 from the Supplemental Workforce Fund for Basic Skills for the same purpose.

Such additional sums as may be required for Employer Contributions - Alternate Benefit Program, Teachers' Pension and Annuity Fund - Post Retirement Medical and Post Retirement Medical Other Than TPAF are appropriated, as the Director of the Division of Budget and Accounting shall determine.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Teachers' Pension and Annuity Fund - Post Retirement Medical, \$70,000 from amounts in the Benefit Enhancement Fund established in N.J.S.18A:66-16, shall be applied to pay the normal cost contribution by the State for the Teachers' Pension and Annuity Fund.

From the amount appropriated hereinabove for county college Operational Costs aid, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2003 county college Operational Costs aid payments in July 2003.

***Higher Educational Services***

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule in the Governor's Budget Recommendation Document dated February 4, 2003, first shall be charged to the State Lottery Fund.

Such sums as may be necessary for the payment of interest or principal or both, due from the issuance of any bonds authorized under the provisions of section 1 of P.L.1971, c.12 (C.18A:64A-22.1) are appropriated.

***50 Economic Planning, Development and Security***

***51 Economic Planning and Development***

**DIRECT STATE SERVICES**

38-2049 Economic Development ..... \$406,000

Total Direct State Services Appropriation, Economic

Planning and Development ..... \$406,000

***Direct State Services:***

Special Purpose:

Motion Picture and Television

Development Commission ..... (\$406,000)

**GRANTS-IN-AID**

38-2043 Economic Development ..... \$116,000

Total Grants-In-Aid Appropriation, Economic

Planning and Development ..... \$116,000

***Grants-in-Aid:***

38 Commission on Jobs, Growth and

Economic Development -EDA ..... (\$116,000)

Notwithstanding the provisions of any law to the contrary, there is appropriated from the Sanitary Landfill Facility Contingency Fund up to \$6,000,000 for the Brownfield Site Reimbursement Fund for the issuing of payments under the provisions of P.L. 1997, c.278, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for the Brownfield Site Reimbursement Fund, there are appropriated such sums as may be necessary to make payments under the provisions of P.L.1997, c.278, subject to the approval of the Director of the Division of Budget and Accounting.

***2041 New Jersey Commerce and Economic Growth Commission***

**GRANTS-IN-AID**

38-2041 Economic Development ..... \$15,832,000

Total Grants-in-Aid Appropriation, New Jersey

Commerce and Economic Growth Commission ... \$15,832,000



***Grants-in-Aid:***

- 38 New Jersey Commerce and  
Economic Growth Commission . . . (\$15,310,000)  
38 Prosperity New Jersey, Inc. . . . . (522,000)

Of the sum hereinabove appropriated for the New Jersey Commerce and Economic Growth Commission, there is no less than \$9,591,000 for Advertising and Promotion and the Travel and Tourism Cooperative Marketing Program, from which \$50,000 shall be allocated to each of the six regional tourism councils for regional tourism promotion; \$2,853,000 for Business Retention, Expansion and Attraction of which \$500,000 is for New Jersey Small Business Development Centers; \$130,000 for the New Jersey Israel Commission; except that any amount for the Cooperative Marketing Program is available for expenditure only to the extent that an amount equal to 25% of the State funds are expended from funds raised by the Commerce Commission, pursuant to subsection j. of section 9 of P.L.1977, c.225 (C.34:1A-53), through contributions from private tourism industry concerns and non-State public entities as determined by the Director of the Division of Budget and Accounting. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

Pursuant to the provisions of P.L.2003, c.114 (C.54:32D-1 et al.), the appropriations hereinabove for purposes of promoting tourism activities in this State are first charged to revenues derived from the hotel and motel occupancy fee.

Any grant from the amount allocated for Nanotechnology from the Economic Recovery Fund shall be conditioned on the New Jersey Commerce and Economic Growth Commission and the grant recipient entering into a contract with the State of New Jersey whereby the State shares in any financial proceeds, up to an aggregate amount of \$1,500,000, derived from the development, patenting, marketing, sale or other disposition of Nanotechnology attributable to such grants.

Subject to the approval of the Director of the Division of Budget and Accounting, there is appropriated to the New Jersey Commerce and Economic Growth Commission from the General Fund such sums as may be necessary, as certified by the Commissioner and the Director of the Division of Taxation, to fund business relocation grants made under the "Business Relocation Assistance Act," the amount of which shall not exceed the new income tax revenues as defined in section 2 of P.L.1996, c.25 (C.34:1B-113). In addition to the report required pursuant to section 10 of P.L.1996, c.25 (C.34:1B-121), the Chief Executive Officer and Secretary of the Commission shall provide the Joint Budget Oversight Committee, on or before November 1, 2003, with a report of the grants funded in the prior fiscal year including, but not limited to, a summary of each grant agreement and the amount of each grant funded in that year.

There is appropriated from the Enterprise Zone Assistance Fund such sums as are necessary for administrative services provided by the New Jersey Commerce and Economic Growth Commission in accordance with the provisions of section 11 of P.L.1993, c.367 (C.52:27H-65.1), subject to the approval of the Director of the Division of Budget and Accounting.

**New Jersey State Library**

The Chief Executive Officer and Secretary of the Commission shall report semi-annually on the expenditure of State funds and private contributions during the preceding six months for the Advertising and Promotion Program and the Travel and Tourism, Advertising and Promotion - Cooperative Marketing Program. The first semi-annual report covering the first six months of fiscal year 2004 shall be completed not later than January 31, 2004, the second semi-annual report covering the second six months of fiscal year 2004 shall be completed not later than July 31, 2004 and both reports shall be submitted to the Governor and the Joint Budget Oversight Committee.

**2042 New Jersey Commission on Science and Technology**

**GRANTS-IN-AID**

39-2042 New Jersey Commission on  
 Science and Technology ..... \$8,000,000  
 Total Grants-in-Aid Appropriation, New Jersey  
 Commission on Science and Technology ..... \$8,000,000

**Grants-in-Aid:**

39 Science and Technology Grants ..... (\$8,000,000)

Of the amount appropriated hereinabove for Science and Technology Grants, an amount not to exceed \$500,000 is allocated for the administrative expenses of the New Jersey Commission on Science and Technology, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated hereinabove for Science and Technology Grants, there is allocated \$1,000,000 for the Manufacturing Extension Program.

**52 Economic Regulation**

**DIRECT STATE SERVICES**

53-2018 Ratepayer Advocacy ..... \$5,805,000  
 54-2008 Utility Regulation ..... 7,466,000  
 55-2004 Regulation of Cable Television ..... 1,904,000  
 88-2058 Energy Assistance Programs ..... 1,591,000  
 97-2016 Regulatory Support Services ..... 3,264,000  
 99-2003 Administration and Support Services ..... 8,690,000  
 Total Direct State Services Appropriation,  
 Economic Regulation ..... \$28,720,000

**Direct State Services:**

**Personal Services:**

Salaries and Wages ..... (\$23,722,000)  
 Materials and Supplies ..... (486,000)  
 Services Other Than Personal ..... (3,321,000)  
 Maintenance and Fixed Charges ..... (905,000)  
 Additions, Improvements and Equipment .. (286,000)

In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine are appropriated on behalf of the Board of Public Utilities under P.L.1968, c.173 (C.48:2-59 et seq.) and

P.L.1972, c.186 (C.48:5A-32 et seq.), or other applicable statutes with respect to assessment of public utilities or the cable television industry.  
 Receipts derived from fees are appropriated.  
 Fees received from the "Electric Facility Need Assessment Act," P.L.1983, c.115 (C.48:7-16 et seq.) are appropriated.  
 The unexpended balances as of June 30, 2003 are appropriated.  
 Receipts of the Division of Ratepayer Advocate in excess of those anticipated are appropriated for the Division of Ratepayer Advocate to defray the costs of this activity under section 16 of P.L.1994, c.58 (C.52:27E-63).  
 There are appropriated from interest earned by the Petroleum Overcharge Reimbursement Fund such sums as may be required for costs attributable to the administration of the fund, subject to the approval of the Director of the Division of Budget and Accounting.  
 Notwithstanding the provisions of any other law, the balances from the Petroleum Overcharge Reimbursement Fund and the Secondary Stage Refunds and the monies required to be deposited in that fund from projects which have been completed or are no longer viable are reappropriated for new projects consistent with the court rulings which served as the basis for the original awards, subject to the approval of the Director of Budget and Accounting.  
 In addition to the amount hereinabove for administration of the Board of Public Utilities, there are appropriated such sums as may be required for operation of the Board and assessed to the public utilities or the cable television industry, subject to the approval of the Director of the Division of Budget and Accounting.  
 The amounts appropriated hereinabove, not to exceed \$1,591,000, for the Energy Assistance Program account may be transferred to the Department of Health and Senior Services, Lifeline account to fund the costs associated with administering the Lifeline Credits and Tenants' Assistance Rebates Program and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

88-2058 Energy Assistance Programs .....	<u>\$70,840,000</u>
Total Grants-in-Aid Appropriation,	
Economic Regulation .....	<u>\$70,840,000</u>

***Grants-in-Aid:***

88 Payments for Lifeline Credits .....	(\$34,669,000)
88 Payments for Tenants'	
Assistance Rebates .....	(36,171,000)

Notwithstanding the provisions of P.L.1979, c.197 (C.48:2-29.15 et seq.), the provisions of P.L.1981, c.210 (C.48:2-29.30 et seq.) or any other law to the contrary, the benefits of the Lifeline Credits Program and the Tenants' Assistance Rebates Program may be distributed throughout the entire year from July through June, and are not limited to an October to March heating season;

therefore, applications for Lifeline benefits and benefits from the Pharmaceutical Assistance to the Aged and Disabled program may be combined.

The amounts hereinabove for Payments for the Lifeline Credits Program and Payments for Tenants' Assistance Rebates Program are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of Lifeline claims, amounts may be transferred from the various items of appropriation within the Energy Assistance Programs classification, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, such sums as may be required for the payment of claims, credits, and rebates, are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Any supplemental appropriation for the Payments for Lifeline Credits and the Payments for Tenants' Assistance Rebates Programs may be recovered from the Universal Service Fund through transfer to the General Fund as State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

All funds recovered under P.L. 1968, c. 413 (C.30:4D-1 et seq.) and P.L. 1975, c. 194 (C.30:4D-20 et seq.), during the fiscal year ending June 30, 2003, are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding the provisions of any law or regulation to the contrary, any Pharmaceutical Assistance to the Aged and Disabled (PAAD) applicant found ineligible for the PAAD program solely because of the asset test, shall remain eligible to receive Lifeline Tenants or Credits Benefits.

#### **70 Government Direction, Management and Control**

##### **72 Governmental Review and Oversight**

##### **DIRECT STATE SERVICES**

03-2015 Employee Relations and Collective Negotiations . . .	\$522,000
07-2040 Office of Management and Budget . . . . .	<u>19,408,000</u>
Total Direct State Services Appropriation,	
Governmental Review and Oversight . . . . .	<u>\$19,930,000</u>

##### **Direct State Services:**

##### **Personal Services:**

Salaries and Wages . . . . .	(\$13,363,000)
Materials and Supplies . . . . .	(294,000)
Services Other Than Personal . . . . .	(5,272,000)
Maintenance and Fixed Charges . . . . .	(122,000)

##### **Special Purpose:**

07 Independent Audits . . . . .	(879,000)
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Such sums as may be necessary for administrative expenses incurred in processing federal benefit payments are appropriated from such sums as may be received or receivable for this purpose.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for an independent audit of the State's general fixed asset

account group, management, performance, and operational audits, and the single audit.

There are appropriated, out of receipts derived from the investment of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

**73 Financial Administration**  
**DIRECT STATE SERVICES**

15-2080	Taxation Services and Administration .....	\$87,093,000
16-2090	Administration of State Lottery .....	21,491,000
17-2105	Administration of State Revenues .....	29,059,000
19-2120	Management of State Investments .....	5,990,000
25-2095	Administration of Casino Gambling .....	26,938,000
	<i>(From Casino Control Fund .....</i>	<i>\$26,938,000)</i>
50-2105	Commercial Recording .....	<u>4,703,000</u>
	Total Direct State Services Appropriation,	
	Financial Administration .....	<u>\$175,274,000</u>
	<i>(From General Fund .....</i>	<i>\$148,336,000)</i>
	<i>(From Casino Control Fund .....</i>	<i>26,938,000)</i>

**Direct State Services:**

Personal Services:

	Chairman and Commissioners (CCF) ..	(\$534,000)
	Salaries and Wages .....	(94,005,000)
	Salaries and Wages (CCF) .....	(18,253,000)
	Employee Benefits (CCF) .....	(4,855,000)
	<i>(From General Fund .....</i>	<i>\$93,530,000)</i>
	<i>(From Casino Control Fund .....</i>	<i>23,642,000)</i>
	Materials and Supplies .....	(6,125,000)
	Materials and Supplies (CCF) .....	(230,000)
	Services Other Than Personal .....	(44,895,000)
	Services Other Than Personal (CCF) ....	(1,535,000)
	Maintenance and Fixed Charges .....	(1,778,000)
	Maintenance and Fixed Charges (CCF) ...	(1,317,000)

Special Purpose:

	17 Wage Reporting/Temporary	
	Disability Insurance .....	(1,524,000)
	25 Administration of Casino	
	Gambling (CCF) .....	(105,000)
	Additions, Improvements and Equipment .....	(9,000)
25	Additions, Improvements and	
	Equipment (CCF) .....	(109,000)

So much of the receipts derived from the sale of confiscated equipment, materials and supplies under the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as may be necessary for confiscation, storage, disposal and other related expenses thereof, are appropriated.

- Notwithstanding the provision of any law to the contrary, there shall be no retroactive payment for refunds due under section 9 of P.L.1976, c.141 (C.58:10-23.11h) as amended pursuant to section 1 of P.L.1997, c.134 for the period from January 1, 1996, through June 26, 1997, appropriated from the Spill Compensation Fund.
- Such sums as may be necessary for the administration of the homestead property tax reimbursement established pursuant to P.L.1997, c.348 (C.54:4-8.67 et seq.) are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Upon certification of the Director of the Division of Taxation, the State Treasurer shall pay, upon warrants of the Director of the Division of Budget and Accounting, such claims for refund as may be necessary under the provisions of Title 54 of the Revised Statutes, as amended and supplemented.
- Notwithstanding any other law to the contrary, there are appropriated out of the receipts in the Solid Waste Services Tax Fund such sums as may be necessary for the cost of administration and collection of taxes pursuant to P.L.1985, c.38 (C.13:1E-136 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.
- Such sums as are required for the acquisition of equipment essential to the modernization of processing tax returns, are appropriated from tax collections, subject to the approval of the Joint Budget Oversight Committee and the Director of the Division of Budget and Accounting.
- The amount necessary to provide administrative costs incurred by the Division of Taxation and the Division of Revenue to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.
- Pursuant to the provisions of section 12 of P.L.1992, c.165 (C.40:54D-12) there are appropriated such sums as may be required to compensate the Department of the Treasury for costs incurred in administering the "Tourism Improvement and Development District Act," P.L.1992 c.165 (C.40:54D-1 et seq.).
- In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund costs of the collection and processing of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Joint Budget Oversight Committee with written reports on the detailed appropriation and expenditure of sums appropriated pursuant to this provision.
- Notwithstanding any provision of any other law to the contrary, there are available out of fees derived from the cost of collection imposed pursuant to section 8 of P.L.1987, c.76 (C.54:49-12.1) such sums as may be required for compliance and enforcement activities associated with the collection process as promulgated by the Taxpayers' Bill of Rights under P.L.1992, c.175.
- The unexpended balance as of June 30, 2003 in the Property Assessment Management System (PAMS) is appropriated for the same purpose.

There are appropriated, out of revenues derived from escheated property under the various escheat acts, such sums as may be necessary to administer such acts and such sums as may be required for refunds.

There are appropriated out of the State Lottery Fund such sums as may be necessary for costs required to implement the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.) and for payment for commissions, prizes and expenses of developing and implementing games pursuant to section 7 of P.L.1970, c.13 (C.5:9-7).

In addition to the amounts hereinabove, State Lottery Fund receipts in excess of anticipated contributions to education and State institutions, and reimbursement of administrative expenditures, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from communications fees such sums as may be necessary for telecommunications costs required in the administration of the State Lottery.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from the sale of advertising and/or promotional products by the State Lottery, such sums as may be necessary for advertising costs required in the administration of the State Lottery pursuant to P.L.1970, c.13 (C.5:9-1 et seq.).

The unexpended balances as of June 30, 2003 in the Revenue Management System account are appropriated.

The Director of the Division of Budget and Accounting is hereby authorized to transfer or credit such sums as are necessary between the Department of Labor and the Department of the Treasury for the administration of revenue collection and processing functions related to the Unemployment Insurance, Temporary Disability Insurance, Workers Compensation, Special Compensation Programs, the Health Care Subsidy Fund, and Workforce Development Partnership program.

The amounts hereinabove for the Wage Reporting/Temporary Disability Insurance program are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer revenue collection associated with the Temporary Disability Insurance program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated from the over-the-counter surcharges are appropriated to meet the costs of the Division of Revenue's commercial recording function, subject to the approval of the Director of the Division of Budget and Accounting.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.), as well as the cost of billing and collection of surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982 - Merit Rating System Surcharge Program, P.L.1983, c.65 (C.17.29A-33 et al.) as amended, are appropriated from fees in lieu of actual cost of collection receipts and from surcharges

derived, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of investment transactions, such sums as may be necessary to administer the above investment activity.

There are appropriated, out of receipts derived from the investments of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

Notwithstanding the provisions of any law to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and other such costs as are related to the management of the pension and health benefit programs as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

There is appropriated such sums as are necessary to fund the hospitals' share of monies collected pursuant to the hospital care payment act, P.L.2003, c.112 (C.17B:30-41 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Administration of Casino Gambling, there are appropriated from the Casino Control Fund such additional sums as may be required for operation of the Casino Control Commission, subject to the approval of the Director of the Division of Budget and Accounting.

#### **74 General Government Services**

##### **DIRECT STATE SERVICES**

02-2069	Garden State Preservation Trust Administration . . .	\$468,000
09-2050	Purchasing and Inventory Management . . . . .	13,277,000
21-2140	Pensions and Benefits . . . . .	31,798,000
26-2067	Property Management and Construction --	
	Property Management Services . . . . .	14,621,000
37-2051	Risk Management . . . . .	<u>1,807,000</u>
	Total Direct State Services Appropriation, General	
	Government Services . . . . .	<u>\$61,971,000</u>

##### **Direct State Services:**

###### **Personal Services:**

Salaries and Wages . . . . .	(\$34,789,000)
Materials and Supplies . . . . .	(891,000)



Services Other Than Personal . . . . . (17,862,000)

Maintenance and Fixed Charges . . . . . (1,899,000)

Special Purpose:

02 Garden State Preservation

Trust Administration . . . . . (468,000)

09 Fleet Renewal Management

Program . . . . . (5,882,000)

21 State Pension System Audit . . . . . (180,000)

The Director of the Division of Budget and Accounting is empowered to transfer or credit to any central data processing center any appropriation made to any department which had been appropriated or allocated to such department for its share of costs of such data processing center including the replacement of data processing equipment and the purchase of additional data processing equipment.

There are appropriated, out of receipts derived from service fees billed to political subdivisions for the operating costs of the cooperative purchasing program, such sums as may be necessary to administer and operate the above purchasing activity.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of insurance procurement and risk management services, such sums as may be necessary to administer the above insurance and risk management activities.

Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of the receipts derived from third party subrogation, such sums as may be necessary for the administrative expenses of this program.

Notwithstanding the provisions of section 15 of article 6 of P.L.1944, c.112 (C.52:27B-67), revenues in excess of the anticipation derived from the sale of surplus state vehicles are available for the replacement of Central Motor Pool temporary assignment vehicles, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of receipts derived from service fees billed to the various State departments for the purpose of travel services, such sums as may be necessary for the administrative expenses of the program.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Capitol Post Office revolving fund any appropriation made to any department for postage costs appropriated or allocated to such departments for their share of costs of the Capitol Post Office.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Print Shop revolving fund any appropriation made to any department for printing costs appropriated or allocated to such departments for their share of costs of the Print Shop and the Office of Printing Control.

The unexpended balances in the State cafeteria accounts as of June 30, 2003, and receipts obtained from cafeteria operations, are appropriated for the improvement and extension of cafeteria services and facilities pursuant to section 2 of P.L.1951, c.312 (C.52:18A-19.6).

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Property Management and Construction program classification,

from appropriations for construction and improvements, a sufficient sum to pay for the cost of architectural work, superintendence and other expert services in connection with such work.

From the receipts derived from the sale of real property, such sums are appropriated for the costs incurred in order to preserve and maintain the property's value and condition and for costs incurred in the selling of the real property, including appraisal, survey, advertising, maintenance, security and other costs related to the preservation and disposal, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, there are appropriated out of receipts derived from the pre-qualification service fees billed to contractors, architects, engineers, and professionals sufficient sums for expenses related to the administration of pre-qualification activities undertaken by the Division of Property Management and Construction.

The unexpended balances in excess of \$300,000 in the Management of the Department of Environmental Protection Properties account as of June 30, 2003 are appropriated for the same purpose.

Receipts derived from the leasing of State surplus real property are appropriated for the maintenance of leased property subject to the approval of the Director of the Division of Budget and Accounting, provided that a sum not to exceed \$100,000 shall be available for the administrative expenses of the program.

There are appropriated such additional sums as may be necessary for the purchase of expert witness services related to the State's defense against inverse condemnation claims of the Land Use Regulation program.

Receipts from employee maintenance charges in excess of \$300,000 are appropriated for maintenance of employee housing and associated relocation costs; provided however, that a sum not to exceed \$25,000 shall be available for management of the program, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of receipts derived from lease proceeds billed to the occupants of the James J. Howard Marine Science Laboratory, such sums as may be required to operate and maintain the facility and for the payment of interest and/or principal due from the issuance of bonds for this facility.

Notwithstanding any other law to the contrary, the Departments of the Treasury, Community Affairs, Environmental Protection, and Agriculture will provide such administrative services as are necessary to operate the Garden State Preservation Trust.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for independent audits of the State's pension systems, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

Notwithstanding the provisions of any law to the contrary, administrative expenses for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be reimbursed by the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under

the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary to reimburse the General Fund for such sums as may be reasonably necessary for administrative costs, which shall include bank service charges, investment services, and any other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

There are appropriated sufficient sums as may be required for the expenses of the Pensions and Health Benefits Commission, provided that such appropriation shall be reimbursed to the General Fund from the resources available to the various pensions and health benefits funds.

In addition to the amounts hereinabove, there is appropriated an amount, not to exceed \$12,000,000, for the re-engineering of the pension and health benefits computer systems as referenced in the Division of Pensions and Benefits organizational study, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

The unexpended balance in the Re-engineering of the Pension and Health Benefits Computer Systems account as of June 30, 2003 is appropriated for the same purpose.

Notwithstanding the provisions of any law to the contrary, there are appropriated from the Capital City Redevelopment Loan and Grant Fund such sums as may be required to provide for expenses, programs, and strategies which will enhance the vitality of the capitol district as a place to live, visit, work and conduct business, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, an amount not to exceed \$468,000 is transferred from the Garden State Farmland Preservation Trust Fund, the Garden State Green Acres Preservation Trust Fund and the Garden State Historic Preservation Trust Fund to the General Fund in an allocation to be determined by the Garden State Preservation Trust and approved by the Director of the Division of Budget and Accounting and such amount is appropriated to the Garden State Preservation Trust.

***2026 Office of Administrative Law***

**DIRECT STATE SERVICES**

45-2026 Adjudication of Administrative Appeals	.....	<u>\$8,492,000</u>
(From General Fund	.....	\$5,260,000)
(From All Other Funds	.....	3,232,000)
Total Appropriation, State and All Other Funds	.....	<u>\$8,492,000</u>
(From General Fund	.....	\$5,260,000)
(From All Other Funds	.....	3,232,000)
<b>Less:</b>		
All Other Funds	.....	\$3,232,000

***Less Deductions* ..... \$3,232,000**

Total Direct State Services Appropriation,

Office of Administrative Law . . . . . \$5,260,000***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$7,619,000)

Employee Benefits ..... (147,000)

Materials and Supplies ..... (209,000)

Services Other Than Personal ..... (381,000)

Maintenance and Fixed Charges ..... (130,000)

**Special Purpose:**

45 Affirmative Action and Equal

Employment Opportunity ..... (6,000)

***Less:******All Other Funds* ..... 3,232,000**

In addition to the amount hereinabove, such sums as may be received or receivable from any department or non-State fund source for administrative hearing costs by the Office of Administrative Law and the unexpended balance as of June 30, 2003 of such sums are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Office of Administrative Law any appropriation made to any department for administrative hearing costs which had been appropriated or allocated to such department for its share of such costs.

Receipts derived from the annual license fee, payable to the Office of Administrative Law, and the unexpended balance as of June 30, 2003 of such receipts are appropriated.

Receipts derived from the royalties, payable to the Office of Administrative Law, and the unexpended balance as of June 30, 2003 of such receipts are appropriated.

***75 State Subsidies and Financial Aid*****GRANTS-IN-AID**

33-2078 Homestead Rebates ..... \$522,663,000

***(From Property Tax Relief Fund . \$522,663,000)***84-2078 Direct Tax Relief ..... 324,648,000***(From Property Tax Relief Fund . . . 324,648,000)***

Total Grants-in-Aid Appropriation, State Subsidies

and Financial Aid ..... \$847,311,000***(From Property Tax Relief Fund . . \$847,311,000)******Grants-in-Aid:***

33 Homestead Property Tax

Rebates for Homeowners

and Tenants (PTRF) ..... (\$499,663,000)

33 Senior and Disabled Citizens'

Property Tax Freeze (PTRF) ..... (23,000,000)

84 NJ SAVER Program (PTRF) ..... (324,648,000)

- In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments to homeowners and tenants qualifying for homestead property tax rebates, subject to the limitations and conditions provided in this act.
- In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments of property tax credits to homeowners and tenants pursuant to the "Property Tax Deduction Act," P.L.1996, c.60 (C.54A:3A-15 et seq.).
- Notwithstanding the provisions of P.L.1990, c.61 (C.54:4-8.59 et seq.) to the contrary, of the amount appropriated hereinabove for the Homestead Property Tax Rebates for Homeowners and Tenants, no rebate issued for the 2002 tax year shall exceed \$775.
- Notwithstanding the provisions of P.L.1997, c.348 (C.54:4-8.67 et seq.), the amount hereinabove for the Homestead Property Tax Reimbursement (Senior and Disabled Citizens' Property Tax Freeze), and any additional sum which may be required for this purpose, is appropriated from the Property Tax Relief Fund.
- Notwithstanding the provisions of P.L.1997, c.348 (C.54:4-8.67 et seq.) to the contrary, from the amount hereinabove only those claimants who received a Homestead Property Tax Reimbursement (Senior and Disabled Citizens' Property Tax Freeze) for tax year 2001, and do not exceed the income eligibility threshold limits for tax year 2002, shall be eligible to receive said reimbursement for tax year 2002, and any Homestead Property Tax Reimbursement (Senior and Disabled Citizens' Property Tax Freeze) issued for tax year 2002 shall not exceed the amount paid for tax year 2001.
- In addition to the amount appropriated hereinabove, there is appropriated from the Property Tax Relief Fund such additional sums as may be required for payments to homeowners and tenants qualifying for direct school tax relief, subject to the limitations and conditions provided in the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act," P.L.1999, c.63 (C.54:4-8.57 et al.), subject to the approval of the Director of the Division of Budget and Accounting.
- From the amount appropriated hereinabove for the NJ SAVER program, there are appropriated such sums as may be necessary for the administration of the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act," P.L.1999, c.63 (C.54:4-8.57 et al.), subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of section 4 of P.L.1999, c.63 (C.54:4-8.58b) to the contrary, no amount appropriated hereinabove for the NJ SAVER Program (PTRF) shall be used to pay a NJ SAVER rebate for claimants in a municipality in excess of 50% of the NJ SAVER rebate amount paid for the 2001 tax year for claimants in that municipality, or to pay a NJ SAVER rebate amount to any individual or married couple with gross income pursuant to N.J.S.54A:1-1 et seq. in excess of \$200,000 for the 2002 taxable year. Provided however, that nothing herein shall limit the payment of an increased NJ SAVER rebate amount to a resident of a "qualified municipality," who has gross income not

in excess of \$200,000, as that increased NJ SAVER rebate amount may be provided for in section 20 of P.L.2002, c.43 (C:52:27BBB-20).

#### STATE AID

28-2078	County Boards of Taxation .....	\$1,481,000
29-2078	Locally Provided Services .....	66,368,000
	<i>(From General Fund .....</i>	<i>\$66,368,000)</i>
34-2078	Reimbursement of Senior/ Disabled Citizens' and Veterans' Tax Deductions .....	109,000,000
	<i>(From Property Tax Relief Fund ..</i>	<i>109,000,000)</i>
35-2078	Consolidated Police and Firemen's Pension Fund .	<u>38,318,000</u>
	<i>(From General Fund .....</i>	<i>12,372,000)</i>
	<i>(From Property Tax Relief Fund ....</i>	<i>25,946,000)</i>
	Total State Aid Appropriation, State Subsidies and Financial Aid .....	<u>\$215,167,000</u>
	<i>(Total From General Fund .....</i>	<i>\$80,221,000)</i>
	<i>(Total From Property Tax Relief Fund .....</i>	<i>134,946,000)</i>

#### State Aid:

28	County Boards of Taxation .....	(\$1,481,000)
29	South Jersey Port Corporation Debt Service Reserve Fund .....	(4,200,000)
29	South Jersey Port Corporation Property Tax Reserve Fund .....	(2,000,000)
29	Solid Waste Management - County Environmental Investment Debt Service Aid .....	(60,168,000)
34	Reimbursement to Municipalities -- Senior and Disabled Citizens' Tax Deductions (PTRF) .....	(26,000,000)
34	State Reimbursement for Veterans' Property Tax Deductions (PTRF) .....	(83,000,000)
35	State Contribution to Consolidated Police and Firemen's Pension Fund .....	(1,951,000)
35	Debt Service on Pension Obligation Bonds (PTRF) .....	(8,237,000)
35	Police and Firemen's Retirement System - Post Retirement Medical (PTRF) .....	(17,709,000)
35	Police and Firemen's Retirement System .....	(4,792,000)

## 35 Police and Firemen's Retirement

System (P.L.1979, c.109) . . . . . (5,629,000)

- The Director of the Division of Budget and Accounting shall reduce amounts provided to any municipality from the appropriations hereinabove by the difference, if any, between pension contribution savings, and the amount of Consolidated Municipal Property Tax Relief Aid payable to such municipality.
- There are appropriated such additional sums as may be certified to the Governor by the South Jersey Port Corporation as necessary to meet the requirements of the "South Jersey Port Corporation Debt Service Reserve Fund" under section 14 of P.L.1968, c.60 (C.12:11A-14), the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.
- Of the unexpended balance as of June 30, 2003 in the South Jersey Port Corporation Debt Service Reserve Fund account, an amount not to exceed \$2,000,000 is hereby appropriated for the South Jersey Port Corporation Retroactive PILOT Payment to the county of Camden.
- The State Treasurer may pay the amount hereinabove for the South Jersey Port Corporation Property Tax Reserve Fund directly to the city of Camden, any provision of law to the contrary notwithstanding and in the absence of an approved agreement between the corporation and the city pursuant to section 20 of P.L.1968, c.60 (C.12:11A-20), upon notification from the Commissioner of the Department of Community Affairs that the payment is anticipated as revenue in any city budget adopted by the city with the approval of the Chief Operating Officer and the Director of the Division of Local Government Services in the Department of Community Affairs.
- Such additional sums as may be necessary are appropriated to subsidize county and county authority debt service payments for environmental investments incurred pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) as determined by the State Treasurer based upon the need for such financial assistance after taking into account all financial resources available or attainable to pay such debt service. Such sums shall be subject to the approval of the Director of the Division of Budget and Accounting and shall be provided upon such terms and conditions as the State Treasurer may determine.
- Notwithstanding the provisions of the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the sum apportioned to the several counties of the State shall not be distributed and shall be anticipated as revenue for general State purposes.
- Notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.), the amounts collected from banking corporations pursuant to the "Corporation Business Tax Act (1945)" shall not be distributed to the counties and municipalities and shall be anticipated as revenue for general State purposes.
- The unexpended balance as of June 30, 2003 from the taxes collected pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) shall lapse.
- There is appropriated from the Energy Tax Receipts Property Tax Relief Fund the sum of \$762,739,000 and an amount to be determined by the Director of the Division of

Budget and Accounting, which amount is transferred from the Consolidated Municipal Property Tax Relief Aid (PTRF) account to the fund, such that that amount when added to \$762,739,000 shall equal the amount determined for fiscal year 2004 pursuant to subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439). The amount so transferred shall be allocated to municipalities in accordance with the provisions of subsection b. of section 2 of P.L.1997, c.167 (C.52:27D-439). Each municipality that receives an allocation from the amount so transferred shall have its allocation from the Consolidated Municipal Property Tax Relief Aid program reduced by the same amount.

Notwithstanding the provisions of paragraph (1) of subsection c. of section 2 of P.L.1997, c.167 (C.52:27D-439) to the contrary, the amount hereinabove for Energy Tax Receipts Property Tax Relief Fund payments shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

There is appropriated from taxes collected from certain insurance companies, pursuant to the insurance tax act, so much as may be required for payments to counties pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.).

In addition to the amount hereinabove, there is appropriated from the Property Tax Relief Fund such additional sums as may be required for State reimbursement to municipalities for senior and disabled citizens' and veterans' property tax deductions.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Such additional sums as may be required for Police and Firemen's Retirement System - Post Retirement Medical are appropriated, as the Director of the Division of Budget and Accounting shall determine.

The unexpended balance as of June 30, 2003 in the School Construction and Renovation Fund account is appropriated for the same purpose.

There is appropriated an amount not to exceed \$1,500,000 for expenses associated with municipal economic recovery efforts as determined by the chair of the Economic Recovery Board for Camden, subject to the approval of the Director of the Division of Budget and Accounting.

## ***76 Management and Administration***

### **DIRECT STATE SERVICES**

98-2006 Contract Compliance and Equal Employment	
Opportunity in Public Contracts .....	\$1,463,000
99-2000 Administration and Support Services .....	<u>10,038,000</u>
Total Direct State Services Appropriation,	
Management and Administration .....	<u>\$11,501,000</u>



***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$9,075,000)  
 Materials and Supplies ..... (93,000)  
 Services Other Than Personal ..... (2,245,000)  
 Maintenance and Fixed Charges ..... (65,000)

**Special Purpose:**

99 Federal Liaison Office,  
 Washington, D.C. .... (23,000)

There are appropriated from the investment earnings of general obligation bond proceeds, such sums as may be necessary for the payment of debt service administrative costs.

The unexpended balance as of June 30, 2003 in the Productivity and Efficiency Program is appropriated for the same purpose.

There are appropriated from investment earnings of State funds, from receipts derived from the cost of debt issuance and from service fees billed to State authorities, such sums as may be required for public finance activities.

Pursuant to the provisions of P.L.1999, c.12 (C.54A:9-25.12 et seq.) deposits made to the "Drug Abuse Education Fund" and the unexpended balance as of June 30, 2003 of such deposits are appropriated for collection or administration costs of the Department of the Treasury and for transfer to the Department of Education for program costs and grants, subject to the approval of the Director of the Division of Budget and Accounting.

An amount equivalent to the amount due to be paid in fiscal year 2004 to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990 among the States of New York and New Jersey and the Port Authority of New York and New Jersey is appropriated to the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) for the purposes of P.L.1992, c.16 (C.34:1B-7.10 et seq.).

Notwithstanding the provisions of any law to the contrary, there are appropriated from the "Drug Enforcement and Demand Reduction Fund" such sums as may be required to provide for the administrative expenses of the Governor's Council on Alcoholism and Drug Abuse and for programs and grants to other agencies, subject to the approval of the Director of the Division of Budget and Accounting.

Fees collected on behalf of the Contract Compliance and Equal Employment Opportunity in Public Contracts program and the unexpended balance as of June 30, 2003 of such fees are appropriated for program costs, subject to allotment by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay for the operating expenses of the Casino Revenue Fund Advisory Commission, subject to the approval of the Director of the Division of Budget and Accounting.

***80 Special Government Services******82 Protection of Citizens' Rights*****DIRECT STATE SERVICES**

06-2024 Appellate Services to Indigents ..... \$7,617,000

57-2021 Trial Services to Indigents and Special Programs . .	65,669,000
58-2022 Mental Health Screening Services . . . . .	3,161,000
61-2023 Dispute Settlement . . . . .	342,000
99-2025 Administration and Support Services . . . . .	<u>2,248,000</u>
Total Direct State Services Appropriation, Protection of Citizens' Rights . . . . .	<u>\$79,037,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . .	(\$47,945,000)
Materials and Supplies . . . . .	(741,000)
Services Other Than Personal . . . . .	(22,214,000)
Maintenance and Fixed Charges . . . . .	(438,000)

## Special Purpose:

57 Continuous Representation -- Title 9 to Title 30 . . . . .	(4,889,000)
57 Public Defender Pilot Program . . . . .	(184,000)
57 Law Guardian - Kinship Guardianship . . . . .	(1,720,000)
58 Representation of Civilly Committed Sexual Offenders . . . . .	(602,000)
99 Affirmative Action and Equal Employment Opportunity . . . . .	(64,000)
Additions, Improvements and Equipment . . . . .	(240,000)

Sums provided for legal and investigative services are available for payment of obligations applicable to prior fiscal years.

In addition to the amount hereinabove for the operation of the Public Defender's office there are appropriated additional sums as may be required for Trial and Appellate services to indigents, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other provision of law, no State funds are appropriated to fund expenses associated with the legal representation of persons before the State Parole Board or the Parole Bureau.

Lawsuit settlements and legal costs awarded by any court to the Office of the Public Defender are appropriated for the expenses associated with the representation of indigent clients.

The funds appropriated to the Office of the Public Defender are available for expenses associated with the defense of pool attorneys hired by the Public Defender for the representation of indigent clients.

The unexpended balances as of June 30, 2003 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

57-2021 Trial Services to Indigents and Special Programs . . . . .	<u>\$12,000,000</u>
Total Grants-in-Aid Appropriation, Protection of Citizens' Rights . . . . .	<u>\$12,000,000</u>

**Grants-in-Aid:**

57 State Legal Services Office . . . . . (\$4,000,000)

57 Legal Services of New Jersey --

Legal Assistance in Civil Matters

(P.L. 1996, c.52) . . . . . (8,000,000)

Receipts in excess of the amount hereinabove for Legal Services of New Jersey - Legal Assistance in Civil Matters, P.L. 1996, c.52, are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Department of the Treasury,

Total State Appropriation . . . . . \$1,863,929,000

**Summary of Department of The Treasury Appropriations  
(For Display Purposes Only)**

**Appropriations by Category:**

Direct State Services . . . . . \$382,099,000

Grants-in-Aid . . . . . 1,058,333,000

State Aid . . . . . 423,497,000

**Appropriations by Fund:**

General Fund . . . . . \$829,872,000

Property Tax Relief Fund . . . . . 1,007,119,000

Casino Control Fund . . . . . 26,938,000

**90 MISCELLANEOUS COMMISSIONS****40 Community Development and Environmental Management****43 Science and Technical Programs****9130 Interstate Environmental Commission****DIRECT STATE SERVICES**03-9130 Interstate Environmental Commission . . . . . \$383,000

Total Direct State Services Appropriation,

Interstate Sanitation Commission . . . . . \$383,000**Direct State Services:****Special Purpose:**

03 Expenses of the Commission . . . . . (\$383,000)

**9140 Delaware River Basin Commission****DIRECT STATE SERVICES**02-9140 Delaware River Basin Commission . . . . . \$857,000

Total Direct State Services Appropriation, Delaware

River Basin Commission . . . . . \$857,000**Direct State Services:****Special Purpose:**

02 Expenses of the Commission . . . . . (\$857,000)

**9148 Council on Local Mandates****DIRECT STATE SERVICES**

92-9148 Council on Local Mandates ..... \$133,000  
 Total Direct State Services Appropriation,  
 Council on Local Mandates ..... \$133,000

**Direct State Services:****Special Purpose:**

92 Council on Local Mandates ..... (\$133,000)

The unexpended balance as of June 30, 2003 in this account is appropriated.

Miscellaneous Commissions,

Total State Appropriation ..... \$1,373,000

**Summary of Miscellaneous Commissions Appropriations  
 (For Display Purposes Only)**

**Appropriations by Category:**

Direct State Services ..... \$1,373,000

**Appropriations by Fund:**

General Fund ..... \$1,373,000

**94 INTER-DEPARTMENTAL ACCOUNTS****70 Government Direction, Management and Control****74 General Government Services****DIRECT STATE SERVICES**

01-9400 Property Rentals ..... \$147,726,000  
 02-9400 Insurance and Other Services ..... 53,775,000  
 06-9400 Utilities and Other Services ..... 29,193,000  
 Total Direct State Services Appropriation,  
 General Government ..... \$230,694,000

**Direct State Services:****Property Rentals:**

Existing and Anticipated Leases .. (\$159,474,000)

Economic Development Authority .. (17,446,000)

Other Debt Service Leases and

Tax Payments ..... (19,415,000)

**Less:****Direct Charges and Charges to**

**Non-State Fund Sources ..... 48,609,000**

**Insurance and Other Services:**

Property Insurance ..... (3,000,000)

Casualty Insurance ..... (2,030,000)

Special Insurance Policies ..... (220,000)

Tort Claims Liability Fund ..... (11,000,000)

Workers' Compensation Fund ..... (34,900,000)

Vehicle Claims Liability Fund ..... (2,000,000)

Self-Insurance Deductible Fund ..... (500,000)

- Self-Insurance Fund-Foster Parents . . . . (125,000)
- Utilities and Other Services:
- Fuel and Utilities . . . . . (23,290,000)
- Household and Security . . . . . (5,903,000)
- The Director of the Division of Budget and Accounting is empowered to allocate to any State agency occupying space in any State-owned building equitable charges for the rental of such space to include, but not be limited to, the costs of operation and maintenance thereof, and the amounts so charged shall be credited to the General Fund; and, to the extent that such charges exceed the amounts appropriated for such purposes to any agency financed from any fund other than the General Fund, the required additional appropriation shall be made out of such other fund.
- Receipts derived from direct charges and charges to non-State fund sources are appropriated for the rental of property, including the costs of operation and maintenance of such properties.
- Notwithstanding any other provision of law, and except for leases negotiated by the Division of Property Management and Construction and subject to the approval or disapproval by the State Leasing and Space Utilization Committee pursuant to P.L.1992, c.130 (C.52:18A-191.1 et seq.), and except as hereinafter provided, no lease for the rental of any office or building shall be executed without the prior written consent of the State Treasurer, the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly.
- To the extent that sums appropriated for property rental payments are insufficient, there are appropriated such additional sums, not to exceed \$3,000,000, as may be required to pay property rental obligations, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$2,500,000 shall be appropriated for the costs of security, maintenance, utilities and other operating expenses related to the Marlboro Psychiatric Hospital and North Princeton Developmental Center closure initiatives, subject to the approval of the Director of the Division of Budget and Accounting.
- To the extent that sums appropriated for property rental payments are insufficient, and notwithstanding any law to the contrary, the Division of Property Management and Construction is empowered to renegotiate lease terms, provided that such renegotiations result in cost savings to the State for State fiscal year 2004 and for the term of the lease. Any lease amendments made as a result of those renegotiations are subject to the review and approval of the State Leasing and Space Utilization Committee.
- The unexpended balance as of June 30, 2003 in the Master Lease Program Fund is appropriated for the same purpose.
- There are appropriated such additional sums as may be required to pay tort claims under N.J.S.59:12-1, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.
- The funds appropriated to the Tort Claims Liability Fund are available for the payment of claims of a tortious nature, as recommended by the Attorney

General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of tort claims under N.J.S.59:12-1, and claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of pool attorneys engaged by the Public Defender for the defense of indigents.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of designated pathologists engaged by the State Medical Examiner.

Notwithstanding any other law to the contrary, claims paid from the Tort Claims Liability Fund on behalf of entities funded, in whole or in part, from non-State funds, may be reimbursed from such non-State fund sources as determined by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. The funds appropriated are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. Notwithstanding any other law to the contrary, claims or costs paid from the monies appropriated under this paragraph on behalf of entities funded, in whole or in part from non-State funds, may be reimbursed from such non-State funds sources as determined by the Director of the Division of Budget and Accounting. Appropriations under this paragraph shall not be available to pay punitive damages and shall not be deemed a waiver of any immunity by the State.

To the extent that sums appropriated to pay Workers' Compensation claims under R.S.34:15-1 et seq., are insufficient, there are appropriated such additional sums as may be required to pay Workers' Compensation claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Workers' Compensation Self-Insurance Fund under R.S.34:15-1 et seq., is available for the payment of direct costs of legal, investigative, administrative and medical services related to the investigation, mitigation, litigation and administration of claims against the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, benefits provided to community work experience participants shall be borne by the Work First New Jersey program funded through the Department of Human Services and any costs related to administration, mitigation, litigation and investigation of claims will

- be reimbursed to the Bureau of Risk Management by the Work First New Jersey Program funded through the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.
- To the extent that sums appropriated to pay auto insurance claims are insufficient, there are appropriated such additional sums as may be required to pay auto insurance claims, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount appropriated hereinabove for the Vehicle Claims Liability Fund is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.
- The unexpended balance as of June 30, 2003 in the Self-Insurance Deductible Fund is appropriated for the same purposes.
- The amount appropriated for the Self-Insurance Fund - Foster Parents is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.
- The sums hereinabove are available for payment of obligations applicable to prior fiscal years.
- There are appropriated out of revenues received from utility companies such sums as may be required for implementation and administration of the Energy Conservation Initiatives Program, subject to the approval of the Director of the Division of Budget and Accounting.
- In addition to the sums hereinabove for Fuel and Utilities, the Director of the Division of Budget and Accounting shall transfer or credit to this account such sums that accrue from appropriations made to various spending agencies for Fuel and Utilities and Salaries and Wages, to reflect savings associated with electrical deregulation, fuel switch and other energy-conservation initiatives.
- Of the unexpended balances in the Petroleum Overcharge Reimbursement Fund available for "Green Power," such sums shall be transferred to the various departments and agencies participating in the State electricity contract, as applicable, to reimburse additional costs associated with "Green Power" sources, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2003 in the Global Energy Statewide Account is appropriated for the same purpose.
- There is appropriated from the Petroleum Overcharge Reimbursement Fund such sums as are necessary for the cost of purchasing energy from companies that utilize renewable "Green Power" sources, not to exceed \$1,200,000.

#### **GRANTS-IN-AID**

09-9460 Aid to Independent Authorities . . . . .	<u>\$50,795,000</u>
Total Grants-in-Aid Appropriation, General	
Government Services . . . . .	<u>\$50,795,000</u>
<b><i>Grants-in-Aid:</i></b>	
09 NJSEA Sports Complex --	
Debt Service . . . . .	(\$26,060,000)

- 09 NJSEA Atlantic City Projects --  
Debt Service . . . . . (15,025,000)
- 09 NJSEA Higher Education and  
Other Projects -- Debt Service . . . . . (3,417,000)
- 09 NJSEA Wildwood Convention  
Center -- Debt Service . . . . . (1,668,000)
- 09 Camden Aquarium Management  
Agreement . . . . . (1,500,000)
- 09 Camden Children's Garden . . . . . (625,000)
- 09 Horse Racing Litigation Settlement . . . (2,500,000)

In addition to the amounts appropriated hereinabove for the Sports and Exposition Authority - Debt Service, there are appropriated such additional sums as may be necessary, subject to the approval of the Director of the Division of Budget and Accounting.

The amount for the New Jersey Performing Arts Center account shall be used to pay the State's obligations pursuant to a lease with the New Jersey Economic Development Authority, for the lease of real property and infrastructure improvements and the Performing Arts Center structure constructed thereon purchased by the authority for the State in the city of Newark, for the purpose of constructing buildings to comprise a Performing Arts Center. Notwithstanding any other provision of law, the State Treasurer may enter into a lease with the New Jersey Economic Development Authority to lease the real property and improvements thereon purchased or caused to be constructed by the authority for the State in the city of Newark for the Performing Arts Center, subject to the prior written consent of the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly. Upon the final payment of the State's obligations pursuant to the lease for the real property and infrastructure improvements purchased by the authority, the title to the real property and improvements shall revert to the State. The State may sublease the land and facilities for the purpose of operating, maintaining or financing a Performing Arts Center in Newark. Any sublease for use of land and improvements acquired for the State by the New Jersey Economic Development Authority for the Performing Arts Center shall be subject to the prior written approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, or its successor. There are appropriated such additional sums as may be necessary to pay debt service for the New Jersey Performing Arts Center.

The amount hereinabove appropriated for the Camden Aquarium Management Agreement shall be subject to the execution of an agreement between the State Treasurer and the operator of the Camden Aquarium to effectuate the development and expansion of the Aquarium.

The amount hereinabove for the Camden Children's Garden shall be subject to the execution of an agreement between the State Treasurer and the operator of the Camden Children's Garden.

Fiscal year 2004 debt service payments attributable to the New Jersey Performing Arts Center, EDA program and to the Municipal Rehabilitation and Economic



Recovery, EDA program shall be paid by the New Jersey Economic Development Authority from resources available from unexpended balances. There are appropriated such additional sums as may be necessary to pay debt service and other costs for the Municipal Rehabilitation and Economic Recovery, EDA program, subject to the approval of the Director of the Division of Budget and Accounting.

### CAPITAL CONSTRUCTION

08-9450 Capital Projects -- Statewide .....	<u>\$194,233,000</u>
Total Capital Construction Appropriation, General	
Government Services .....	<u>\$194,233,000</u>

***Capital Projects:***

Statewide Capital Projects

08 Statewide Fire, Life Safety and Renovation Projects .....	(\$9,695,000)
08 DEP Building Fire Alarm Upgrade ..	(922,000)
08 Americans with Disabilities Act Compliance Projects -- Statewide ..	(2,000,000)
08 Hazardous Materials Removal Projects -- Statewide .....	(2,000,000)
08 Statewide Security Projects .....	(3,000,000)

New Jersey Building Authority --

Debt Service

General State Projects

08 Southwoods State Prison .....	(24,217,000)
08 State House Renovations .....	(15,813,000)
08 Hughes Justice Complex .....	(8,854,000)
08 Other State Projects .....	(22,519,000)

Counter-terrorism Projects

08 State Police Multipurpose Building/Troop "C" Headquarters .....	(6,079,000)
08 State Police Emergency Operations Center .....	(1,134,000)
08 Garden State Preservation Trust Fund Account .....	(98,000,000)

There are appropriated such additional sums as may be required to pay future debt service costs for projects undertaken by the New Jersey Building Authority, subject to the approval of the Director of the Division of Budget and Accounting. Notwithstanding the provisions of P.L.1997, c.258 (C.30:4 -177.53 et seq.) or the provisions of any other law or regulation to the contrary, the amounts hereinabove appropriated for the New Jersey Building Authority Debt Service General State Projects shall be payable in part from monies derived from the sale or conveyance of the former North Princeton Developmental Center, Montgomery, New Jersey, and the former Marlboro Psychiatric Hospital, Marlboro, New Jersey.

Prior to the unexpended balance as of June 30, 2003 in the Network Infrastructure account intended for the development of the server farm initiative being expended, any participating department shall enter into a Memorandum of Understanding with the Chief Information Officer that no enterprise, data warehousing, application or database servers will be purchased by these departments but that they will participate in the implementation of the server farm.

In addition to the amount appropriated hereinabove for the Garden State Preservation Trust Fund Account, interest earned and accumulated from July 1, 2003 to June 30, 2004 is appropriated.

**9410 Employee Benefits  
DIRECT STATE SERVICES**

03-9410	Employee Benefits .....	<u>\$1,210,079,000</u>
	Total Direct State Services Appropriation,	
	Employee Benefits .....	<u>\$1,210,079,000</u>

**Direct State Services:**

**Special Purpose:**

03	Public Employees' Retirement System - Post Retirement Medical .....	(\$152,908,000)
03	Police and Firemens Retirement System .....	(9,987,000)
03	Police and Firemens Retirement System (P.L.1979, c.109) .....	(1,036,000)
03	Alternate Benefits Program -- Employer Contributions .....	(1,211,000)
03	Judicial Retirement System .....	(3,481,000)
03	Teachers' Pension and Annuity Fund Post Retirement Medical - State .....	(1,470,000)
03	Pension Adjustment Program ....	(1,813,000)
03	Veterans Act Pensions .....	(115,000)
03	P.E.R.S. Minimum Pension Benefit Act -- Pre 1955 Retirees .....	(4,000)
03	Heath Act Pensions .....	(5,000)
03	Debt Service on Pension Obligation Bonds .....	(62,099,000)
03	State Employees' Health Benefits .....	(521,884,000)
03	State Employees' Prescription Drug Program .....	(144,628,000)
03	State Employees' Dental Program -- Shared Cost .....	(21,129,000)
03	State Employee's Vision Care Program .....	(1,000,000)
03	Social Security Tax -- State ....	(299,254,000)

03 Temporary Disability Insurance	
Liability .....	(6,327,000)
03 Unemployment Insurance	
Liability .....	(7,028,000)

**Less:****Reimbursements from**

**Agency Accounts ..... 25,300,000**

There is appropriated a sufficient amount in order that upon application to the Director of the Division of Budget and Accounting, an annuity of \$4,000 shall be paid to the widow or widower of any person, now deceased, who was elected and served as Governor of the State; provided such widow or widower was the spouse of such person for all or part of the period during which he or she served as Governor; and provided further, that this shall not apply to any widow or widower receiving a pension granted under R.S.43:8-2, and continued by R.S.43:7-1 et seq., R.S.43:8-1 et seq., and R.S.43:8-8 et seq.

Such additional sums as may be required for Social Security Tax - State may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Such additional sums as may be required for State Employees' Health Benefits may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Of the amounts hereinabove for the Pension Adjustment Program, such sums as are appropriated in advance for increased retirement benefits for local employee members of State-administered retirement systems shall be repaid to the General Treasury upon reimbursement from local public employers.

Such additional sums as may be required for Public Employees' Retirement System - Post Retirement Medical, Alternate Benefits Program - Employer Contributions, Teachers' Pension and Annuity Fund Post Retirement Medical - State, State Employees' Health Benefits, State Employees' Prescription Drug Program, State Employees' Dental Program - Shared Cost, State Employees' Vision Care Program, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of the Pension Adjustment Act, P.L.1958, c.143 (C.43:3B-1 et seq.), pension adjustment benefits for members and beneficiaries of the Consolidated Police and Firemen's Pension Fund shall be paid by the fund. Employer appropriations for these benefits as required under the act shall be paid to the fund.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance as of June 30, 2003 in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

The amounts hereinabove for Employee Benefits may be transferred to the Grants-In-Aid accounts for the same purposes.

No monies appropriated herein shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Teachers' Pension and Annuity Fund - Post Retirement Medical, \$320,000 from amounts in the Benefit Enhancement Fund established in N.J.S.18A:66-16, shall be applied to pay the normal cost contribution by the State for the Teachers' Pension and Annuity Fund.

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Public Employee Retirement System - Post Retirement Medical, \$26,035,000 from amounts in the Benefit Enhancement Fund established in section 22 of P.L.1954, c.84 (C.43:15A-22), shall be applied to pay the normal cost contribution by the State for the Public Employee Retirement System.

#### **GRANTS-IN-AID**

03-9410 Employee Benefits .....	<u>\$549,774,000</u>
Total Grants-in-Aid Appropriation, Employee	
Benefits .....	<u>\$549,774,000</u>

***Grants-in-Aid:***

**Special Purpose:**

03 Public Employees' Retirement System - Post Retirement Medical .....	(\$22,546,000)
03 Police and Firemen's Retirement System .....	(771,000)
03 Alternate Benefits Program -- Employer Contributions .....	(110,182,000)
03 Teachers' Pension and Annuity Fund Post Retirement Medical - State .....	(550,000)
09 Debt Service on Pension Obligation Bonds .....	(3,583,000)
09 State Employees' Health Benefits .....	(195,418,000)
09 State Employees' Prescription Drug Program .....	(64,848,000)
09 State Employees' Dental Program -- Shared Cost .....	(8,483,000)
09 Social Security Tax -- State ....	(136,799,000)
09 Temporary Disability Insurance Liability .....	(2,836,000)

**09 Unemployment Insurance**

Liability ..... (3,758,000)

Such additional sums as may be required for Public Employees' Retirement System - Post Retirement Medical, Alternate Benefits Program - Employer Contributions, Teachers' Pension and Annuity Fund Post Retirement Medical - State, State Employees' Health Benefits, State Employees' Prescription Drug Program, State Employees' Dental Program - Shared Cost, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

In addition to the sum hereinabove appropriated to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance as of June 30, 2003 in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

The amounts hereinabove for Employees' Benefits may be transferred to the Direct State Services accounts for the same purposes.

No monies appropriated herein shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Teachers' Pension and Annuity Fund - Post Retirement Medical, \$120,000 from amounts in the Benefit Enhancement Fund established in N.J.S.18A:66-16, shall be applied to pay the normal cost contribution by the State for the Teachers' Pension and Annuity Fund.

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Public Employee Retirement System - Post Retirement Medical, \$2,631,000 from amounts in the Benefit Enhancement Fund established in section 22 of P.L.1954, c.84 (C.43:15A-22), shall be applied to pay the normal cost contribution by the State for the Public Employee Retirement System.

**9420 Other Inter-Departmental Accounts****DIRECT STATE SERVICES**

04-9420 Other Inter-Departmental Accounts ..... \$52,820,000

Total Direct State Services Appropriation, Other

Inter-Departmental Accounts ..... \$52,820,000

***Direct State Services:******Special Purpose:***

04 To the Governor, for allotment  
to the various departments or  
agencies, to meet any condition  
of emergency or necessity;  
provided however, that a sum

not in excess of \$5,000 shall  
be available for the expense of  
officially receiving dignitaries  
and for incidental expenses,  
including lunches for non-  
salaried board members and  
others for whom official  
reception shall be beneficial

to the State . . . . .	(\$1,750,000)
04 Contingency Fund . . . . .	(1,250,000)
04 Interest on Short Term Notes . . . .	(23,000,000)
04 Debt Issuance - Special Purpose . .	(1,100,000)
04 Catastrophic Illness in Children Relief Fund -- Employer Contributions . . . . .	(125,000)
04 Interest on Interfund Borrowing . . .	(3,200,000)
04 Payment of Military Leave Benefits . . . . .	(350,000)
04 Network Infrastructure . . . . .	(7,200,000)
04 Garden State Network Infrastructure . . . . .	(282,000)
04 Automated Document Factory . . . . .	(450,000)
04 Statewide 911 Emergency Telephone System . . . . .	(12,813,000)
04 Automated Cartridge System Upgrade . . . . .	(300,000)
04 Information Technology On-Line State Portal . . . . .	(1,000,000)

Unless otherwise indicated, the above amounts may be allotted by the Director of the Division of Budget and Accounting to the various departments and agencies.

Notwithstanding the provisions of N.J.S.2A:153-1 et seq., there is allocated at the discretion of the Governor, an amount up to \$50,000, from the Special Purpose amount appropriated hereinabove to meet any condition of emergency or necessity, as a reward for the capture and return of Joanne Chesimard.

There are appropriated to the Emergency Services Fund such sums as are required to meet the costs of any emergency occasioned by aggression, civil disturbance, sabotage, disaster, or for flood expenses for State owned structures to comply with Federal Insurance Administration requirements, as recommended by the Emergency Services Council and approved by the Governor, and subject to the approval of the Director of the Division of Budget and Accounting. In the event that the Emergency Services Council is unable to convene due to any such emergency described above, there shall be appropriated to the Emergency Services Fund such sums as are required to meet the costs of any such emergency described above, and payments from the Fund shall be made by the

State Treasurer upon approval of the Governor and the Director of Budget and Accounting.

The unexpended balance as of June 30, 2003 in the Governor's Contingency Fund is appropriated for the same purpose.

Such sums as may be necessary for payment of expenses incurred by issuing officials appointed under the several bond acts of the State are appropriated for the purposes and from the sources defined in those acts.

In addition to the sum hereinabove appropriated for Geographic Information System (GIS) Integration, there are appropriated such sums as may be received from federal, county, municipal governments or agencies and nonprofit organizations for orthoimagery and parcel data mapping.

#### **GRANTS-IN-AID**

04-9420 Other Inter-Departmental Accounts .....	<u>\$200,000</u>
Total Grants-in-Aid Appropriation, Other	
Inter-Departmental Accounts .....	<u>\$200,000</u>

#### **Grants-in-Aid:**

04 Enhanced 911 County Grants .....	(\$200,000)
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#### **9430 Salary Increases and Other Benefits**

#### **DIRECT STATE SERVICES**

05-9430 Salary Increases and Other Benefits .....	<u>\$64,404,000</u>
Total Direct State Services Appropriation, Salary	
Increases and Other Benefits .....	<u>\$64,404,000</u>

#### **Special Purpose:**

05 Salary Increases and	
Other Benefits .....	(\$53,404,000)
05 Unused Accumulated Sick	
Leave Benefits .....	(11,000,000)

The sums hereinabove appropriated to the various State departments, agencies or commissions for the cost of salaries, wages or other benefits shall be allotted, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any other law, including R.S.34:15-49 and section 1 of P.L.1981, c.353 (C.34:15-49.1), the State Treasurer, the Commissioner of Personnel, and the Director of the Division of Budget and Accounting shall establish directives governing salary ranges and rates of pay, including salary increases, provided however, that across-the-board cost of living increases shall be provided to public sector managers consistent with the executed contract between the State of New Jersey and the Communications Workers of America. By December 1, 2003 a report shall be issued addressing salary compression for public managers. The implementation of such directives shall be made effective at the first full pay period of Fiscal Year 2004 as determined by such directives, with timely notification of such directives to the Joint Budget Oversight Committee or its successor. Such directives shall not be considered an "administrative rule" or "rule" within the meaning of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), but shall be

considered exempt under paragraphs (1) and (2) of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), and shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Nothing herein shall be construed as applicable to the Presidents of the State Colleges, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology.

No salary range or rate of pay shall be increased or paid in any State department, agency, or commission without the approval of the Director of the Division of Budget and Accounting. Nothing herein shall be construed as applicable to unclassified personnel of the Legislative Branch or unclassified personnel of the Judicial Branch.

In addition to the amount hereinabove for Unused Accumulated Sick Leave Payments, there are appropriated such sums as may be necessary for payments of unused accumulated sick leave.

Any sums appropriated for Salary Increases and Other Benefits shall be made available for any person holding State office, position or employment whose compensation is paid directly or indirectly, in whole or in part, from State funds, including any person holding office, position or employment under the Palisades Interstate Park Commission.

The unexpended balance as of June 30, 2003 in the Salary Increases and Other Benefits account is appropriated for the same purposes.

Notwithstanding the provisions of subsection b. of section 24 of P.L.1954, c.84 (C.43:15A-24), amounts hereinabove appropriated for Salary Increases and Other Benefits are subject to the condition that the rate of State member contributions for Public Employees Retirement System retirement plan shall not increase in this fiscal year.

An amount not to exceed \$3,900,000 shall be transferred to the Salary Increases and Other Benefits account from accounts in the Judiciary subject to the approval of the Division of Budget and Accounting.

The amount hereinabove for Salary Increases and Other Benefits reflects a \$15,000,000 reduction compared to the actual projected salary program needs. The Director of the Division of Budget and Accounting is directed to allocate up to \$15,000,000 of this reduction on the basis of each department's prorated share of non-direct care, non-fee supported salary program needs.

Inter-Departmental Accounts,  
Total State Appropriation . . . . . \$2,352,999,000

***Summary of Inter-Departmental Accounts Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services . . . . . \$1,557,997,000  
Grants-in-Aid . . . . . 600,769,000  
Capital Construction . . . . . 194,233,000

***Appropriations by Fund:***

General Fund . . . . . \$2,352,999,000



**THE JUDICIARY**  
**10 Public Safety and Criminal Justice**  
**15 Judicial Services**

**DIRECT STATE SERVICES**

01-9710	Supreme Court .....	\$5,028,000
02-9715	Superior Court -- Appellate Division .....	18,166,000
03-9720	Civil Courts .....	88,015,000
04-9725	Criminal Courts .....	94,916,000
05-9730	Family Courts .....	89,694,000
06-9735	Municipal Courts .....	942,000
07-9740	Probation Services .....	107,812,000
08-9745	Court Reporting .....	8,823,000
09-9750	Public Affairs and Education .....	2,524,000
10-9755	Information Services .....	15,256,000
11-9760	Trial Court Services .....	60,897,000
12-9765	Management and Administration .....	<u>10,091,000</u>
Total Direct State Services Appropriation, Judicial Services .....		<u>\$502,164,000</u>

**Direct State Services:**

Personal Services:

Chief Justice .....	(\$164,000)
Associate Justices .....	(951,000)
Judges .....	(59,838,000)
Salaries and Wages .....	(333,047,000)
Materials and Supplies .....	(8,407,000)
Services Other Than Personal .....	(32,321,000)
Maintenance and Fixed Charges .....	(1,675,000)

Special Purpose:

01 Rules Development .....	(200,000)
04 Drug Court Treatment/Aftercare ..	(12,418,000)
04 Drug Court Operations .....	(4,450,000)
04 Drug Court Judgeships .....	(1,498,000)
05 Child Placement Review Advisory Council .....	(79,000)
05 Kinship Legal Guardianship .....	(3,151,000)
05 Child Support and Paternity Program Title IV-D (Family Court) .....	(7,866,000)
07 Intensive Supervision Program ..	(10,412,000)
07 Juvenile Intensive Supervision Program .....	(2,046,000)
07 Child Support and Paternity Program Title IV-D (Probation) ..	(18,910,000)
12 Affirmative Action and Equal Employment Opportunity .....	(728,000)
Additions, Improvements and Equipment ..	(4,003,000)

The unexpended balances as of June 30, 2003 in the Civil Arbitration Program are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, receipts derived from fees under the Special Civil Part service of process via certified mailers are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts appropriated hereinabove in the Drug Courts Treatment and Aftercare account shall be transferred to the Department of Health and Senior Services to fund treatment, aftercare and administrative services associated with the drug court program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the increase in fees collected by the Judiciary pursuant to P.L.2002, c.34 and related increases provided by operation of N.J.S.22A:2-5 and section 2 of P.L.1993, c.74 (C.22A:5-1) are appropriated from the Court Technology Improvement Fund for the purpose of offsetting the costs of development, establishment, operation and maintenance of the Judiciary computerized court information systems, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from charges to certain Special Purpose accounts listed hereinabove are appropriated for services provided to these funds.

Receipts from charges to the Superior Court Trust Fund, NJ Lawyers Fund for Client Protection, Disciplinary Oversight Committee, Board on Attorney Certification, Bar Admission Financial Committee, Parents' Education Fund, Automated Traffic System Fund, Municipal Court Administrator Certification, Comprehensive Enforcement Program, and Courts Computerized Information Systems Fund are appropriated for services provided to these funds.

The unexpended balances as of June 30, 2003 not to exceed \$3,000,000 in these respective accounts are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

The Judiciary, Total State Appropriation . . . . . \$502,164,000

***Summary of Judiciary Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services . . . . . \$502,164,000

*Appropriations by Fund:*

General Fund . . . . . \$502,164,000

**DEBT SERVICE**

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

***40 Community Development and Environmental Management***

***46 Environmental Planning and Administration***

99-4800 Interest on Bonds . . . . . \$23,406,000

99-4800 Bond Redemption . . . . . 44,647,000

Total Debt Service Appropriation, Department of  
Environmental Protection . . . . . \$68,053,000

## Special Purpose:

## Interest:

Water Conservation Bonds (P.L.1969, c.127) .....	(\$332,000)
State Recreation and Conservation Land Acquisition and Development Bonds (P.L.1974, c.102) .....	(255,000)
Clean Waters Bonds (P.L.1976, c.92) ...	(172,000)
Beaches and Harbors Bonds (P.L.1977, c.208) .....	(63,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118) .....	(436,000)
Emergency Flood Control Bonds (P.L.1978, c.78) .....	(26,000)
Natural Resources Bonds (P.L.1980, c.70) .....	(1,613,000)
Hazardous Discharge Bonds (P.L.1981, c. 275) .....	(290,000)
1983 New Jersey Green Acres Bonds (P.L.1983, c.354) .....	(40,000)
Shore Protection Bonds (P.L.1983, c.356) .....	(23,000)
Resource Recovery and Solid Waste Disposal Facility Bonds (P.L.1985, c.330) .....	(852,000)
Hazardous Discharge Bonds (P.L.1986 c.113) .....	(2,494,000)
1987 Green Acres, Cultural Centers and Historic Preservation Bonds (P.L.1987, c.265) .....	(343,000)
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183) .....	(3,268,000)
Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181) .....	(502,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88) .....	(6,634,000)
Green Acres, Farmland and Historic Preservation and Blue Acres Bonds (P.L.1995, c.204) .....	(7,314,000)
Port of New Jersey Revitalization, Dredging, Bonds (P.L.1996, c.70) .	(1,470,000)

## Redemption:

Water Conservation Bonds (P.L.1969, c.127) .....	(644,000)
State Recreation and Conservation Land Acquisition and Development Bonds (P.L.1974, c.102) .....	(2,426,000)
Clean Waters Bonds (P.L.1976, c.92) .....	(2,259,000)
Beaches and Harbors Bonds (P.L.1977, c.208) .....	(500,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118) .....	(974,000)
Emergency Flood Control Bonds (P.L.1978, c.78) .....	(450,000)
Natural Resources Bonds (P.L.1980, c.70) .....	(146,000)
Hazardous Discharge Bonds (P.L.1981, c.275) .....	(476,000)
1983 New Jersey Green Acres Bonds (P.L.1983, c.354) .....	(75,000)
Shore Protection Bonds (P.L.1983, c.356) .....	(42,000)
Resource Recovery and Solid Waste Disposal Facility Bonds (P.L.1985, c.330) .....	(1,825,000)
Hazardous Discharge Bonds (P.L.1986, c.113) .....	(6,030,000)
1987 Green Acres, Cultural Centers and Historic Preservation Bonds (P.L.1987, c.265) .....	(380,000)
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183) .....	(5,965,000)
Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181) .....	(295,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88) .....	(10,865,000)
Green Acres, Farmland and Historic Preservation and Blue Acres Bonds (P.L.1995, c.204) .....	(8,720,000)
Port of New Jersey Revitalization, Dredging Bonds (P.L.1996, c.70) ..	(2,575,000)

Savings from Refunding and Other  
Initiatives ..... (2,721,000)

Total Debt Service Appropriation, Department  
of Environmental Protection ..... \$68,053,000

## **82 DEPARTMENT OF THE TREASURY**

### **70 Government Direction, Management and Control**

#### **76 Management and Administration**

99-2000 Interest on Bonds ..... \$137,172,000

99-2000 Bond Redemption ..... 237,256,000

Total Debt Service Appropriation,  
Department of the Treasury ..... \$374,428,000

#### **Special Purpose:**

##### **Interest:**

- Urban and Rural Centers Unsafe  
Buildings Demolition Bonds  
(P.L.1997, c.125) ..... (\$783,000)
- State Transportation Bonds  
(P.L.1968, c.126) ..... (30,000)
- Institutions Construction Bonds  
(P.L.1976, c.93) ..... (175,000)
- Institutional Construction Bonds  
(P.L.1978, c.79) ..... (107,000)
- Transportation Rehabilitation and  
Improvement Bonds  
(P.L.1979, c.165) ..... (902,000)
- Energy Conservation Bonds  
(P.L.1980, c.68) ..... (77,000)
- Community Development Bonds  
(P.L.1981, c. 486) ..... (290,000)
- Human Services Facilities Construction  
Bonds (P.L.1984, c.157) ..... (102,000)

##### **Refunding Bonds:**

- (P.L.1985, c.74, as amended by  
P.L.1992, c.182) ..... (123,896,000)
- Jobs, Education and Competitiveness  
Bonds (P.L.1988, c.78) ..... (2,804,000)
- 1989 Bridge Rehabilitation and  
Improvement and Railroad  
Right-of-way Preservation  
Bonds (P.L.1989, c.180) ..... (1,691,000)
- Statewide Transportation and Local  
Bridge Bond Act of 1999  
(P.L.1999, c.181) ..... (17,231,000)
- Payments on Future Bond Sales ..... (6,250,000)

## Redemption:

Urban and Rural Centers Unsafe Buildings Demolition Bonds (P.L.1997, c.125) .....	(3,030,000)
State Transportation Bonds (P.L.1968, c.126) .....	(1,000,000)
State Mortgage Assistance Bonds (P.L.1976, c.94) .....	(650,000)
Institutions Construction Bonds (P.L.1976, c.93) .....	(1,900,000)
Institutional Construction Bonds (P.L.1978, c.79) .....	(1,200,000)
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165) .....	(3,628,000)
Energy Conservation Bonds (P.L.1980, c.68) .....	(150,000)
Community Development Bonds (P.L.1981, c.486) .....	(788,000)
Human Services Facilities Construction Bonds (P.L.1984, c.157) .....	(188,000)
Refunding Bonds: (P.L.1985, c.74, as amended by P.L.1992, c.182) .....	(201,715,000)
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78) .....	(4,260,000)
Public Purpose Buildings and Community- Based Facilities Construction Bonds (P.L.1989, c.184) .....	(1,877,000)
Developmental Disabilities Waiting List Reduction and Human Services Facilities Construction Bonds (P.L.1994, c.108) .....	(8,907,000)
1989 Bridge Rehabilitation and Improvement and Railroad Right- of-way Preservation Bonds (P.L.1989, c.180) .....	(2,698,000)
Statewide Transportation and Local Bridge Bond Act of 1999 (P.L.1999, c.181) .....	(5,265,000)
Savings from Refunding and Other Initiatives .....	(17,166,000)

Total Debt Service Appropriation,  
Department of The Treasury ..... \$374,428,000

Total Appropriation, Debt Service ..... \$442,481,000

Notwithstanding the provision of any law, rule or regulation to the contrary, such sums as may be needed for the payment of interest and/or principal due from the issuance of any bonds authorized under the several bond acts of the State are appropriated and shall first be charged to the earnings from the investments of such bond proceeds and/ or repayments of loans from the applicable bond funds established under such bond acts, and monies are appropriated from such bond funds for the purpose of paying interest and/ or principal on the bonds issued pursuant to such bond acts. Where required by law, such sums shall be used to fund a reserve for the payment of interest and/ or principal on the bonds authorized under that bond act. Furthermore, where required by law, the amounts appropriated herein are allocated to the projects heretofore approved by the Legislature pursuant to those bond acts .

There are appropriated such sums as may be needed for the payment of debt service administrative costs.

Subsequent to the refunding of bonds in fiscal year 2004, the Director of the Division of Budget and Accounting is authorized to reallocate amounts appropriated hereinabove among the various debt service accounts to reflect the debt service savings of the refunding and to permit the proper debt service payments.

***Summary of Appropriations -- All Departments  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services .....	\$5,238,100,000
Grants-in-Aid .....	7,226,161,000
State Aid .....	9,959,991,000
Capital Construction .....	1,136,428,000
Debt Service .....	442,481,000

***Appropriations by Fund:***

General Fund .....	\$16,363,224,000
Property Tax Relief Fund .....	7,130,000,000
Casino Revenue Fund .....	447,200,000
Casino Control Fund .....	62,737,000

Total Appropriation, All State Funds ..... \$24,003,161,000

**FEDERAL FUNDS**

**10 DEPARTMENT OF AGRICULTURE**

***40 Community Development and Environmental Management***

***49 Agricultural Resources, Planning, and Regulation***

01-3310 Animal Disease Control .....	\$18,000
02-3320 Plant Pest and Disease Control .....	750,000
03-3330 Resource Development Services .....	117,000
04-3340 Dairy and Commodity Regulation .....	160,000

06-3360 Marketing Services .....	230,497,000
07-3360 Commodity Distribution .....	1,540,000
08-3380 Farmland Preservation .....	<u>1,726,000</u>
Total Appropriation, Agricultural Resources, Planning, and Regulation .....	<u>\$234,808,000</u>
Personal Services:	
Salaries and Wages .....	(\$3,296,000)
Employee Benefits .....	(767,000)
Materials and Supplies .....	(162,000)
Services Other Than Personal .....	(1,082,000)
Maintenance and Fixed Charges .....	(197,000)
Special Purpose:	
Brucellosis Eradication .....	(18,000)
Cooperative Gypsy Moth Suppression ..	(160,000)
Plant Pest Survey & Detection Program ..	(5,000)
Farm Risk Management Education Program .....	(117,000)
State Aid and Grants:	
Farmland Preservation .....	(1,726,000)
Child Nutrition - School Lunch ....	(145,000,000)
Child Nutrition - Special Milk .....	(1,400,000)
School Breakfast .....	(28,000,000)
Child Care Food .....	(40,000,000)
Child Care Sponsor Administration ...	(1,500,000)
Child Care - Cash for Commodities ..	(1,950,000)
Summer Food .....	(7,500,000)
Summer Sponsor Administration .....	(736,000)
Child Nutrition - State Administration ...	(78,000)
State Aid and Grants .....	(934,000)
Additions, Improvements and Equipment ..	(180,000)

Total Appropriation, Department of Agriculture .... \$234,808,000

## **22 DEPARTMENT OF COMMUNITY AFFAIRS**

### ***40 Community Development and Environmental Management***

#### ***41 Community Development Management***

02-8020 Housing Services .....	\$193,940,000
18-8017 Uniform Fire Code .....	<u>110,000</u>
Total Appropriation, Community Development Management .....	<u>\$194,050,000</u>
Personal Services:	
Salaries and Wages .....	(\$11,798,000)
Employee Benefits .....	(2,939,000)
Materials and Supplies .....	(345,000)
Services Other Than Personal .....	(1,618,000)
Maintenance and Fixed Charges .....	(1,561,000)



**Special Purpose:**

Shelter Plus Care Program .....	(32,000)
Moderate Rehabilitation	
Housing Assistance .....	(83,000)
Section 8 Housing Voucher Program .	(1,108,000)
Housing Opportunities for Persons	
with AIDS .....	(15,000)
Small Cities Block Grant Program .....	(24,000)
National Affordable Housing --	
HOME Investment Partnerships .....	(58,000)
Other Special Purpose .....	(5,000)
State Aid and Grants .....	(174,358,000)
Additions, Improvements and Equipment ...	(106,000)

**50 Economic Planning, Development and Security****55 Social Services Programs**

05-8050 Community Resources .....	\$62,103,000
15-8051 Women's Programs .....	<u>1,476,000</u>
Total Appropriation, Social Services Programs .....	<u>\$63,579,000</u>

**Personal Services:**

Salaries and Wages .....	(\$2,074,000)
Employee Benefits .....	(504,000)
Materials and Supplies .....	(22,000)
Services Other Than Personal .....	(170,000)
Maintenance and Fixed Charges .....	(24,000)

**Special Purpose:**

Rape Prevention .....	(21,000)
Other Special Purpose .....	(217,000)
State Aid and Grants .....	(60,430,000)
Additions, Improvements and Equipment ...	(117,000)

**Total Appropriation, Department of**

Community Affairs .....	<u>\$257,629,000</u>
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**26 DEPARTMENT OF CORRECTIONS****10 Public Safety and Criminal Justice****16 Detention and Rehabilitation**

08-7040 Institutional Care and Treatment .....	\$107,000
08-7050 Institutional Care and Treatment .....	75,000
08-7060 Institutional Care and Treatment .....	80,000
08-7065 Institutional Care and Treatment .....	78,000
08-7070 Institutional Care and Treatment .....	74,000
08-7075 Institutional Care and Treatment .....	64,000
08-7080 Institutional Care and Treatment .....	341,000
08-7085 Institutional Care and Treatment .....	57,000
08-7090 Institutional Care and Treatment .....	116,000

08-7110 Institutional Care and Treatment .....	363,000
08-7120 Institutional Care and Treatment .....	124,000
08-7130 Institutional Care and Treatment .....	184,000
13-7025 Institutional Program Support .....	<u>7,564,000</u>

Total Appropriation, Detention and Rehabilitation ..... \$9,227,000

Personal Services:

Salaries and Wages ..... (\$8,280,000)

Employee Benefits ..... (316,000)

Materials and Supplies ..... (42,000)

Special Purpose:

Individuals with Disabilities

Act -- Part B ..... (25,000)

SSA Incentive Payments ..... (50,000)

Project In-Side ..... (514,000)

**17 Parole**

03-7010 Parole ..... \$1,500,000

Total Appropriation, Parole ..... \$1,500,000

State Aid and Grants ..... (\$1,500,000)

**19 Central Planning, Direction and Management**

99-7000 Administration and Support Services ..... \$131,000

Total Appropriation, Central Planning,

Direction and Management ..... \$131,000

Special Purpose ..... (\$120,000)

State Aid and Grants ..... (11,000)

Total Appropriation, Department of Corrections ..... \$10,858,000

**34 DEPARTMENT OF EDUCATION**

**30 Educational, Cultural and Intellectual Development**

**31 Direct Educational Services and Assistance**

04-5060 Adult and Continuing Education ..... \$14,240,000

04-5062 Adult and Continuing Education ..... 2,451,000

04-5064 Adult and Continuing Education ..... 88,000

05-5060 Bilingual Education ..... 16,673,000

05-5064 Bilingual Education ..... 532,000

06-5060 Programs for Disadvantaged Youths ..... 326,373,000

06-5063 Programs for Disadvantaged Youths ..... 437,000

06-5064 Programs for Disadvantaged Youths ..... 713,000

07-5060 Special Education ..... 276,524,000

07-5065 Special Education ..... 19,834,000

Total Appropriation, Direct Educational Services

and Assistance ..... \$657,865,000

Personal Services:

Salaries and Wages ..... (\$6,155,000)

Employee Benefits .....	(1,525,000)
Materials and Supplies .....	(5,132,000)
Services Other Than Personal .....	(6,842,000)
Special Purpose:	
Adult Basic Education --	
Administration/Discretionary .....	(457,000)
Adult Basic Education -- Evaluation	
and Training, Ancillary .....	(716,000)
Vocational Education - Basic Grants .....	(16,000)
Refugee Children School	
Impact Program .....	(150,000)
Migrant Education -- Administration/	
Discretionary .....	(126,000)
Title I - Reading First State Grant .....	(410,000)
Reading First Discretionary Admin. ....	(27,000)
Bilingual and Compensatory Education --	
Homeless Children and Youth .....	(24,000)
Even Start Family Literacy Grant -	
Discretionary .....	(100,000)
Title I - Administration Program	
Improvement .....	(23,000)
State Improvement Grant,	
Administration .....	(120,000)
IDEA -- Handicapped .....	(563,000)
IDEA --Preschool Incentive Grant .....	(20,000)
IDEA Part B -- LRC North .....	(491,000)
Deaf/Blind Children Services --	
Administration/Discretionary .....	(49,000)
Pre-School Regional T.A. Project	
LRC -- Central .....	(47,000)
IDEA Part B -- Discretionary	
Administration .....	(1,027,000)
State Aid and Grants:	
Adult Basic Education --	
Administration/Discretionary ...	(14,240,000)
State Aid and Grants .....	(619,570,000)
Additions, Improvements and Equipment ....	(35,000)

### ***32 Operation and Support of Educational Institutions***

12-5011 Marie H. Katzenbach School for the Deaf .....	<u>\$854,000</u>
Total Appropriation, Operation and Support	
of Educational Institutions .....	<u>\$854,000</u>
Personal Services:	
Salaries and Wages .....	(\$447,000)
Employee Benefits .....	(112,000)
Services Other Than Personal .....	(30,000)

State Aid and Grants ..... (265,000)

**33 Supplemental Education and Training Programs**

20-5060 General Vocational Education ..... \$22,069,000

20-5062 General Vocational Education ..... 2,929,000

Total Appropriation, Supplemental Education  
and Training Programs ..... \$24,998,000

**Personal Services:**

Salaries and Wages ..... (\$1,269,000)

Employee Benefits ..... (317,000)

Materials and Supplies ..... (83,000)

Services Other Than Personal ..... (442,000)

**Special Purpose:**

Vocational Education - Basic Grants,

Administration ..... (328,000)

Vocational Education -- Title II B

Leadership Activities ..... (490,000)

State Aid and Grants ..... (22,069,000)

**34 Educational Support Services**

29-5060 Educational Technology ..... \$15,000,000

30-5060 Educational Programs and Assessment ..... 81,318,000

30-5063 Educational Programs and Assessment ..... 16,997,000

31-5060 Grants Management ..... 2,160,000

33-5067 Service to Local Districts ..... 2,003,000

34-5064 Office of School Choice ..... 50,000

34-5068 Office of School Choice ..... 190,000

40-5060 Health, Safety and Community Services ..... 16,549,000

40-5064 Health, Safety and Community Services ..... 11,501,000

Total Appropriation, Educational Support Services .. \$145,768,000

**Personal Services:**

Salaries and Wages ..... (\$5,340,000)

Employee Benefits ..... (1,294,000)

Materials and Supplies ..... (101,000)

Services Other Than Personal ..... (5,549,000)

**Special Purpose:**

Teacher Quality Enhancement - DA ... (100,000)

Teacher Quality Enhancement -

Administration ..... (800,000)

Vocational Education -- Administration ... (1,000)

Title V -- Innovative Program Strategies . (44,000)

Title V -- Innovative Program Strategy . (750,000)

Vocational Education -- Leadership ... (220,000)

Vocational Education -- Occupational

Competencies ..... (2,000)

Grants Management ..... (160,000)

IDEA, Part B -- Child Study	
Supervisors, Administration . . . . .	(88,000)
IDEA, Part B -- Child Study	
Supervisors . . . . .	(400,000)
School Choice . . . . .	(10,000)
21st Century Schools . . . . .	(5,982,000)
Vocational Education -- Administration . . .	(4,000)
IDEA Handicapped (Part B) . . . . .	(85,000)
Title V -- Innovative Program Strategies . .	(3,000)
AIDS Prevention Education . . . . .	(59,000)
SDFSCA -- Governor's Portion --	
Program Expenses . . . . .	(143,000)
SDFSCA -- Governor's Portion, Admin. . . .	(5,000)
Character Education Partnership . . . . .	(244,000)
Other Special Purpose . . . . .	(50,000)
State Aid and Grants . . . . .	(124,313,000)
Additions, Improvements and Equipment . . . .	(21,000)

### ***35 Education Administration and Management***

42-5120 School Finance . . . . .	\$144,000
43-5092 Compliance and Auditing . . . . .	421,000
99-5093 Administration and Support Services . . . . .	75,000
99-5095 Administration and Support Services . . . . .	<u>5,806,000</u>
Total Appropriation, Education Administration and Management . . . . .	<u>\$6,446,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$2,375,000)
Employee Benefits . . . . .	(596,000)
Materials and Supplies . . . . .	(9,000)
Services Other Than Personal . . . . .	(435,000)
Special Purpose:	
Adult Basic Education -- Single Audit . . . .	(3,000)
Vocational Education - State	
Admin.. - Compliance . . . . .	(7,000)
IDEA Part B -- Finance . . . . .	(35,000)
IASA Consolidated Administration . . . . .	(2,983,000)
Additions, Improvements and Equipment . . . . .	(3,000)
Total Appropriation, Department of Education . . . . .	<u>\$835,931,000</u>

## **42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

### ***40 Community Development and Environmental Management***

#### ***42 Natural Resource Management***

11-4870 Forest Resource Management . . . . .	\$3,634,000
12-4875 Parks Management . . . . .	36,237,000
13-4880 Hunters' and Anglers' License Fund . . . . .	11,494,000
14-4885 Shellfish and Marine Fisheries Management . . . . .	2,955,000

20-4880 Wildlife Management .....	1,331,000
21-4895 Natural Resources Engineering .....	<u>290,000</u>
Total Appropriation, Natural Resource Management ..	<u>\$55,941,000</u>
Personal Services:	
Salaries and Wages .....	(\$4,540,000)
Employee Benefits .....	(1,041,000)
Materials and Supplies .....	(1,357,000)
Services Other Than Personal .....	(2,726,000)
Maintenance and Fixed Charges .....	(199,000)
Special Purpose:	
Rural Community Fire	
Protection Program .....	(75,000)
Forest Resource Management --	
Cooperative Forest Fire Control ....	(60,000)
Gypsy Moth Suppression .....	(160,000)
Consolidated Forest Management .....	(259,000)
Northeast Regional Biomass Program ...	(10,000)
Community Forestry Assessment .....	(200,000)
Rural Forestry Assistance .....	(30,000)
Firewise in the Pines .....	(250,000)
Wildland/Urban Interface II .....	(295,000)
Defensible Space .....	(600,000)
Conservation Education .....	(10,000)
Incentives Program .....	(150,000)
AmeriCorps .....	(250,000)
Land and Water Conservation Fund ..	(5,000,000)
Pinelands Grant -- Acquisition .....	(6,000,000)
Historic Preservation Survey	
and Planning .....	(1,371,000)
Endangered Plant Species	
Supplemental Funding .....	(5,000)
Sussex Branch Trail Improvements ...	(500,000)
Seashore Line .....	(500,000)
Delaware and Raritan Canal East	
Side Path (ISTEA) .....	(565,000)
Forest Legacy .....	(10,000,000)
Forest Legacy Administration .....	(10,000)
National Recreational Trails .....	(423,000)
National Coastal Wetlands	
Conservation .....	(1,000,000)
Sussex Branch Trail	
Connector (ISTEA) .....	(75,000)
Cape May Point State Park	
Bikeway (ISTEA) .....	(200,000)
Liberty State Park Ferry Slip	
Restoration (ISTEA) .....	(1,600,000)

Paulinskill Valley Trail	
Improvements (ISTEA) . . . . .	(605,000)
Delaware and Raritan Canal	
State Park Old Rose to	
Mulberry St. (ISTEA) . . . . .	(900,000)
Liberty State Park Train Sheds --	
Structural Report (ISTEA) . . . . .	(500,000)
Appalachian Trail Viewshed	
Acquisition (ISTEA) . . . . .	(500,000)
Delaware and Raritan Canal State	
Park/Bordentown Outlet (ISTEA) . . . . .	(1,250,000)
Appalachian Trail Improvement	
(ISTEA) . . . . .	(50,000)
Archaeological & Historical/GIS	
Inventory (ISTEA) . . . . .	(1,500,000)
D&R Canal Rt. #1 Crossing (ISTEA) . . . . .	(1,575,000)
NJ Coastal Heritage Program . . . . .	(90,000)
AmeriCorps . . . . .	(300,000)
State Wetlands Conservation Plan . . . . .	(92,000)
Hunters' and Anglers' License Fund . . . . .	(925,000)
Hunter Safety Training . . . . .	(241,000)
Endangered Species . . . . .	(10,000)
Hunter's & Anglers License Fund/NJ	
Statewide Fisheries Development . . . . .	(3,000)
Boat Access (Fish and Game) . . . . .	(1,000,000)
Fish & Wildlife Input to Activities --	
Projects of Others . . . . .	(146,000)
SWG Projects . . . . .	(4,000)
NJ Fish, Wildlife and Anadromous	
Fishery Coordination . . . . .	(17,000)
Fish Culture and Stocking Project . . . . .	(200,000)
Aquatic Recreational Resource	
Awareness & Education Project . . . . .	(7,000)
Landscape Model for Rare	
Species Protection . . . . .	(240,000)
Approval of Drugs for Public	
Fish Production . . . . .	(15,000)
Wildlife Conservation and	
Restoration Projects . . . . .	(1,755,000)
Fish and Wildlife Health . . . . .	(7,000)
Marine Fisheries Investigation and	
Management . . . . .	(260,000)
Fisheries Management Council . . . . .	(5,000)
Atlantic Coastal Fisheries . . . . .	(66,000)
Inventory of New Jersey Surf	
Clam Resource . . . . .	(33,000)

Artificial Reef Program -- PSE&G/	
NJPDES Permit Fees .....	(135,000)
Clean Vessels .....	(219,000)
Atlantic Coastal Cooperative Program ...	(26,000)
Endangered and Nongame Species	
Program State Wildlife Grants .....	(41,000)
Community Assistance Program .....	(68,000)
National Dam Safety Program (FEMA) ..	(3,000)
Other Special Purpose .....	(1,344,000)
State Aid and Grants .....	(1,602,000)
Additions, Improvements and Equipment ..	(746,000)

#### ***43 Science and Technical Programs***

05-4840 Water Supply and Watershed Management .....	\$23,700,000
07-4850 Water Monitoring and Planning .....	3,500,000
15-4801 Land Use Regulation .....	5,100,000
15-4890 Land Use Regulation .....	1,750,000
18-4810 Science, Research and Technology .....	1,100,000
22-4861 New Jersey Geological Survey .....	325,000
90-4801 Watershed Management .....	<u>10,610,000</u>
Total Appropriation, Science and	
Technical Programs .....	<u>\$46,085,000</u>
Personal Services:	
Salaries and Wages .....	(\$4,493,000)
Employee Benefits .....	(1,078,000)
Materials and Supplies .....	(72,000)
Services Other Than Personal .....	(5,518,000)
Maintenance and Fixed Charges .....	(56,000)
Special Purpose:	
Community and Public Water	
Supply Operators -- Expense	
Reimbursement .....	(1,500,000)
Safe Drinking Water Act .....	(338,000)
Drinking Water State	
Revolving Fund .....	(20,000,000)
Water Pollution Control Program .....	(613,000)
Clean Lakes Program .....	(500,000)
Coastal Zone Management	
Implementation .....	(1,944,000)
State Wetlands Conservation Plan .....	(250,000)
Coastal Zone Management Grant --	
Section 309 .....	(60,000)
Coastal Zone Management Grant --	
Section 6217 .....	(130,000)
Coastal Zone Management Grant --	
Federal Grant .....	(1,000,000)



Coastal Zone Management -- 310 . . . .	(1,000,000)
Greenhouse Gas Reductions	
Workshops . . . . .	(50,000)
Toxic Substance Compliance . . . . .	(50,000)
EPA Regional Applied Research . . . . .	(250,000)
Multi-Media . . . . .	(220,000)
Offshore Beach Replenishment . . . . .	(90,000)
National Geologic Mapping Program . . . . .	(3,000)
Earthquake Hazard Reduction . . . . .	(15,000)
Strathmere Parcels . . . . .	(565,000)
Conashank Point . . . . .	(215,000)
Water Pollution Control . . . . .	(228,000)
Coastal Wetlands Conservation (Land	
Acquisition) . . . . .	(1,000,000)
Good Luck Point Land Acquisition . . . .	(480,000)
Sloop/Maple Creek Acquisition . . . . .	(350,000)
Stout's Creek Land Acquisition . . . . .	(750,000)
Water Monitoring and Planning . . . . .	(450,000)
Non-Point Source Implementation	
(319H) Supplemental . . . . .	(332,000)
Non-Point Source Implementation	
(319H) . . . . .	(207,000)
Water Pollution Control - TMDL . . . . .	(750,000)
Americorps . . . . .	(300,000)
Beach Monitoring and Notification . . . .	(300,000)
Other Special Purpose . . . . .	(789,000)
State Aid and Grants . . . . .	(100,000)
Additions, Improvements and Equipment . . . .	(39,000)

#### ***44 Site Remediation***

23-4815 Solid and Hazardous Waste Management . . . . .	\$360,000
23-4910 Solid and Hazardous Waste Management . . . . .	2,035,000
27-4815 Remediation Management and Response . . . . .	<u>42,805,000</u>
Total Appropriation, Site Remediation . . . . .	<u>\$45,200,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$3,453,000)
Employee Benefits . . . . .	(833,000)
Materials and Supplies . . . . .	(117,000)
Services Other Than Personal . . . . .	(630,000)
Maintenance and Fixed Charges . . . . .	(84,000)
Special Purpose:	
Hazardous Waste -- Resource	
Conservation Recovery Act . . . . .	(311,000)
Preliminary Assessments/Site	
Inspections . . . . .	(987,000)
Brownfields . . . . .	(5,000,000)

Brownfields Preliminary Assessment/	
Site Investigation .....	(1,288,000)
Voluntary Cleanup Site Specific .....	(188,000)
Superfund Core Grant -- CPCA .....	(300,000)
Voluntary Cleanup Program .....	(194,000)
Environmental Monitoring for Public	
Access and Community Tracking .....	(7,000)
Superfund Grants .....	(30,000,000)
Underground Storage Tanks .....	(600,000)
Underground Storage Tanks .....	(59,000)
Other Special Purpose .....	(1,123,000)
Additions, Improvements and Equipment ...	(26,000)

#### ***45 Environmental Regulation***

01-4820 Radiation Protection .....	\$500,000
02-4801 Air Pollution Control .....	5,210,000
02-4892 Air Pollution Control .....	1,007,000
09-4860 Public Wastewater Facilities .....	57,600,000
16-4891 Water Monitoring and Planning .....	<u>705,000</u>
Total Appropriation, Environmental Regulation .....	<u>\$65,022,000</u>

#### **Personal Services:**

Salaries and Wages .....	(\$3,179,000)
Employee Benefits .....	(768,000)
Materials and Supplies .....	(103,000)
Services Other Than Personal .....	(428,000)
Maintenance and Fixed Charges .....	(104,000)

#### **Special Purpose:**

Radon Program .....	(110,000)
Air Pollution Maintenance Program ..	(1,026,000)
Greenhouse Gas Emission Bank .....	(100,000)
Particulate Monitoring Grant .....	(714,000)
Climate Change .....	(100,000)
Clean Water State Revolving Fund ..	(57,600,000)
Underground Injection Control .....	(13,000)
NPDES Implementation	
Support Program .....	(200,000)
Other Special Purpose .....	(221,000)
Additions, Improvements and Equipment ..	(356,000)

#### ***46 Environmental Planning and Administration***

26-4805 Regulatory and Governmental Affairs .....	\$150,000
99-4800 Administration and Support Services .....	<u>3,250,000</u>
Total Appropriation, Environmental Planning	
and Administration .....	<u>\$3,400,000</u>

#### **Personal Services:**

Services Other Than Personal .....	(\$70,000)
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**Special Purpose:**

New Jersey Classroom Reform Grant . . . .	(80,000)
National Information Exchange Network . . . . .	(2,300,000)
Environmental Justice . . . . .	(100,000)
State/EPA Data Management Grant . . . .	(750,000)
National Spatial Data Infrastructure . . . .	(100,000)

***47 Compliance and Enforcement Policy***

02-4855 Air Pollution Control . . . . .	\$1,802,000
04-4835 Pesticide Control . . . . .	750,000
08-4855 Water Pollution Control . . . . .	1,000,000
15-4855 Land Use Regulation . . . . .	500,000
23-4855 Solid and Hazardous Waste Management . . . . .	<u>1,886,000</u>
Total Appropriation, Compliance and Enforcement Policy . . . . .	<u>\$5,938,000</u>

**Personal Services:**

Salaries and Wages . . . . .	(\$2,385,000)
Employee Benefits . . . . .	(580,000)
Materials and Supplies . . . . .	(44,000)
Services Other Than Personal . . . . .	(236,000)
Maintenance and Fixed Charges . . . . .	(65,000)

**Special Purpose:**

Air Pollution Maintenance Program . . . .	(576,000)
Pesticide Technology . . . . .	(110,000)
Pesticide Control Consolidated . . . . .	(79,000)
Multi-Media Enforcement Grant . . . .	(1,000,000)
Coastal Zone Management Implementation . . . . .	(10,000)
Hazardous Waste -- Resource Conservation Recovery Act . . . . .	(339,000)
Other Special Purpose . . . . .	(475,000)
Additions, Improvements and Equipment . . . .	(39,000)

Total Appropriation, Department of Environmental Protection . . . . .	<u>\$221,586,000</u>
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**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES*****20 Physical and Mental Health******21 Health Services***

01-4215 Vital Statistics . . . . .	\$850,000
02-4220 Family Health Services . . . . .	144,954,000
03-4230 Public Health Protection Services . . . . .	71,511,000
04-4240 Addiction Services . . . . .	53,815,000
08-4280 Laboratory Services . . . . .	4,333,000
12-4245 AIDS Services . . . . .	<u>92,755,000</u>
Total Appropriation, Health Services . . . . .	<u>\$368,218,000</u>

## Personal Services:

Salaries and Wages .....	(\$29,236,000)
Employee Benefits .....	(8,873,000)
Materials and Supplies .....	(2,895,000)
Services Other Than Personal .....	(22,419,000)
Maintenance and Fixed Charges .....	(435,000)

## Special Purpose:

Maternal and Child Health	
Block Grant .....	(220,000)
Supplemental Food Program -	
W.I.C. ....	(61,901,000)
WIC Farmer's Market Nutrition	
Program .....	(1,300,000)
Comprehensive Breast and	
Cervical Cancer .....	(555,000)
West Nile Virus -- Public Health .....	(144,000)
Surveillance, Epidemiology and	
End Results (SEER) .....	(147,000)
Tuberculosis Control Program .....	(371,000)
Immunization Project .....	(233,000)
Bioterrorism Hospital Emergency	
Preparedness .....	(200,000)
Emergency Preparedness for	
Bioterrorism .....	(3,380,000)
Substance Abuse Block Grant .....	(496,000)
Other Special Purpose .....	(7,724,000)

## State Aid and Grants:

Health Program for Indochinese	
Refugees .....	(200,000)
Immunization Project .....	(1,665,000)
Research on Ecology of Lyme	
Disease in US .....	(85,000)
Emergency Preparedness for	
Bioterrorism .....	(8,327,000)
Title IV-B Family Preservation and	
Support Services .....	(214,000)
State Treatment Needs Assessment .....	(300,000)
State Aid and Grants .....	(214,316,000)
Additions, Improvements and Equipment ..	(2,582,000)

**22 Health Planning and Evaluation**

06-4260 Long Term Care Systems .....	\$11,969,000
07-4270 Health Care Systems Analysis .....	<u>19,589,000</u>
Total Appropriation, Health Planning and Evaluation ..	<u>\$31,558,000</u>

## Personal Services:

Salaries and Wages .....	(\$5,139,000)
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Employee Benefits .....	(1,365,000)
Materials and Supplies .....	(29,000)
Services Other Than Personal .....	(534,000)
Maintenance and Fixed Charges .....	(475,000)
Special Purpose:	
Medicare/Medicaid Inspections of	
Nursing Facilities .....	(405,000)
Other Special Purpose .....	(4,656,000)
State Aid and Grants .....	(18,266,000)
Additions, Improvements and Equipment ...	(689,000)

### ***25 Health Administration***

99-4210 Administration and Support Services .....	<u>\$1,296,000</u>
Total Appropriation, Health Administration .....	<u>\$1,296,000</u>
Personal Services:	
Salaries and Wages .....	(\$346,000)
Employee Benefits .....	(87,000)
Services Other Than Personal .....	(160,000)
Special Purpose:	
Other Special Purpose .....	(36,000)
State Aid and Grants:	
Preventative Health and Health	
Services Block Grant .....	(52,000)
Minority AIDS Demo .....	(89,000)
State Aid and Grants .....	(526,000)

### ***26 Senior Services***

22-4275 Medical Services for the Aged .....	\$1,484,246,000
24-4275 Pharmaceutical Assistance to the	
Aged and Disabled .....	148,625,000
55-4275 Programs for the Aged .....	44,870,000
56-4275 Office of the Ombudsman .....	600,000
57-4275 Office of the Public Guardian .....	<u>500,000</u>
Total Appropriation, Health Administration .....	<u>\$1,678,841,000</u>
Personal Services:	
Salaries and Wages .....	(\$8,183,000)
Employee Benefits .....	(1,886,000)
Materials and Supplies .....	(174,000)
Services Other Than Personal .....	(1,080,000)
Maintenance and Fixed Charges .....	(353,000)
Special Purpose:	
Administration of U.S. Department	
of Health and Human Services	
Programs .....	(4,422,000)
Community Choice/Acuity Audits .....	(523,000)

Ombudsman for the Institutionalized Elderly:	
Medicaid Reimbursement .....	(180,000)
Other Special Purpose .....	(1,360,000)
State Aid and Grants:	
Alternate Family Care .....	(1,000,000)
Assisted Living Residence .....	(10,000,000)
Comprehensive Personal Care Home ..	(8,000,000)
Assisted Living Program .....	(1,000,000)
Counseling on Health Insurance for Medicare Enrollees .....	(152,000)
Social Services Block Grant -- Senior Services .....	(2,422,000)
NJ Ease for Caregivers -- Building Support Systems .....	(124,000)
State Aid and Grants .....	(1,637,607,000)
Additions, Improvements and Equipment ..	(375,000)
Total Appropriation, Department of Health and Senior Services .....	<u>\$2,079,913,000</u>

#### **54 DEPARTMENT OF HUMAN SERVICES**

##### ***20 Physical and Mental Health***

##### ***23 Mental Health Services***

##### ***7700 Division of Mental Health Services***

08-7700 Community Services .....	\$15,018,000
99-7700 Administration and Support Services .....	<u>719,000</u>
Total Appropriation, Division of Mental Health Services .....	<u>\$15,737,000</u>
Personal Services:	
Salaries and Wages .....	(\$405,000)
Special Purpose:	
Fraud and Abuse Initiative .....	(719,000)
State Aid and Grants .....	(14,613,000)

##### ***24 Special Health Services***

##### ***7540 Division of Medical Assistance and Health Services***

21-7540 Health Services Administration and Management .....	\$57,085,000
22-7540 General Medical Services .....	<u>2,009,472,000</u>
Total Appropriation, Division of Medical Assistance and Health Services .....	<u>\$2,066,557,000</u>
Personal Services:	
Salaries and Wages .....	(\$17,624,000)
Materials and Supplies .....	(144,000)
Services Other Than Personal .....	(6,051,000)

Maintenance and Fixed Charges .....	(1,595,000)
Special Purpose:	
Payments to Fiscal Agent .....	(20,105,000)
Professional Standards Review	
Organization -- Utilization	
Review .....	(3,078,000)
Drug Utilization Review Board --	
Administrative Costs .....	(60,000)
NJ KidCare A -- Administration .....	(4,699,000)
NJ KidCare B - C - D --	
Administration .....	(3,349,000)
State Aid and Grants:	
Payments for Medical Assistance	
Recipients -- Personal Care .....	(9,111,000)
Managed Care Initiative .....	(530,801,000)
Hospital Health Care Subsidy .....	(72,688,000)
Hospital Relief Offset Payment .....	(28,812,000)
Payments for Medical Assistance	
Recipients --	
Other Treatment Facilities .....	(10,718,000)
Inpatient Hospital .....	(243,420,000)
Prescription Drugs .....	(333,732,000)
Outpatient Hospital .....	(173,508,000)
Physician .....	(27,420,000)
Home Health .....	(11,816,000)
Medicare Premiums .....	(75,749,000)
Dental .....	(9,630,000)
Psychiatric Hospital .....	(8,159,000)
Medical Supplies .....	(11,509,000)
Clinic .....	(49,252,000)
Transportation .....	(24,182,000)
Other Services .....	(20,003,000)
Home Health Background Checks --	
Title XIX federal matching funds .....	(1,800,000)
Eligibility Determination Services .....	(4,557,000)
Health Benefit Coordination Services .....	(5,748,000)
Partnership for Children .....	(10,200,000)
State Aid and Grants .....	(346,657,000)
Additions, Improvements and Equipment ...	(380,000)

### ***27 Disability Services***

27-7545 Division of Disabilities Services .....	<u>\$150,719,000</u>
Total Appropriation, Division of	
Disabilities Services .....	<u>\$150,719,000</u>
Personal Services:	
Salaries and Wages .....	(\$466,000)

Materials and Supplies . . . . .	(4,000)
Services Other Than Personal . . . . .	(31,000)
Maintenance and Fixed Charges . . . . .	(9,000)
State Aid and Grants . . . . .	(150,209,000)

### ***30 Educational, Cultural and Intellectual Development***

#### ***32 Operation and Support of Educational Institutions***

01-7601 Purchased Residential Care . . . . .	\$168,611,000
02-7601 Social Supervision and Consultation . . . . .	17,043,000
03-7601 Adult Activities . . . . .	31,131,000
04-7601 Education and Day Training . . . . .	1,506,000
05-7610 Residential Care and Habilitation Services . . . . .	7,473,000
05-7620 Residential Care and Habilitation Services . . . . .	24,578,000
05-7630 Residential Care and Habilitation Services . . . . .	20,682,000
05-7640 Residential Care and Habilitation Services . . . . .	21,902,000
05-7650 Residential Care and Habilitation Services . . . . .	30,604,000
05-7660 Residential Care and Habilitation Services . . . . .	25,331,000
05-7670 Residential Care and Habilitation Services . . . . .	25,574,000
99-7600 Administration and Support Services . . . . .	6,205,000
99-7610 Administration and Support Services . . . . .	2,353,000
99-7620 Administration and Support Services . . . . .	1,938,000
99-7630 Administration and Support Services . . . . .	1,774,000
99-7640 Administration and Support Services . . . . .	3,495,000
99-7650 Administration and Support Services . . . . .	3,902,000
99-7660 Administration and Support Services . . . . .	1,427,000
99-7670 Administration and Support Services . . . . .	<u>3,391,000</u>

#### **Total Appropriation, Operation and Support of**

**Educational Institutions . . . . . \$398,920,000**

#### **Personal Services:**

Salaries and Wages . . . . .	(\$195,105,000)
Materials and Supplies . . . . .	(34,000)
Services Other Than Personal . . . . .	(964,000)
Maintenance and Fixed Charges . . . . .	(2,000)

#### **State Aid and Grants**

##### **Community Nursing Care Initiative -**

**FY2002 . . . . . (435,000)**

##### **Community Services Waiting List**

**Reduction Initiative - FY2002 . . . . (8,624,000)**

##### **Community Transition Initiative -**

**FY2002 . . . . . (2,776,000)**

##### **Home Assistance . . . . . (2,660,000)**

**State Aid and Grants . . . . . (188,320,000)**

### ***33 Supplemental Education and Training Programs***

11-7560 Services for the Blind and Visually Impaired . . . . .	\$9,084,000
99-7560 Administration and Support Services . . . . .	<u>2,175,000</u>



Total Appropriation, Supplemental Education and Training Programs .....	<u>\$11,259,000</u>
Personal Services:	
Salaries and Wages .....	(\$4,300,000)
Materials and Supplies .....	(147,000)
Services Other Than Personal .....	(820,000)
Maintenance and Fixed Charges .....	(325,000)
State Aid and Grants .....	(5,272,000)
Additions, Improvements and Equipment ...	(395,000)

***50 Economic Planning, Development and Security***

***53 Economic Assistance and Security***

15-7550 Income Maintenance Management .....	<u>\$932,872,000</u>
Total Appropriation, Economic Assistance and Security .....	<u>\$932,872,000</u>
Personal Services:	
Salaries and Wages .....	(\$17,076,000)
Materials and Supplies .....	(432,000)
Services Other Than Personal .....	(14,685,000)
Maintenance and Fixed Charges .....	(1,148,000)
Special Purpose:	
Electronic Benefits Transfer, Evaluation & Development, Food Stamps .....	(182,000)
Work First New Jersey -- Electronic Benefits Transfer -- Design & Development .....	(64,000)
Work First New Jersey Technology Investment -- Food Stamps .....	(1,327,000)
EBT -- Operational Food Stamp Match for CWA's .....	(1,671,000)
Work First New Jersey -- Benefits Transfer - Operational .....	(588,000)
Work First New Jersey -- Technology Investments .....	(1,966,000)
Child Support Medical Notice .....	(3,248,000)
Work First New Jersey -- Technology Investments -- Title XIX .....	(361,000)
Hospital Paternity Program .....	(959,000)
Work First New Jersey -- Technology Investment -- Title IV-D .....	(10,726,000)
Work First New Jersey -- Child Support -- Program Legislative Initiatives .....	(8,318,000)
SSI Attorney Fees .....	(1,000,000)

Child Support Initiatives -- New  
     Hires-- TANF ..... (6,000)  
 State Aid and Grants  
     Child Care Evaluation ..... (630,000)  
     Faith Based Initiatives ..... (1,000,000)  
     Criminal Background Evaluations ... (1,000,000)  
     Domestic Violence and Prevention  
         Training and Assessment ..... (450,000)  
     Homeless Assistance ..... (4,000,000)  
     SSBG CWA Administration  
         TANF Transfer ..... (5,163,000)  
 State Aid and Grants ..... (856,708,000)  
 Additions, Improvements and Equipment .. (164,000)

**55 Social Services Programs**

16-7570 Services to Children and Families ..... \$167,622,000  
 99-7570 Administration and Support Services ..... 11,547,000  
     Total Appropriation, Social Services Programs ..... \$179,169,000  
 Personal Services:  
     Salaries and Wages ..... (\$111,827,000)  
     Materials and Supplies ..... (1,924,000)  
     Services Other Than Personal ..... (8,623,000)  
     Maintenance and Fixed Charges ..... (10,206,000)  
 State Aid and Grants:  
     Independent Services Living  
         Expansion ..... (2,500,000)  
     State Aid and Grants ..... (37,026,000)  
     Additions, Improvements and Equipment . (7,063,000)

**70 Government Direction, Management and Control**

**76 Management and Administration**

**7500 Division of Management and Budget**

99-7500 Administration and Support Services ..... \$67,264,000  
     Total Appropriation, Division of Management  
         and Budget ..... \$67,264,000  
 Personal Services:  
     Salaries and Wages ..... (\$175,000)  
 Special Purpose:  
     Community Based Residential  
         Program Grant ..... (1,000,000)  
     DHS Adult Basic Education Program .. (211,000)  
     Deaf Blind Grant VI-C PL 94-142 ..... (92,000)  
     Federal Cost Recoveries ..... (39,701,000)  
     Child Support Enforcement Program .. (299,000)  
     Title IV-B Child Welfare Services ..... (638,000)  
     Title IV-E Foster Care ..... (288,000)

Low Income Energy Assistance	
Block Grant .....	(126,000)
Title XIX ICF/MR .....	(8,243,000)
Title XIX Medical Assistance .....	(2,600,000)
Refugee Resettlement Program .....	(18,000)
Social Service Block Grant .....	(2,326,000)
Vocational Rehabilitation Act --	
Section 120 .....	(100,000)
Food Stamp Program .....	(447,000)
Temporary Assistance to Needy	
Families Block Grant .....	(1,204,000)
State Aid and Grants .....	(9,796,000)
 Total Appropriation, Department of	
Human Services .....	<u>\$3,822,497,000</u>

**62 DEPARTMENT OF LABOR*****50 Economic Planning, Development and Security******51 Economic Planning and Development***

18-4570 Planning and Analysis .....	<u>\$9,352,000</u>
Total Appropriation, Economic Planning	
and Development .....	<u>\$9,352,000</u>
Personal Services:	
Salaries and Wages .....	(\$5,540,000)
Employee Benefits .....	(1,442,000)
Materials and Supplies .....	(176,000)
Services Other Than Personal .....	(786,000)
Maintenance and Fixed Charges .....	(186,000)
Special Purpose:	
Reports and Analysis -- Unemployment	
Insurance .....	(25,000)
ES 202 Covered Employment	
and Wages .....	(86,000)
Current Employment Statistics .....	(78,000)
Local Area Unemployment Statistics ....	(16,000)
Occupational Employment Statistics ....	(72,000)
Labor Market Information -- Es .....	(10,000)
ES Cost Reimbursable Grants --	
Alien Labor Certification .....	(1,000)
Permanent Mass Layoff Plant Closings ...	(15,000)
Current Employment Statistics	
Additional to Maintain Current Issues ..	(2,000)
ES 202 RELATED .....	(22,000)
Redesigned Occupational Safety and	
Health (ROSH) .....	(27,000)
One Stop Labor Market Information ....	(117,000)

OSHA Data Collection Survey ..... (10,000)  
 JTPA Title III LMI -- PROS ..... (356,000)  
 Occupational Information  
     Coordinating Program ..... (18,000)  
     Other Special Purpose ..... (26,000)  
 State Aid and Grants:  
     JTPA Title III CIDS ..... (62,000)  
 Additions, Improvements and Equipment .. (279,000)

***53 Economic Assistance and Security***

01-4510 Unemployment Insurance ..... \$133,200,000  
 02-4515 Disability Determination ..... 48,000,000  
     Total Appropriation, Economic Assistance  
         and Security ..... \$181,200,000  
 Personal Services:  
     Salaries and Wages ..... (\$77,014,000)  
     Employee Benefits ..... (18,868,000)  
 Materials and Supplies ..... (1,850,000)  
 Services Other Than Personal ..... (17,483,000)  
 Maintenance and Fixed Charges ..... (11,941,000)  
 Special Purpose:  
     Unemployment Insurance ..... (7,009,000)  
     Temporary Extended UI Compensation . (835,000)  
     Reed Act Improvements ..... (30,000,000)  
     Employment Security Revenue ..... (1,000,000)  
     Disability Determination Services .... (3,500,000)  
 State Aid and Grants ..... (11,100,000)  
 Additions, Improvements and Equipment .. (600,000)

***54 Manpower and Employment Services***

07-4535 Vocational Rehabilitation Services ..... \$49,030,000  
 09-4545 Employment Services ..... 38,110,000  
 10-4545 Employment and Training Services ..... 86,345,000  
 12-4550 Workplace Standards ..... 4,065,000  
     Total Appropriation, Manpower and  
         Employment Services ..... \$177,550,000  
 Personal Services:  
     Salaries and Wages ..... (\$39,041,000)  
     Employee Benefits ..... (11,396,000)  
 Materials and Supplies ..... (882,000)  
 Services Other Than Personal ..... (7,470,000)  
 Maintenance and Fixed Charges ..... (12,395,000)  
 Special Purpose:  
     Vocational Rehabilitation  
         Act of 1973 ..... (2,800,000)  
     Employment Services ..... (1,800,000)

Disabled Veterans' Outreach Program . . .	(248,000)
Local Veterans' Employment	
Representatives . . . . .	(241,000)
Trade Adjustment Assistance Project . . .	(110,000)
Employment Services Grants -- Alien	
Labor Certification . . . . .	(168,000)
Work Opportunity Tax Credit . . . . .	(95,000)
Employment Services Cost	
Reimbursable Grants --	
Migrant Housing . . . . .	(5,000)
Agricultural Wage Surveys . . . . .	(10,000)
ES Reemployment Services . . . . .	(125,000)
Workforce Investment Act . . . . .	(332,000)
Employment Services Rapid	
Response Team . . . . .	(241,000)
WIA Title IIID Discretionary Funding . .	(250,000)
National Council on Aging -- Senior	
Community Services Employment . . .	(41,000)
Occupational Safety Health Act, On-	
Site Consultation . . . . .	(218,000)
Mine Safety Educational Program . . . . .	(8,000)
Other Special Purpose . . . . .	(1,081,000)
State Aid and Grants:	
Technology Related Assistance	
Project . . . . .	(700,000)
State Aid and Grants . . . . .	(97,038,000)
Additions, Improvements and Equipment . . .	(855,000)
 Total Appropriation, Department of Labor . . . . .	  <u>\$368,102,000</u>

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY*****10 Public Safety and Criminal Justice******12 Law Enforcement***

06-1200 State Police Operations . . . . .	\$395,473,000
09-1020 Criminal Justice . . . . .	<u>101,378,000</u>
Total Appropriation, Law Enforcement . . . . .	<u>\$496,851,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$9,505,000)
Food in Lieu of Cash . . . . .	(10,000)
Cash in Lieu of Maintenance . . . . .	(230,000)
Employee Benefits . . . . .	(1,590,000)
Special Purpose:	
Federal Highway Hazardous	
Materials Transportation . . . . .	(173,000)
Forensic DNA Testing Program . . . . .	(500,000)

Domestic Marijuana Eradication	
Suppression Program .....	(280,000)
D.W.I. Training .....	(5,000)
Breathalyser Training OHTS .....	(60,000)
Forensic Crime Laboratory	
Improvement Program .....	(2,500,000)
Northern New Jersey Heroin and	
Money Laundering .....	(200,000)
FEMA Pre-Disaster Mitigation Grant ..	(750,000)
FFY03 Domestic Preparedness	
Equipment Grant .....	(40,000,000)
FEMA State Police Emergency	
Operations Center Grant .....	(25,000,000)
Domestic Preparedness Training ....	(15,000,000)
Division of State Police Port Security .	(6,015,000)
Convicted Offender In -	
House (DNA) .....	(1,500,000)
Forensic Laboratory Equipment .....	(2,000,000)
Marine Police Boat .....	(750,000)
Cops In Schools .....	(1,200,000)
Cops Homeland Security -- OT .....	(3,000,000)
Critical Infrastructure Protection ....	(50,000,000)
FY04 Domestic Preparedness	
Equipment .....	(52,000,000)
Statewide Public Safety	
Radio System .....	(80,000,000)
9-1-1 Emergency Operations	
Dispatch Center .....	(22,000,000)
Inter-coastal Maritime Patrol and	
Interdiction Program .....	(5,120,000)
K-9 Explosive Detection	
Teams (EDT's) .....	(3,400,000)
Helicopter Augmentation .....	(60,000,000)
Hazardous Materials Transportation ...	(261,000)
Protecting Our Urban Areas .....	(12,000,000)
NIEHS Worker Health Safety Training ..	(83,000)
Incident Command .....	(497,000)
EMPG -- Non -Terrorism .....	(3,121,000)
EMPG -- Terrorism .....	(1,000,000)
Casework DNA Backlog	
Reduction Program .....	(1,300,000)
County Prosecutors Assistance	
Megan's Law Implementation ....	(1,000,000)
Bulletproof Vest Partnership .....	(550,000)
State Medical Examiner	
Improvement Program .....	(45,200,000)

Justice Assistance Grant (JAG) . . . . .	(17,000,000)
Anti-Money Laundering (C-FIC) . . . . .	(750,000)
Community Prosecutors Block Grant . . . . .	(1,000,000)
State Aid and Grants . . . . .	(29,241,000)
Additions, Improvements and Equipment . . . . .	(1,060,000)

### ***13 Special Law Enforcement Activities***

03-1160 Office of Highway Traffic Safety . . . . .	\$19,290,000
21-1400 Regulation of Alcoholic Beverages . . . . .	760,000
25-1421 Election Management and Coordination . . . . .	<u>42,000,000</u>

#### **Total Appropriation, Special Law**

Enforcement Activities . . . . .	<u>\$62,050,000</u>
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#### **Personal Services:**

Salaries and Wages . . . . .	(\$1,710,000)
Employee Benefits . . . . .	(210,000)
Materials and Supplies . . . . .	(85,000)
Services Other Than Personal . . . . .	(735,000)
Maintenance and Fixed Charges . . . . .	(16,000)

#### **Special Purpose:**

FHWA Program Management . . . . .	(2,000)
Pedestrian Safety Grant . . . . .	(302,000)
Selective Enforcement Management . . . . .	(1,031,000)
Highway Safety Data	
Improvement Grant . . . . .	(125,000)
Safety Incentive Grants . . . . .	(3,600,000)
Highway Safety -- Alcohol Education	
and Public Awareness Coordinator . . . . .	(41,000)
Child Passenger Protection Education . . . . .	(250,000)
Drunk Driver Protection . . . . .	(5,000)
Innovative Seat Belt Use . . . . .	(800,000)
Combating Underage Drinking . . . . .	(360,000)
Combat Underage Drinking --	
Discretionary . . . . .	(400,000)
Help America Vote Act . . . . .	(42,000,000)
Other Special Purpose . . . . .	(37,000)

#### **State Aid and Grants**

NHTSA 402 - Youthful Driver . . . . .	(20,000)
Pedestrian Safety Grant . . . . .	(282,000)
Safety Incentive Grants . . . . .	(6,400,000)
School Bus Set Aside Program . . . . .	(50,000)
Innovative Seat Belt Use . . . . .	(100,000)
State Aid and Grants . . . . .	(3,481,000)
Additions, Improvements and Equipment . . . . .	(8,000)

### ***18 Juvenile Services***

34-1500 Juvenile Community Programs . . . . .	\$7,965,000
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99-1500 Administration and Support Services .....	<u>4,211,000</u>
Total Appropriation, Juvenile Services .....	<u>\$12,176,000</u>
Personal Services:	
Salaries and Wages .....	(\$2,119,000)
Employee Benefits .....	(358,000)
Special Purpose:	
Juvenile Mentoring Programs -	
Juvenile Justice Initiative .....	(117,000)
Juvenile Accountability Incentive	
Block Grant .....	(5,334,000)
Challenge Grant .....	(300,000)
Title V Funding .....	(1,500,000)
Other Special Purpose .....	(30,000)
State Aid and Grants .....	(2,415,000)
Additions, Improvements and Equipment ....	(3,000)

***19 Central Planning, Direction and Management***

99-1000 Administration and Support Services .....	<u>\$125,950,000</u>
Total Appropriation, Central Planning, Direction	
and Management .....	<u>\$125,950,000</u>
Special Purpose .....	(\$3,000,000)
Special Purpose:	
Critical Infrastructure	
Security Initiative .....	(1,000,000)
Counter - Terrorism Intelligence	
Information Sharing, Detection ...	(1,000,000)
Personal Protective Equipment .....	(10,000,000)
State of New Jersey Centers of	
Excellence for Homeland Security .	(6,000,000)
First Responders Distance Learning	
Datacasting Initiative .....	(4,200,000)
Reverse 9/11 Notification System .....	(500,000)
Bus/Rail/Highway Sensor &	
Scanner Interdiction Initiative ....	(4,000,000)
Develop and Implement a State	
Government/Business	
Continuity .....	(20,000,000)
Disaster Recovery Center .....	(2,000,000)
Red Team Exercise Initiative .....	(750,000)
Statewide First Responder	
Equipment Program .....	(56,000,000)
Surveillance & Detection Equipment .	(1,500,000)
Domestic Preparedness Vehicles	
& Equipment .....	(8,000,000)
Financial Investigations & Money	
Laundering Initiative .....	(5,000,000)



## Office of Recovery &amp; Victims

Assistance . . . . . (1,000,000)

## National Criminal History

Program - OAG . . . . . (2,000,000)

**80 Special Government Services****82 Protection of Citizens' Rights**

16-1350 Protection of Civil Rights . . . . . \$532,000

19-1440 Victims of Crime Compensation Board . . . . . 4,850,000Total Appropriation, Protection of Citizens' Rights . . . \$5,382,000

## Personal Services:

Salaries and Wages . . . . . (\$532,000)

State Aid and Grants . . . . . (4,850,000)

## Total Appropriation, Department of

Law and Public Safety . . . . . \$702,409,000**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS****10 Public Safety and Criminal Justice****14 Military Services**

40-3620 New Jersey National Guard Support Services . . \$18,322,000

99-3600 Administration and Support Services . . . . . 26,000,000Total Appropriation, Military Services . . . . . \$44,322,000

## Personal Services:

Salaries and Wages . . . . . (\$5,934,000)

Employee Benefits . . . . . (1,318,000)

Materials and Supplies . . . . . (7,293,000)

Services Other Than Personal . . . . . (1,942,000)

## Special Purpose:

## Federal VA Distance

Learning Program . . . . . (456,000)

## Air National Guard Security

Agreement -- Atlantic City . . . . . (94,000)

## Fire Fighter/Crash Rescue Service

Cooperative Funding Agreement . . . . . (87,000)

McGuire AFB Environmental . . . . . (42,000)

## Atlantic City Operations and

Maintenance . . . . . (2,000)

Atlantic City Environmental . . . . . (42,000)

## Armory Renovations and

Improvements . . . . . (1,100,000)

## New Jersey National Guard Counter

Drug Program Interservice State . . . . . (12,000)

Combined Logistics Facility . . . . . (26,000,000)

**80 Special Government Services****83 Services to Veterans**

20-3630 Domiciliary and Treatment Services .....	\$1,873,000
20-3640 Domiciliary and Treatment Services .....	1,977,000
20-3650 Domiciliary and Treatment Services .....	78,000
50-3610 Veterans' Outreach and Assistance .....	825,000
70-3610 Burial Services .....	<u>6,000,000</u>
Total Appropriation, Services to Veterans .....	<u>\$10,753,000</u>

## Personal Services:

Salaries and Wages .....

(\$357,000)

Employee Benefits .....

(90,000)

Materials and Supplies .....

(6,026,000)

## Special Purpose:

Medicare Part A Receipts for Resident

Care and Operational Costs .....

(3,638,000)

Menlo Adult Day Care Funds .....

(290,000)

Transitional Housing .....

(352,000)

Total Appropriation, Department of Military and

Veterans' Affairs .....

\$55,075,000**74 DEPARTMENT OF STATE****30 Educational, Cultural and Intellectual Development****36 Higher Educational Services**

45-2405 Student Assistance Programs .....	\$22,146,000
80-2400 Statewide Planning and Coordination	
for Higher Education .....	<u>2,730,000</u>
Total Appropriation, Higher Educational Services ...	<u>\$24,876,000</u>

## Personal Services:

Salaries and Wages .....

(\$7,640,000)

Employee Benefits .....

(2,385,000)

Materials and Supplies .....

(403,000)

Services Other Than Personal .....

(7,073,000)

Maintenance and Fixed Charges .....

(844,000)

## Special Purpose:

Student Loan Administrative Cost

Deduction and Allowance .....

(244,000)

Other Special Purpose .....

(10,000)

State Aid and Grants .....

(5,377,000)

Additions, Improvements and Equipment ..

(900,000)

**30 Educational, Cultural and Intellectual Development****37 Cultural and Intellectual Development Services**

05-2530 Support of the Arts .....	\$785,000
06-2535 Museum Services .....	315,000
10-2570 Public Broadcasting Services .....	<u>1,250,000</u>

Total Appropriation, Cultural and Intellectual Development Services .....	<u>\$2,350,000</u>
Personal Services:	
Salaries and Wages .....	(\$204,000)
Employee Benefits .....	(37,000)
Special Purpose:	
Folk Art .....	(35,000)
Delaware Water Gap National Recreation Area .....	(93,000)
Institute of Museum Services -- General Support Grant .....	(113,000)
National Endowment for the Arts -- Museum Exhibition .....	(50,000)
National Telecommunications Information Agency .....	(1,250,000)
State Aid and Grants:	
National Endowment for the Arts Partnership .....	(568,000)

**70 Government Direction, Management and Control**

**74 General Government Services**

01-2505 Office of the Secretary of State .....	<u>\$6,135,000</u>
Total Appropriation, Office of the Secretary of State .....	<u>\$6,135,000</u>
Personal Services:	
Salaries and Wages .....	(\$450,000)
Employee Benefits .....	(108,000)
Services Other Than Personal .....	(338,000)
Special Purpose:	
Homeland Security .....	(40,000)
Reading Partners .....	(6,000)
State Aid and Grants .....	(5,193,000)

Total Appropriation, Department of State ..... \$33,361,000

**82 DEPARTMENT OF TRANSPORTATION**

**60 Transportation Programs**

**61 State and Local Highway Facilities**

02-6200 Transportation Systems	
Improvements--Planning .....	\$28,953,000
10-6300 Interstate Program .....	101,505,000
28-6300 Demonstration Program .....	64,680,752
29-6300 Congestion Mitigation and Air Quality Program ..	12,425,000
36-6300 National Highway System .....	101,860,000
37-6300 Surface Transportation Program .....	119,682,000
40-6300 Bridge Program .....	183,910,000

50-6300	Minimum Guarantee	53,300,000
55-6300	Ferry Program	10,000,000
56-6300	Recreational Trails	807,000
58-6300	Public Lands Highways	2,000,000
57-6300	National Boating Infrastructure Grant Program	100,000
71-6200	Supportive Services Program	500,000
Total Appropriation, State and Local		
Highway Facilities		<u>\$679,722,752</u>
Special Purpose:		
Highway Planning and Research		... (\$15,367,000)
New Jersey Transportation		
Planning Assistance		(3,000,000)
Metropolitan Planning Funds		(10,586,000)
Recreational Trails		(807,000)
Public Lands Highways,		
Discretionary Program		(2,000,000)
National Boating Infrastructure Grant		.. (100,000)
Supportive Services Highway		
Construction Training Program		.... (500,000)

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
Special Purpose:				
10-6300 Interstate Program				
1. CONSTRUCTION				
		Interstate pavement preservation	Various	(\$3,000,000)
		Resurfacing, Interstate Fast Track Program	Various	(1,000,000)
78	6J, 6K	Truck weigh stations	Warren	(27,700,000)
80 95	E & J	Palisades Avenue to I-95	Bergen	(25,250,000)
295		Burlington/Camden Rigid Pavement, CR 561 to Rt 38	Burlington	
			Camden	(34,850,000)
295		Klockner Road to East State Street Extension, noise barriers	Mercer	(4,780,000)
2. FEASIBILITY ASSESSMENT				
295	42/I-76	Direct Connection	Camden	(2,000,000)
3. PRELIMINARY DESIGN				
195		Hamilton Twp. Noise Barriers, Lakeside Drive to Yardville-Hamilton Square Road	Burlington	
			Mercer	(50,000)
295	CR 573	Clements Bridge Road Bridge	Camden	(250,000)
295		Gloucester/Camden Rehabilitation	Camden	(2,625,000)
			Gloucester	(101,505,000)
Special Purpose:				
28-6300 Demonstration Program				
1. CONCEPT DEVELOPMENT				

9	CR 520	Robertsville Road Intersection	Monmouth	(200,000)
35		Eatontown Intersection	Monmouth	(498,000)
35		Tinton Avenue	Monmouth	(500,000)
71	CR 547	Wyckoff Road	Monmouth	(149,670)
130		Corridor no. 3B, Airport Circle to Wood Street, Burlington City	Burlington Camden	(500,000)
2.	CONSTRUCTION			
		CARGOMATE	Essex Union	(750,000)
		Carteret Industrial Road	Middlesex	(2,079,004)
		Garden State Parkway, interchange improvements	Cape May	(5,131,673)
		International intermodal corridor	Hudson Union Essex	(100,000)
		Rosedale Road and Provinceline Road	Mercer	(249,400)
		School Road East	Monmouth	(1,197,000)
		Secaucus Connector	Hudson	(3,592,170)
		TRANSMIT Program	Various	(2,500,000)
		Transportation and Community System Preservation Program	Various	(4,850,000)
		Union City Intermodal Facility, Bergenline Avenue	Hudson	(2,052,669)
1&9	35	Interchange, South of interchange to Tappan Street	Middlesex	(1,400,000)
17		(3) Essex Street Bridge	Bergen	(1,924,000)
30	130	Collingswood Circle (Phase A) Elimination, Comly Avenue to PATCO Bridge	Camden	(2,278,475)
46	80/23	(43) Interchange Improvements	Passaic	(420,000)
46	CR 614/623	(47) Van Houten Avenue/Grove Street Interchange	Passaic	(9,853,840)
46/62	CR 646	12K 13 E 1E, Union Boulevard, Interchange Improvements	Passaic	(1,251,447)
3.	DESIGN			
70		(4) Manasquan River Bridge	Monmouth Ocean	(2,800,000)
4.	FEASIBILITY ASSESSMENT			
		Bergen Arches through Jersey City Palisades	Hudson	(5,225,000)
		Elizabeth ferry project	Union	(500,000)
		Freehold, roadway improvements	Monmouth	(249,400)

		Kapkowski Road, North Avenue and Trumbull Street	Union	(52,669)
		NYS&W Bridge	Bergen	(100,000)
5.		PRELIMINARY DESIGN		
	CR 530	Halls Mill Road	Monmouth	(1,000,000)
21		South Pemberton Road	Burlington	(1,200,000)
		Newark Waterfront		
31		Community Access Study	Essex	(1,026,335)
		Flemington Area Congestion Mitigation	Hunterdon	(1,000,000)
130		Campus Drive	Burlington	(50,000)
6.		RIGHT-OF-WAY		
		University Heights Connector (I-280, Downtown Connector, Phase II)	Essex	(5,000,000)
22		Chimney Rock Road		
		Interchange Improvements	Somerset	(2,000,000)
31	202	Flemington Circle		
		Elimination	Hunterdon	(2,000,000)
295	42	Missing Moves, Bellmawr	Camden	(1,000,000)
		Special Purpose:		
		29-6300 Congestion Mitigation and Air Quality Program		
		1. CONSTRUCTION		
		Advance technology emissions reduction program	Various	(\$100,000)
		Bicycle and pedestrian facilities/accommodations	Various	(3,000,000)
		Intelligent Transportation Systems	Various	(290,000)
		Local CMAQ Initiatives	Various	(3,000,000)
		TMA-DVRPC	Various	(700,000)
		TMA-NJTPA	Various	(2,400,000)
		Traffic Signal LED Installation	Various	(1,000,000)
		Transit Village Program	Various	(500,000)
		2. DESIGN		
1&9		Fiber Optic Communications Infrastructure	Essex Bergen Hudson	(125,000)
		3. FEASIBILITY ASSESSMENT		
		Project development, preliminary engineering	Various	(300,000)
		4. PLANNING		
		Transportation Demand Management program support	Various	(210,000)
		5. PRELIMINARY DESIGN		
		Trenton Intelligent Transportation System	Mercer	(250,000)
1		Market Street, Rt. 129, Barlow Street, Pedestrian Access	Mercer	(250,000)

29		Delaware River Pedestrian/ Bike Path, Assunpink Creek to Old Wharf	Mercer	(50,000)
6.	RIGHT OF WAY			
29		Delaware River Pedestrian/ Bike Path, Stacy Park to Assunpink Creek	Mercer	(250,000)
Special Purpose:				
36-6300 National Highway System				
1.	CONSTRUCTION			
1		Conrail, North of GSP to Green Street	Middlesex	(\$19,130,000)
1&9	35	Interchange, South to Tappan Street	Middlesex	(5,600,000)
18		2F 7E 11H, Route 1 to Northeast Corridor Amtrak Line north of Rt 27	Middlesex	(1,000,000)
18 Ext.		2A, River Road to Hoes Lane Extension	Middlesex	(37,000,000)
46		(34) Fairfield Road to Two Bridges Road	Essex	(6,800,000)
46	80/23	(43) Route 23 & 80 Inter- change	Passaic	(19,580,000)
46	CR 635	(46) Browerton Road Interchange	Passaic	(11,800,000)
2.	DESIGN			
10		Powder Mill Road	Morris	(250,000)
3.	PRELIMINARY DESIGN			
1	CR 571	Penns Neck Area EIS	Mercer	(50,000)
30	130	Collingswood/Pennsauken (Phase B), Cooper River to PATCO Bridge	Camden	(50,000)
30		Evesham Road to Warwick Road	Camden	(50,000)
73	70	Marlton Circle Elimination (5)	Burlington	(50,000)
130		Willingboro Lakes Nature Preserve, Drainage	Burlington	(50,000)
206		Jack's Run Drainage	Burlington	(50,000)
4.	RIGHT-OF-WAY			
130		Mae Brook Bridge, replacement	Middlesex	(400,000)
Special Purpose:				
37-6300 Surface Transportation Program				
1.	CONCEPT DEVELOPMENT			
		Ocean view operational improvements	Cape May	(\$200,000)
2.	CONSTRUCTION			
		Accident reduction program	Various	(1,000,000)
		Asbury Avenue, Ocean City	Cape May	(750,000)
	CR 602	Auburn Road, Pilesgrove	Salem	(658,000)
		Bridge painting	Various	(9,000,000)

CR 510	Burlington County Restriping Program	Burlington	(400,000)
	Columbia Turnpike Resurfacing	Morris	(500,000)
	Disadvantaged Business Enterprise	Various	(100,000)
	Drainage rehabilitation	Various	(1,000,000)
	Delaware Valley Regional Planning Commission - future projects	Various	(2,227,000)
	Egg Harbor Road	Atlantic	(900,000)
	Emergency Service Patrol	Various	(7,100,000)
	Fixed object safety treatment	Various	(250,000)
	GSP Bridges over Jimmie Leeds Road	Atlantic	(1,750,000)
	GEOGIS Soil Boring Management System	Various	(600,000)
	Gloucester County Bus Purchase	Gloucester	(65,000)
	Gloucester County Resurfacing	Gloucester	(1,500,000)
	Gloucester County Traffic Signal.Batter Backup, Phase 2	Gloucester	(1,200,000)
	Intersection improvement program	Various	(1,000,000)
CR 552	Irving Avenue, Cumberland County	Cumberland	(600,000)
	Median Cross-over Crash Prevention Program	Various	(3,000,000)
	Montclair/Secaucus Line Station Revitalization, STAR Program	Various	(1,000,000)
	Motor Vehicle Crash Record Processing	Various	(2,500,000)
CR 621	New Jersey Avenue, Wildwood	Cape May	(1,030,000)
	North& South/East & West Boulevards, Vineland	Cumberland	(518,000)
CR 649	North Avenue, Commercial Township	Cumberland	(620,000)
	Old Croton Road Bridge (Q-28) over Wickecheoke Creek	Hunterdon	(1,200,000)
CR 628	Orchard Road, Vineland	Cumberland	(556,000)
	Park & Ride/Transportation Demand Management Program	Various	(1,700,000)
	Pre-apprenticeship training for minorities and females	Various	(500,000)
	Quality assurance	Various	(600,000)



	Rail-highway grade crossing program, Cape May Seashore Lines	Cape May	(500,000)
	Rail-highway grade crossing program	Various	(2,500,000)
	Raymond Boulevard Resurfacing	Essex	(3,550,000)
	Restriping program	Various	(4,500,000)
	Resurfacing program	Various	(1,000,000)
	Safety management system	Various	(5,400,000)
	Scotland Road Resurfacing and Streetscape, Phase 1	Essex	(520,000)
	SJTPO, Future Projects	Various	(38,000)
	Somerset County FY 2004 Resurfacing	Somerset	(3,600,000)
	South East Boulevard, Vineland	Cumberland	(537,000)
	Third Street, Hammonton	Atlantic	(500,000)
	TMA - DVRPC	Various	(800,000)
	Traffic Operations Center (North)	Various	(3,700,000)
	Traffic Operations Center (South)	Various	(2,400,000)
	Transportation Enhancements	Various	(10,000,000)
	Transportation grants	Various	(1,000,000)
CR 557	Tuckahoe Road, Section 6, Marsh Lake Branch to Route 40	Gloucester Atlantic	(2,000,000)
	Union County FY 2004 Resurfacing	Union	(3,000,000)
	Utility reconnaissance and relocation	Various	(1,000,000)
	Whistle Ban Demonstration Program	Various	(100,000)
	Youth employment and TRAC programs	Various	(250,000)
9	GSP, Exit 127A, drainage	Middlesex	(660,000)
46	(48) DL&W Railroad bridge Removal	Morris	(750,000)
49	Cumberland Pond Dam	Cumberland	(1,208,000)
206	Cat Swamp Mountain	Sussex	(2,530,000)
3. DESIGN	Barclay Street Viaduct	Passaic	(265,000)
	Central Avenue, Roadway Resurfacing and Improvements	Essex	(2,010,000)
	Eden Lane Bridge over Whippany River	Morris	(330,000)
	Green Pond Road Bridge over Hibernia Brook	Morris	(345,000)

		Helen Street, Antonette Street to Metuchen Road	Middlesex	(1,900,000)
		Hillery Street Bridge over Passaic River	Passaic	(450,000)
		Inamere Road Bridge over Whippany River	Morris	(330,000)
		JFK Boulevard, Section X1V, 18th Street to 67th Street	Hudson	(460,000)
		Passaic Street, Ward Street to Rochelle Avenue	Bergen	(1,540,000)
9	CR 563	Tilton Road	Atlantic	(500,000)
34	CR537	Colts Neck Intersection	Monmouth	(1,000,000)
166		Dover Twp., Highland Parkway to Old Freehold Road	Ocean	(1,700,000)
4.	FEASIBILITY ASSESSMENT			
		DVRPC Project Develop- ment (Local Scoping)	Various	(2,000,000)
		NJTPA Project Development	Various	(2,000,000)
	CR 631	Tuckahoe Road, Upper Twp.	Cape May	(300,000)
5.	PLANNING			
		Metropolitan Planning	Various	(1,407,000)
6.	PRELIMINARY DESIGN			
		Chestnut Street over Amtrak	Mercer	(50,000)
		Delaware River Heritage Trail	Burlington Mercer	(50,000)
		East State Street bridge over Conrail, Trenton	Mercer	(50,000)
		Iron Bridge Road Bridge over Crosswicks Creek	Burlington Mercer	(50,000)
	CR551	King's Highway and Berkley Road	Gloucester	(50,000)
		Monmouth Street bridge over Amtrak	Mercer	(50,000)
	CR 641	Park Avenue Bridge, North Branch of Newton Creek	Camden	(50,000)
		DVRPC, Regional GIS Support	Various	(256,000)
	CR 546	Washington Crossing -- Pennington Road Bridge over Conrail	Mercer	(50,000)
9		Bennetts Crossing, Intersection	Cape May	(50,000)
9	CR613	Breakwater Road Extension	Cape May	(50,000)
29		Guiderrails	Hunterdon Mercer	(50,000)
29		Roadside enhancements	Hunterdon Mercer	(50,000)
30		Cooper River Drainage	Camden	(50,000)

40	(4)	Route 77 to Elmer Lake	Salem	(50,000)
45	CR 538	Swedesboro-Franklinville Road	Gloucester	(250,000)
47		Chapel Heights Avenue/Holly Avenue (Site 3)	Gloucester	(50,000)
130		Brooklawn Circles	Camden	(250,000)
206		Atsion Lake dam	Burlington	(50,000)
7.	RIGHT-OF-WAY			
		Region South Drainage (Rts. 40,42, 206, 676)	Camden Gloucester Burlington Salem	(283,000)
30		Clementon at Gibbsboro Road	Camden	(500,000)
30	CR 575	Pomona Road	Atlantic	(500,000)
35		Restoration, Mantoloking to Point Pleasant (MP 9-12.5)	Ocean	(830,000)
38		Pedestrian Bridge	Camden	(100,000)
46		Tributary to Delaware River	Warren	(200,000)
48		Game Creek Bridges	Salem	(150,000)
82		Union County Streetscape and Intersection	Union	(900,000)
130		Kinkora Branch Bridges, removal	Burlington	(444,000)
206		Arreton Road, drainage	Mercer	(115,000)
206	CR 24/ 513	Main Street (Rt 24), Chester, intersection	Morris	(1,500,000)
Special Purpose:				
40-6300 Bridge Program				
1.	CONSTRUCTION			
		Bridge Deck Preservation Program	Various	(\$3,000,000)
		Bridge Inspection, Local Bridges	Various	(4,620,000)
		Bridge Inspection, State NBIS Bridges	Various	(10,680,000)
		Bridge Scour	Various	(6,000,000)
		Bridge Street Bridge over Trenton Line	Somerset	(7,300,000)
	CR 521	Hope Road Bridge over Lackawanna Cutoff	Warren	(5,100,000)
	CR 528	Mantoloking Bridge over Barnegat Bay	Ocean	(10,000,000)
		Rockaway Road Bridge over NJ TRANSIT	Morris	(6,230,000)
		Southard Street Bridge over Route 1 and Conrail	Mercer	(5,200,000)
1&9		Rahway River Bridge	Union	(29,700,000)
9		23E, CR 522 and Conrail Bridge	Monmouth	(4,200,000)

9	35	25C 25L, Victory Circle Elimination	Middlesex	(6,000,000)
35		12T, Victory Bridge over Raritan River	Middlesex	(55,000,000)
130		Four Bridge Deck Replacements	Mercer Burlington	(2,500,000)
2.	DESIGN			
	CR 616	Hanover Street Bridge over Rancocas Creek	Burlington	(200,000)
	CR 684	Smithville Road Bridge over Rancocas Creek	Burlington	(100,000)
		Sparta Stanhope Road Bridge (Bridge K-07) over Lackawanna Cutoff	Sussex	(600,000)
52		Causeway Replacement and Somers Point Circle Elimination	Cape May Atlantic	(6,500,000)
3.	FEASIBILITY ASSESSMENT			
		Project development, preliminary engineering	Various	(2,000,000)
4.	PRELIMINARY DESIGN			
		Bridge management system	Various	(225,000)
		Frankfurt Avenue NJT (Atlantic City Line) Bridge	Atlantic	(100,000)
		Maple Avenue (Pennsauken)/Chapel Avenue, NJT bridges	Camden	(100,000)
	CR621	Middle Thorofare, Mill Creek, Upper Thorofare Bridges	Cape May	(50,000)
		Preliminary Design	Various	(2,000,000)
		Smithville - Port Republic Road bridge over Nacote Creek	Atlantic	(50,000)
	CR557	Tuckahoe Road NJT bridge over Cape May Branch (Jim Lee Crossing)	Atlantic	(50,000)
1		Mulberry Street, deck rehabilitation	Mercer	(250,000)
1		Olden Avenue Connector, deck rehabilitation	Mercer	(250,000)
33		Conrail Bridge replacement	Mercer	(50,000)
49		Cape May Branch Bridge	Cape May	(250,000)
49		Bridge over Cohansey River	Cumberland	(50,000)
54		Route 322 to Cape May Point Branch Bridge	Atlantic	(50,000)
130		Crafts Creek Bridge	Burlington	(250,000)
130		Raccoon Creek Bridge	Gloucester	(100,000)
206		(40) Assiscunk Creek Bridge	Burlington	(250,000)
206		Stony Brook Bridge	Mercer	(250,000)
5.	RIGHT-OF-WAY			
		Chesterfield-Sykesville		

	CR 538	Road Bridge	Burlington	(130,000)
		Coles Mill Road Bridge		
		over Scotland Run	Gloucester	(50,000)
	CR 646	Delilah Road Bridges over		
		Water Mains	Atlantic	(1,000,000)
	CR 607	Tomlin Station Road Bridges		
		over Nehonsey Brook and		
		White Sluice Race	Gloucester	(300,000)
		West Mountain Road Bridge		
		(AKA Bridge Q-25)	Sussex	(500,000)
		Wilson Road Bridge	Gloucester	(75,000)
1&9T		(25) St. Paul's Avenue/ Conrail Bridge	Hudson	(10,000,000)
52		Causeway Replacement and Somers Point Circle	Cape May	
		Elimination	Atlantic	(2,500,000)
56		Maurice River Bridge	Salem	
		Replacement	Cumberland	(100,000)

## Special Purpose:

50-6300 Minimum Guarantee

## 1. CONSTRUCTION

		State Police enforcement and safety services	Various	(\$4,000,000)
		Statewide Incident Management Program	Various	(1,000,000)
41	1A 2A	Singley Avenue to Cooper	Camden	
42Fwy	14M	Street	Gloucester	(7,800,000)
47	4D 5E	Dennis Creek Bridge	Cape May	(500,000)
47	40	Intersection improvements (Sites 1&6)	Gloucester	(7,000,000)
2.	DESIGN	Emerging projects	Various	(1,000,000)
3.	FEASIBILITY ASSESSMENT	Project development, preliminary engineering	Various	(2,500,000)
4.	PLANNING	Traffic Monitoring Systems	Various	(6,500,000)
5.	PRELIMINARY DESIGN	Pavement Management System	Various	(3,000,000)
		Preliminary Design	Various	(20,000,000)

## Special Purpose:

55-6300 Ferry Program

	Ferry program	Various	(\$10,000,000)
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In order to provide the department with the flexibility to administer appropriations of federal funds, the commissioner may use moneys from the federal programs identified hereinabove as Interstate Program, Demonstration Program, Congestion Mitigation and Air Quality Program, National Highway System, Surface Transportation Program, Bridge Program, Minimum Guarantee, Ferry Program, Recreational Trails, National Boating Infrastructure Grant Program,

and Metropolitan Planning Funds to finance the cost of the construction, design, right-of-way, planning, and project development phases of work of any project listed under any federal program pursuant to the following transfer provisions. The Commissioner of Transportation may transfer federal funds among projects having the same phase of work, subject to the approval of the Director of the Division of Budget and Accounting. The commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer federal funds among projects having different phases of work. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer federal funds among projects having different phases of work shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval and returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct the Legislative Budget and Finance Officer to approve or disapprove any transfer.

**62 Public Transportation**

29-6310 Congestion Mitigation and Air Quality Program	\$95,000,000
96-6310 Federal Transit Administration	420,020,000
Total Appropriation, Public Transportation	<u>\$515,020,000</u>

**CONGESTION MITIGATION AND AIR QUALITY PROGRAM**

Hudson/Bergen LRT System MOS I	Hudson	
	Bergen	(\$15,510,000)
Main/Bergen/Pascack Valley Lines	Bergen	
Upgrade	Passaic	(3,800,000)
Market Research	Various	(3,000,000)
Operating Assistance Start-Up New		
Transit Services	Various	(48,813,000)
Other Rail Station/Terminal	Hudson	
Improvements	Bergen	(17,737,000)
Rail Support Facilities and Equipment	Various	(2,340,000)
Small/Special Services Program	Various	(3,800,000)

**Special Purpose:**

**FEDERAL TRANSIT ADMINISTRATION:**

Bus Acquisition Program	Various	(\$54,500,000)
Cumberland County Bus Program	Cumberland	(683,000)
Hudson-Bergen LRT, MOS II	Hudson	(100,000,000)
Job Access and Reverse		
Commute Program	Various	(3,300,000)
Newark City Subway Downtown	Essex	
Extension	Union	(22,230,000)
Newark Penn Station	Essex	(1,600,000)
Preventive maintenance- bus	Various	(64,200,000)

Preventive maintenance - rail	Various	(105,187,000)
Private Carrier Equipment Program	Various	(38,300,000)
Rail rolling stock procurement	Various	(23,800,000)
Section 5310 Program: buses and vans for services to elderly and disabled persons	Various	(2,780,000)
Section 5311 Program: rural public transportation	Various	(3,130,000)
Transit enhancements	Various	(310,000)

**64 Regulation and General Management**

05-6070 Access and Use Management .....	<u>\$28,308,000</u>
Total Appropriation, Regulation and General Management .....	<u>\$28,308,000</u>

Special Purpose:

Aviation Block Grant Program ...	(\$21,000,000)
Motor Carrier Safety Assistance Program .....	(7,308,000)

Total Appropriation, Department of Transportation .....	<u>\$1,223,050,752</u>
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The unexpended balances of federal appropriations as of June 30, 2003 in this department are appropriated for expenditure on previously and currently authorized projects.

**82 DEPARTMENT OF THE TREASURY**

**50 Economic Planning, Development and Security**

**52 Economic Regulation**

54-2007 Utility Regulation .....	\$600,000
56-2014 Energy Resource Management .....	<u>2,025,000</u>
Total Appropriation, Economic Regulation .....	<u>\$2,625,000</u>

Personal Services:

Salaries and Wages .....	(\$1,117,000)
Employee Benefits .....	(323,000)
Materials and Supplies .....	(26,000)
Services Other Than Personal .....	(427,000)
Maintenance and Fixed Charges .....	(90,000)

Special Purpose:

Division of Gas Expansion .....	(600,000)
Diamond Shamrock Administration ....	(42,000)

**80 Special Government Services**

**82 Protection of Citizens' Rights**

57-2048 Trial Services to Indigents and Special Programs .	\$1,228,000
58-2022 Mental Health Screening Services .....	<u>223,000</u>

Total Appropriation, Protection of Citizens' Rights . . . .	<u>\$1,451,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$290,000)
Employee Benefits . . . . .	(15,000)
Materials and Supplies . . . . .	(1,000)
Special Purpose:	
State Legal Services Office . . . . .	(7,000)
State Aid and Grants . . . . .	(1,138,000)
Total Appropriation, Department of the Treasury . . . . .	<u>\$4,076,000</u>

**98 THE JUDICIARY**  
***10 Public Safety and Criminal Justice***  
***15 Judicial Services***

05-9730 Family Courts . . . . .	\$3,691,000
05-9813 Family Courts . . . . .	1,215,000
05-9823 Family Courts . . . . .	723,000
05-9833 Family Courts . . . . .	655,000
05-9843 Family Courts . . . . .	824,000
05-9853 Family Courts . . . . .	1,566,000
05-9863 Family Courts . . . . .	1,025,000
05-9873 Family Courts . . . . .	627,000
05-9883 Family Courts . . . . .	771,000
05-9893 Family Courts . . . . .	810,000
05-9903 Family Courts . . . . .	625,000
05-9913 Family Courts . . . . .	1,289,000
05-9923 Family Courts . . . . .	1,271,000
05-9933 Family Courts . . . . .	546,000
05-9943 Family Courts . . . . .	815,000
05-9953 Family Courts . . . . .	1,581,000
07-9740 Probation Services . . . . .	17,262,000
07-9814 Probation Services . . . . .	1,709,000
07-9824 Probation Services . . . . .	1,397,000
07-9834 Probation Services . . . . .	1,834,000
07-9844 Probation Services . . . . .	3,513,000
07-9854 Probation Services . . . . .	5,125,000
07-9864 Probation Services . . . . .	3,078,000
07-9874 Probation Services . . . . .	1,861,000
07-9884 Probation Services . . . . .	2,020,000
07-9894 Probation Services . . . . .	2,046,000
07-9904 Probation Services . . . . .	1,056,000
07-9914 Probation Services . . . . .	2,275,000
07-9924 Probation Services . . . . .	1,890,000
07-9934 Probation Services . . . . .	1,437,000
07-9944 Probation Services . . . . .	1,605,000
07-9954 Probation Services . . . . .	<u>3,026,000</u>



Total Appropriation, Judicial Services .....	<u>\$69,168,000</u>
Personal Services:	
Senators Assemblymen Board	
Members Comm Judges	
Associate Judges .....	(\$150,000)
Salaries and Wages .....	(38,979,000)
Employee Benefits .....	(9,383,000)
Materials and Supplies .....	(1,045,000)
Services Other Than Personal .....	(2,605,000)
Maintenance and Other Fixed Charges ....	(131,000)
Special Purpose:	
NJ State Court Improvement Grant .....	(30,000)
State Access and Visitation Program .....	(1,000)
Child Support and Paternity Program	
Title IV-D (Probation) .....	(10,667,000)
State Aid and Grants .....	(5,865,000)
Additions, Improvements and Equipment ..	(312,000)
 Total Appropriation, Judiciary .....	 <u>\$69,168,000</u>
 Total Appropriation, Federal Funds .....	 <u>\$9,918,463,752</u>

Notwithstanding any State law to the contrary, no State agency shall accept or expend federal funds except as appropriated by the Legislature or otherwise provided in this act.

In addition to the federal funds appropriated in this act, there are appropriated the following federal funds, subject to the approval of the Director of the Division of Budget and Accounting: emergency disaster aid funds; pass-through grants to political subdivisions of the State over which the State is not permitted to exercise discretion in the use or distribution of the funds and for which no State matching funds are required; the first 25 percent of unanticipated grant awards, and up to 25 percent of increases in previously anticipated grant awards for which no State matching funds are required except, for the purpose of this section, federal funds received by one executive agency that are ultimately expended by another executive agency shall not be considered pass-through grants; federal financial aid funds for students attending post-secondary educational institutions in excess of the amount specifically appropriated, and any such grants intended to prevent threats to homeland security up to 100% of previously anticipated or unanticipated grant award amounts for which no State matching funds are required, provided however, that the Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of such grants; and all other grants of \$500,000 or less which have been awarded competitively.

For the purposes of federal funds appropriations, "political subdivisions of the State" means counties, municipalities, school districts, or agencies thereof, regional, county or municipal authorities, or districts other than interstate

authorities or districts; "discretion" refers to any action in which an agency may determine either the amount of funds to be allocated or the recipient of the allocation; and "grants" refers to one-time, or time limited awards, which are received pursuant to submission of a grant application in competition with other grant applications.

The unexpended balances of federal funds as of June 30, 2003 are continued for the same purposes. The Director of the Division of Budget and Accounting shall inform the Legislative Budget and Finance Officer by November 1, 2003 of any unexpended balances which are continued.

The appropriate executive agencies shall prepare and submit to the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, by March 1, 2004, reports on proposed expenditures during fiscal year 2004 for the following federal programs: the alcohol, drug abuse and mental health block grant; the education block grant; the community services block grant; the jobs training partnership block grant; the low income energy assistance block grant; the maternal and child health block grant; the preventive health and health services block grant; the small cities block grant; the social services block grant; and the child care block grant. These reports shall account for all federal, State and local funds which are anticipated to be expended on block grant programs, shall provide an accounting of block grant expenditures during the prior fiscal year, and shall provide a detailed list of contracts awarded to provide services under the block grants.

Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendations of any department head or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

The sum herein appropriated to the Department of Transportation for the Hudson-Bergen Light Rail Transit System is hereby appropriated, to the extent necessary, to pay the principal of and interest on the grant anticipation notes issued by the New Jersey Transit Corporation.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification, and within the federal matching funding, in the Division of Medical Assistance and Health Services in the Department of Human Services, and within the Medical Services for the Aged program classification, and within the federal matching funding, in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law or regulation to the contrary, any purchase by a state or local entity of federally approved homeland security

equipment that is directly paid for with or reimbursed by federal funds awarded by the U.S. Department of Homeland Security, Office for Domestic Preparedness, from First Responder Preparedness Allocation grant programs may be made through direct purchase from the Combat Support and Logistics Equipment/NBC, Marine Corps Systems Command prime vendor list, the Defense Logistics Agency, Defense Supply Center Philadelphia prime vendor list or any other list approved by the Department of Homeland Security, without advertising for bids, on the condition that the price of the equipment being purchased is no greater than the price offered to federal agencies or to the State through existing State contracts.

Grand Total Appropriation, All Funds . . . . . \$33,921,624.752

2. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting and with the approval of the Legislative Budget and Finance Officer, private contributions, revolving funds and dedicated funds received, receivable or estimated to be received for the use of the State or its agencies in excess of those anticipated, unless otherwise provided herein, and the unexpended balances as of June 30, 2003 of such funds, subject to the approval of the Director of the Division of Budget and Accounting.

3. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, the following: sums required to refund amounts credited to the State Treasury which do not represent State revenue; sums received representing insurance to cover losses by fire and other casualties and the unexpended balance as of June 30, 2003 of such sums; sums received by any State department or agency from the sale of equipment, when such sums are received in lieu of trade-in value in the replacement of such equipment; and sums received in the State Treasury representing refunds of payments made from appropriations provided in this act.

4. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, sums required to satisfy receivables previously established from which non-reimbursable costs and ineligible expenditures have been incurred.

5. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, from federal or other non-State sources amounts not to exceed the cost of services necessary to document and support retroactive claims.

6. There are appropriated such sums as may be required to pay interest liabilities to the federal government as required by the Treasury/State agreement pursuant to the provisions of the Cash Management Improvement Act of 1990, Pub.L.101-453 (31 U.S.C. s.6501 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

7. There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, from interest earnings of the various bond funds such sums as may be necessary for the State to comply with the federal "Tax Reform Act of 1986," Pub.L.99-514 (26 U.S.C. s.1 et seq.), which requires issuers of tax-exempt debt obligations to rebate any arbitrage earnings to the federal government.

8. There are appropriated from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting, such sums as are necessary to pay interest, at the average rate of earnings during the fiscal year from the State's general investments, to those bond funds that have borrowed money from the General Fund or other bond funds and that have insufficient resources to accrue and pay the interest expense on such borrowing.

9. In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund the costs of the collection of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting.

10. There is appropriated \$11,600,000 from the Legal Services Trust Fund established pursuant to section 6 of P.L.1996, c.52 (C.22A:2-51), for transfer to the General Fund as State revenue to fund the following programs: \$8,000,000 for Legal Services of New Jersey grant, \$3,000,000 for ten additional judgeships in the Judiciary, and \$600,000 for Clinical Legal Programs for the Poor at the Rutgers-Camden Law School, the Rutgers-Newark Law School and Seton Hall Law School.

11. The unexpended balances as of June 30, 2003 in the accounts of the several departments and agencies heretofore appropriated or established in the category of Additions, Improvements and Equipment are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

12. The unexpended balances as of June 30, 2003 in the Capital Construction accounts for all departments and agencies are appropriated.

13. Unless otherwise provided, balances remaining as of June 30, 2003 in accounts of appropriations enacted subsequent to April 1, 2003 are appropriated.

14. The unexpended balances as of June 30, 2003 in accounts that are funded by Interfund Transfers are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

15. Notwithstanding any other provisions in this act or the provisions of any other law to the contrary, no unexpended balances as of June 30, 2003 are appropriated without the approval of the Director of the Division of Budget and

Accounting, except that the Legislative Branch of State government shall be exempt from this provision. The Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of those instances in which unexpended balances are not appropriated pursuant to this section.

16. The administrative costs of the Special Education Medicaid Initiative and the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, including the participation of a consultant, are appropriated and shall be paid from the revenue received, subject to the approval of the Director of the Division of Budget and Accounting.

17. The following transfer of appropriations rules are in effect for fiscal year 2004:

a. To permit flexibility in the handling of appropriations, any department or agency that receives an appropriation by law, may, subject to the provisions of this section, or unless otherwise provided in this act, apply to the Director of the Division of Budget and Accounting for permission to transfer funds from one item of appropriation to a different item of appropriation. For the purposes of this section, "item of appropriation" means the spending authority identified by an organization code, appropriation source, and program code, unique to the item. If the director consents to the transfer, the amount transferred shall be credited by the director to the designated item of appropriation and notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. However, the director, after consenting thereto, shall submit the following transfer requests to the Legislative Budget and Finance Officer for legislative approval or disapproval unless otherwise provided in this act:

(1) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$300,000, to or from any item of appropriation;

(2) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose account, as defined by major object 5, or Grant account, as defined by major object 6, within an item of appropriation, from or to a different item of appropriation;

(3) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose or Grant account in which the identifying organization code, appropriation source, and program code, remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations;

(4) Requests for the transfer of State funds, in amounts greater than \$50,000, between items of appropriation in different departments or between items of appropriation in different appropriation classifications herein entitled as Direct State Services, Grants-In-Aid, State Aid, Capital Construction and Debt Service;

(5) Requests for the transfer of federal funds, in amounts greater than \$300,000, from one item of appropriation to another item of appropriation, if the amount of the transfer to an item in combination with the amount of the appropriation to that item would result in an amount in excess of the appropriation authority for that item, as defined by the program class;

(6) Requests for such other transfers as are appropriate in order to ensure compliance with the legislative intent of this act.

b. The Joint Budget Oversight Committee or its successor may review all transfer requests submitted for legislative approval and may direct the Legislative Budget and Finance Officer to approve or disapprove any such transfer request. Transfers submitted for legislative approval pursuant to paragraph (4) of subsection a. of this section shall be made only if approved by the Legislative Budget and Finance Officer at the direction of the committee.

c. The Legislative Budget and Finance Officer shall approve or disapprove requests for the transfer of funds submitted for legislative approval within 10 working days of the physical receipt thereof and shall return them to the director. If any provision of this act or any supplement thereto requires the Legislative Budget and Finance Officer to approve or disapprove requests for the transfer of funds, the request shall be deemed to be approved by the Legislative Budget and Finance Officer if, within 20 working days of the physical receipt of the request, he has not disapproved the request and so notified the requesting officer. However, this time period shall not pertain to any transfer request under review by the Joint Budget Oversight Committee or its successor, provided notice of such review has been given to the director.

d. No amount appropriated for any capital improvement shall be used for any temporary purpose except extraordinary snow removal or extraordinary transportation maintenance subject to the approval of the Director of the Division of Budget and Accounting. However, an amount from any appropriation for an item of capital improvement may be transferred to any other item of capital improvement subject to the approval of the director, and, if in an amount greater than \$300,000, subject to the approval of the Legislative Budget and Finance Officer.

e. The provisions of subsections a. through d. of this section shall not apply to appropriations made to the Legislative or Judicial branches of State government. To permit flexibility in the handling of these appropriations, amounts may be transferred to and from the various items of appropriation by the appropriate officer or designee with notification given to the director on the effective date thereof.

f. Notwithstanding any provisions of this section to the contrary, transfers to and from the Special Purpose appropriation to the Governor for emergency or necessity under the Other Inter-Departmental Accounts program classification and transfers from the appropriations to the various accounts in the category of Salary Increases and Other Benefits, both in the Inter-Departmental Accounts, shall not be subject to legislative approval or disapproval.

18. The Director of the Division of Budget and Accounting shall make such correction of the title, text or account number of an appropriation necessary to make such appropriation available in accordance with legislative intent. Such correction shall be by written ruling, reciting in appropriate detail the facts thereof, and reasons therefor, attested by the signature of the Director of the Division of Budget and Accounting and filed in the Division of Budget and Accounting of the Department of the Treasury as an official record thereof, and any action thereunder, including

disbursement and the audit thereof, shall be legally binding and of full force and virtue. An official copy of each such written ruling shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date of the ruling.

19. The Legislative Budget and Finance Officer with the cooperation and assistance of the Director of the Division of Budget and Accounting is authorized to adjust this appropriations bill to reflect any reorganizations which have been implemented since the presentation of the Governor's Budget Recommendation Document dated February 4, 2003.

20. None of the funds appropriated to the Executive Branch of State government for Information Processing, Development, Telecommunications, and Related Services and Equipment shall be available to pay for any of these services or equipment without the review of the Office of Information Technology, and compliance with statewide policies and standards and an approved department Information Technology Strategic Plan; authorization and approval by the Office of Information Technology is required for expenditure of amounts in excess of \$25,000, as shall be specified by Circular Letter.

21. If the sum provided in this act for a State aid payment pursuant to formula is insufficient to meet the full requirements of the formula, all recipients of State aid shall have their allocation proportionately reduced, subject to the approval of the Director of the Division of Budget and Accounting.

22. When the duties or responsibilities of any department or branch, except for the Legislature and any of its agencies, are transferred to any other department or branch, it shall be the duty of the Director of the Division of Budget and Accounting and the director is hereby empowered to transfer funds appropriated for the maintenance and operation of any such department or branch to such department or branch as shall be charged with the responsibility of administering the functions so transferred. The Director of the Division of Budget and Accounting shall have the authority to create such new accounts as may be necessary to carry out the intent of the transfer. Information copies of such transfers shall be transmitted to the Legislative Budget and Finance Officer upon the effective date thereof. If such transfers may be required among appropriations made to the Legislature and its agencies, the Legislative Budget and Finance Officer, subject to the approval of the President of the Senate and the Speaker of the General Assembly, is hereby empowered and it shall be that officer's duty to effect such transactions hereinabove described and to notify the Director of the Division of Budget and Accounting upon the effective date thereof.

23. The Director of the Division of Budget and Accounting is empowered and it shall be the director's duty in the disbursement of funds for payment of expenses classified as salary increases and other benefits, employee benefits, debt service, rent, telephone, data processing, motor pool, insurance, travel, postage, lease payments on equipment purchases, additions, improvements and equipment, and

compensation awards to credit or transfer to the Department of the Treasury, to an Interdepartmental account, or to the General Fund, as applicable, from any other department, branch or non-State fund source out of funds appropriated or credited thereto, such sums as may be required to cover the costs of such payment attributable to such other department, branch or non-State fund source, or to reimburse the Department of the Treasury, an Inter-Departmental account, or the General Fund for reductions made representing statewide savings in the above expense classifications, as the director shall determine. Receipts in any non-State funds are appropriated for the purpose of such transfer.

24. The Governor is empowered to direct the State Treasurer to transfer from any State department to any other State department such sums as may be necessary for the cost of any emergency occasioned by aggression, civil disturbance, sabotage, disaster, or for flood loss expenses for State owned structures to comply with Federal Insurance Administration requirements.

25. Upon request of any department receiving non-State funds, the Director of the Division of Budget and Accounting is empowered to transfer such funds from that department to other departments as may be charged with the responsibility for the expenditure thereof.

26. The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to any State agency for services provided, or to be provided, by that agency to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

27. Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Property Tax Relief Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

28. Notwithstanding any law to the contrary, should appropriations in the Casino Revenue Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Casino Revenue Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

29. No funds shall be expended by any State Department in the Executive Branch in connection with a contract for the production of films, videotapes, video conferences, video-assisted training or multi-media projects that include video images unless the New Jersey Public Broadcasting Authority (PBA) has the opportunity to match any successful bid as part of any formal or informal contract



award process. This is not a requirement to award a contract to PBA since the decision to award a contract may also be based on non-cost considerations.

30. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), sums appropriated for services for the various State departments and agencies may be expended for the purchase of contract services from the New Jersey Marine Sciences Consortium as if it were a State government agency pursuant to subsection (a) of section 5 of P.L.1954, c.48 (C.52:34-10).

31. Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendation of any department head, or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

32. Whenever any county, municipality, school district or a political subdivision thereof withholds funds from a State agency, or causes a State agency to make payment on behalf of a county, municipality, school district or a political subdivision thereof, then the Director of the Division of Budget and Accounting may withhold State aid payments and transfer the same as payment for such funds, as the Director of the Division of Budget and Accounting shall determine.

33. The Director of the Division of Budget and Accounting is empowered to establish revolving and dedicated funds as required. Notice of the establishment of such funds shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date thereof.

34. The Director of the Division of Budget and Accounting may, upon application therefor, allot from appropriations made to any official, department, commission or board, a sum to establish a petty cash fund for the payment of expenses under rules and regulations established by the director. Allotments thus made by the Director of the Division of Budget and Accounting shall be paid to such person as shall be designated as the custodian thereof by the official, department, commission or board making a request therefor, and the money thus allotted shall be disbursed by such custodian who shall require a receipt therefor from all persons obtaining money from the fund. The director shall make regulations governing disbursement from petty cash funds.

35. From appropriations to the various departments of State government, the Director of the Division of Budget and Accounting is empowered to transfer sums sufficient to pay any obligation due and owing in any other department or agency.

36. Notwithstanding the provision of any other law, the State Treasurer may transfer from any fund in the State Treasurer's custody, deposited with the State Treasurer pursuant to law, sufficient sums to enable payments from any appropria-

tion made herein for any obligations due and owing. Any such transfer shall be restored out of the taxes or other revenue received in the Treasury in support of this act. Except for transfers from the several funds established pursuant to statutes that provide for interest earnings to accrue to those funds, all such transfers shall be without interest. If the statute provides for interest earnings, it shall be calculated at the average rate of earnings during the fiscal year from the State's general investments.

37. Any qualifying State aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Property Tax Relief Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unreserved, undesignated fund balance in the Property Tax Relief Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

38. Notwithstanding any other provisions of this act, the State Treasurer, upon warrant of the Director of the Division of Budget and Accounting, shall pay any claim not exceeding \$4,000 out of any appropriations made to the several departments, provided such claim is recommended for payment by the head of such department. The Legislative Budget and Finance Officer shall be notified of the amount and description of any such claim at the time such payment is made. Any claimant who has presented a claim not exceeding \$4,000, which has been denied or not recommended by the head of such department, shall be precluded from presenting said claim to the Legislature for consideration.

39. Unless otherwise provided, federal grant and project receipts representing reimbursement for agency and central support services, indirect and administrative costs, as determined by the Director of the Division of Budget and Accounting, shall be transmitted to the Department of the Treasury for credit to the General Fund; provided however, that a portion of the indirect and administrative cost recoveries received which are in excess of the amount anticipated may be reclassified into a dedicated account and returned to State departments and agencies, as determined by the Director of the Division of Budget and Accounting, who shall notify the Legislative Budget and Finance Officer of the amount of such funds returned, the departments or agencies receiving such funds and the purpose for which such funds will be used, within 10 working days of any such transaction. Such receipts shall be forwarded to the Director of the Division of Budget and Accounting upon completion of the project or at the end of the fiscal year, whichever occurs earlier.

40. Notwithstanding any other law to the contrary, each local school district that participates in the Special Education Medicaid Initiative (SEMI) shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of federal reimbursements realized for claims submitted to the State by June 30.

41. Notwithstanding any other law to the contrary, each local school district that participates in the Early Periodic Screening, Diagnosis and Treatment (EPSDT) initiative shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of federal reimbursements for claims submitted to the State by June 30.

42. Notwithstanding any other law to the contrary, each local school district that participates in the Early Periodic Screening, Diagnostic and Treatment (EPSDT) initiative shall receive 15 percent of the federal revenue that would be generated for pending FY 2002 and FY 2003 claims if calculated in accordance with the methodology in place as of July 1, 2001. After federal reimbursements that would be generated if calculated in accordance with the methodology in place as of July 1, 2001 are in excess of \$29,000,000 for claims submitted to the federal government during the fiscal year, local school districts shall receive 50% of their pro rata share of federal revenues that would be generated in excess of \$29,000,000 for each year. Where data is not available to determine the amount of an otherwise allowable claim for a participating school district calculated in accordance with the methodology in place as of July 1, 2001, the claim calculated in accordance with the current methodology shall be adjusted by the State to reasonably approximate the amount of the claim under the previous methodology. In no case shall the State be obligated for payment to any school district that did not participate in the EPSDT initiative. There is appropriated such sums as are necessary to implement these provisions subject to the approval of the Director of the Division of Budget and Accounting.

43. Notwithstanding the provisions of P.L.1943, c.188 (C.52:14-17.1 et seq.), the rate of reimbursement for mileage allowed for employees traveling by personal automobile on official business shall be \$.31 per mile.

44. State agencies shall prepare and submit a copy of their agency or departmental budget requests for Fiscal Year 2005 by October 1, 2003 to the Director of the Division of Budget and Accounting and a copy of their spending plans involving all State, federal and other non-State funds to the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer by November 1, 2003, and updated spending plans on February 1, and May 1, 2004. The spending plans shall account for any changes in departmental spending which differ from this appropriations act and all supplements to this act. The spending plans shall be submitted on forms specified by the Director of the Division of Budget and Accounting.

45. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with copies of all BB-4s, Application for Non-State funds, and accompanying project proposals or grant applications, which require a State match and that may commit or require State support after the grant's expiration.

46. In order to provide effective cash flow management for revenues and expenditures of the General Fund and the Property Tax Relief Fund in the implementation of the fiscal year 2004 annual appropriations act, there are appropriated from the General Fund such sums as may be required to pay the principal of and interest on tax and revenue anticipation notes including notes in the form of commercial paper (hereinafter collectively referred to as short-term notes), together with any costs or obligations relating to the issuance thereof or contracts related thereto, according to the terms set forth herein. Provided further that, to the extent that short-term notes are issued for cash flow management purposes in connection with the Property Tax Relief Fund, there are appropriated from the Property Tax Relief Fund such sums as may be required to pay the principal of those short-term notes.

47. The State Treasurer is authorized to issue short-term notes, which notes shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution, and the State Treasurer is authorized to pay any costs or obligations relating to the issuance of such short-term notes or contracts relating thereto. Such short-term notes shall be issued in such amounts and at such times as the State Treasurer shall deem necessary for the above stated purposes and for the payment of related costs, and on such terms and conditions, sold in such manner and at such prices, bearing interest at such fixed or variable rate or rates, renewable at such time or times, and entitled to such security, and using such paying agents as shall be determined by the State Treasurer. The State Treasurer is authorized to enter into such contracts and to take such other actions, all as determined by the State Treasurer to be appropriate to carry out the above cash flow management purposes. The State Treasurer shall give consideration to New Jersey-based vendors in entering into such contracts. Whenever the State Treasurer issues such short-term notes, the State Treasurer shall report on each such issuance to the Chairman of the Senate Budget and Appropriations Committee and the Chairman of the Assembly Appropriations Committee.

48. The Tobacco Settlement Fund, created and established in the Department of the Treasury as a separate non-lapsing fund pursuant to section 53 of P.L.1999, c.138, is reestablished and continued. The unexpended balances in the Tobacco Settlement Fund as of June 30, 2003 are appropriated. The Tobacco Settlement Fund shall be the repository for payments made by the tobacco manufacturers pursuant to the settlement agreement entered into by the tobacco manufacturers and the State on November 23, 1998 that resolved the State's pending claims against the tobacco industry and all other moneys, including interest earnings on balances in the fund, credited or transferred thereto from any other fund or source pursuant to law. Balances in the Tobacco Settlement Fund shall be deposited in such depositories as the State Treasurer may select. Amounts transferred from the Tobacco Settlement Fund to the General Fund as anticipated revenue in excess of \$1,612,022,000 shall be excluded when calculating deposits to the Surplus Revenue Fund pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.).

49. Notwithstanding any provisions of this act providing that appropriations are made from dedicated or other sources of funds or any other law to the contrary, amounts appropriated or reappropriated for State transportation projects and for State aid or grants to municipalities, school districts, and senior public colleges and universities, and for State capital construction projects, subject to the designation of such appropriation accounts and the amounts thereof by the Director of the Division of Budget and Accounting, are appropriated in an aggregate amount not to exceed \$1,487,247,000 from funds paid to the State from any net proceeds, earnings thereon or residual interests from the sale of tobacco settlement revenues as authorized pursuant to P.L.2002, c.32 (C.52:18B-1 et seq.).

50. Notwithstanding any other provision of law, funds derived from the sale or conveyance of any lands and buildings or proceeds from the sale of all fill material held by a department are appropriated for demolition, acquisition of land, rehabilitation or improvement of existing facilities and construction of new facilities subject to the approval of the Director of the Division of Budget and Accounting.

51. With respect to appropriations provided to various departments for services provided by the Office of Information Technology, any change by the Office of Information Technology to their rate structure that would affect the rates charged to the various State agencies for Office of Information Technology services shall first be approved by the Director of the Division of Budget and Accounting.

52. Notwithstanding the provisions of section 29 of P.L.1983, c.303 (C.52:27H-88), or any other law to the contrary, interest earned in fiscal 2004 on balances in the Enterprise Zone Assistance Fund, shall be credited to the General Fund.

53. Notwithstanding any other law to the contrary, funds may be transferred from the State Disability Benefits Fund to the General Fund during the fiscal year ending June 30, 2004, which transfer amount shall be based upon the actual receipt of revenue in the State Disability Benefits Fund as shall be determined by the State Treasurer in consultation with the Commissioner of Labor, subject to the approval of the Director of the Division of Budget and Accounting.

54. There is appropriated \$700,000 from the Casino Simulcasting Fund for transfer to the Casino Revenue Fund.

55. In all cases in which language authorizes the appropriation of additional receipts not to exceed a specific amount, and the specific amount is insufficient to cover the amount due for fringe benefits and indirect costs, there are appropriated from receipts such additional amounts as are required to fully cover the amount due for fringe benefits and indirect costs, subject to the approval of the Director of the Division of Budget and Accounting.

56. There are appropriated, out of receipts derived from any structured financing transaction, such sums as may be necessary to satisfy any obligation incurred in connection with any structured financing agreement, subject to the approval of the Director of the Division of Budget and Accounting. In addition, there are appropriated such sums as may be necessary to pay costs incurred in connection with any proposed structured financing transaction, subject to the approval of the Director of the Division of Budget and Accounting.

57. Notwithstanding the provisions of any departmental language or statute, no receipts in excess of those anticipated or appropriated as provided in the Departmental Revenue Statements (BB-103's) in the fiscal 2004 budget submission are available for expenditure until a comprehensive expenditure plan is submitted to and approved by the Director of the Division of Budget and Accounting.

58. Such sums as may be necessary are appropriated or transferred from existing appropriations for the purpose of promoting awareness to increase participation in programs that are administered by the State subject to the approval of the Director of the Division of Budget and Accounting.

59. There are appropriated such additional sums as may be required to pay the amount of any civil penalty imposed on a State officer, employee or custodian pursuant to section 12 of P.L.2001, c.404 (C.47:1A-11), as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

60. Receipts derived from the provision of copies and other materials related to compliance with P.L.2001, c.404, are appropriated for the purpose of offsetting agency and departmental expenses of complying with the public access law, subject to the approval of the Director of the Division of Budget and Accounting.

61. There is appropriated \$15,000,000 from the Stock Workers Compensation Security Fund for transfer to the General Fund as State revenue, and there is appropriated from the General Fund such amounts not to exceed \$15,000,000 for deposit to the Stock Workers Compensation Security Fund, subject to the approval of the Director of the Division of Budget and Accounting, in order to maintain the Stock Workers Compensation Security Fund's annual assessment at its current level.

62. There is appropriated \$30,000,000 from the State Disability Benefits Fund for transfer to the General Fund as State revenue.

63. Notwithstanding any law to the contrary, there is appropriated from the Universal Service Fund \$72, 431,000 for transfer to the General Fund as State revenue.

64. Notwithstanding the provisions of section 32 of P.L.2002, c.40 (C.52:9H-38) to the contrary, revenues derived from the corporation business tax during fiscal year 2004 shall not be credited to the "Corporation Business Tax Excess Revenue Fund" but shall be available as undesignated funds in the General Fund except as are dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

65. Any qualifying State aid or Grants-In-Aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Casino Revenue Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unreserved, undesignated fund balance in the Casino Revenue Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

66. Providing that the contributions made during fiscal year 2004 by the University of Medicine and Dentistry of New Jersey and its affiliates to the University of Medicine and Dentistry of New Jersey - Self Insurance Reserve Fund is equal to the amount established in a memorandum of agreement between the Department of the Treasury and the University, and if after such amount having been contributed, the receipts deposited within the University of Medicine and Dentistry of New Jersey's Self Insurance Reserve Fund are insufficient to pay claims expenditures, there is appropriated from the General Fund to the Self Insurance Reserve Fund such sums as may be necessary to pay the remaining claims, subject to the approval of the Director of the Division of Budget and Accounting.

67. Notwithstanding any law to the contrary, the Director of the Division of Budget and Accounting is authorized to allocate earned FY2004 Urban Enterprise Zone (UEZ) zone assistance funds from the designated accounts of zones to the designated accounts of other zones as necessary to meet cash flow requirements, provided however, that each Urban Enterprise Zone shall receive the amount it has earned by the end of the fiscal year.

68. Notwithstanding any other law to the contrary, there is appropriated \$1,000,000 from the Real Estate Guaranty Fund for transfer to the General Fund as State revenue.

69. This act shall take effect July 1, 2003.

Approved July 1, 2003.

## CHAPTER 123

AN ACT concerning the State poet laureate and repealing P.L.1999, c.228.

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

**Repealer.**

1. P.L.1999, c.228 (C.52:16A-26.9) is hereby repealed.
2. This act shall take effect immediately.

Approved July 2, 2003.

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CHAPTER 124

AN ACT, imposing an outdoor advertising fee, supplementing Title 54 of the Revised Statutes and amending P.L.1991, c.413 (C.27:5-5 et seq.).

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

**C.54:4-11.1 Billboard advertising space, 6% fee; definitions.**

1. a. There is imposed and shall be paid a fee of 6% on the gross amounts collected by a retail seller for billboard advertising space. The fee shall be imposed directly on the retail seller of the advertising space.

b. For purposes of this section, the following terms shall have the following meanings:

"Billboard" means any outdoor advertising sign permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.);

"Gross amounts collected by a retail seller for billboard advertising space" include, but are not limited to, amounts collected from contracts to place advertising on billboards located in this State regardless of the location of the advertiser; provided however, such gross amounts shall not include fees received by an advertising agency that is not a related party of the retail seller and that are not received by the retail seller; and

"Retail seller" means the person contracting with the customer.

c. The Director of the Division of Taxation shall collect and administer the fees imposed pursuant to this section. In carrying out the provisions of this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The fees shall be reported and paid



to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation, which may include by electronic means.

d. The fees imposed pursuant to this section shall be governed by the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

e. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

2. Section 15 of P.L.1991, c.413 (C.27:5-19) is amended to read as follows:

**C.27:5-19 Fees, penalties for administration of act; fees in addition to other excises.**

15. a. Moneys received from fees and penalties collected pursuant to this act shall be deposited with the State Treasurer, and shall be disbursed to the department to defray the expenses of administering the provisions of this act. Moneys received pursuant to the schedule of fees adopted by the commissioner shall not exceed the cost of administering the provisions of this act.

b. The fees prescribed by this act shall be in addition to all other governmental fees or excises for signs, or the carrying on of the business of outdoor advertising by means of signs.

3. This act shall take effect immediately and section 1 shall apply to collections for any period on or after July 1, 2003 through June 30, 2004.

Approved July 2, 2003.

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## CHAPTER 125

AN ACT concerning long-term property tax exemptions, amending R.S.54:3-21, and amending and supplementing P.L.1991, c. 431 and P.L.1992, c.79.

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

**C.40A:12A-4.1 Affordable housing units required for tax abatement, certain.**

1. Any municipality that has designated a redevelopment area, provides for a tax abatement within that redevelopment area and has adopted a housing element pursuant to subsection b. of section 19 of P.L.1975, c.291 (C.40:55D-28) may, by ordinance, require, as a condition for granting a tax abatement,

that the redeveloper set aside affordable residential units or contribute to an affordable housing trust fund established by the municipality. The requirement may be imposed upon developers of market rate residential or non-residential construction or both, at the discretion of the municipality. For the purposes of this section, "affordable" shall mean affordable to persons of low or moderate income as defined pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

**C.40A:12A-4.2 Guidelines for tax abatement relative to affordable housing.**

2. Any municipality that makes the receipt of a tax abatement conditional upon the contribution to an affordable housing trust fund shall include within the ordinance detailed guidelines establishing the parameters of this requirement including, but not limited to, the following:

a. standards governing the extent of the contribution based on the value of construction for market rate residential or non-residential construction, as the case may be; provided, however, that this contribution shall not exceed \$1,500 per unit for market rate residential construction, \$1.50 per square foot for commercial construction, and 10 cents per square foot for industrial construction;

b. a schedule of payments based upon phase of construction; and

c. parameters governing the expenditure of those funds, legitimate purposes for which those funds may be used, and the extent to which funds may be used by the municipality for administration.

3. Section 5 of P.L.1992, c.79 (C.40A:12A-5) is amended to read as follows:

**C.40A:12A-5 Determination of need for redevelopment.**

5. A delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in section 6 of P.L.1992, c.79 (C.40A:12A-6), the governing body of the municipality by resolution concludes that within the delineated area any of the following conditions is found:

a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.

c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved

vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.

f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

4. Section 6 of P.L.1992, c.79 (C.40A:12A-6) is amended to read as follows:

**C.40A:12A-6 Investigation for determination as redevelopment area, public hearing.**

6. a. No area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in section 5 of P.L.1992, c.79 (C.40A:12A-5). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.

b. (1) Before proceeding to a public hearing on the matter, the planning board shall prepare a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein. There shall be appended to the map a statement setting forth the basis for the investigation.

(2) The planning board shall specify a date for and give notice of a hearing for the purpose of hearing persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area.

(3) The hearing notice shall set forth the general boundaries of the area to be investigated and state that a map has been prepared and can be inspected at the office of the municipal clerk. A copy of the notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than ten days prior to the date set for the hearing. A copy of the notice shall be mailed at least ten days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality. A notice shall also be sent to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality. The notice shall be published and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Failure to mail any such notice shall not invalidate the investigation or determination thereon.

(4) At the hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered and made part of the public record.

(5) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area. After receiving the recommendation of the planning board, the municipal governing body may adopt a resolution determining that the delineated area, or any part thereof, is a redevelopment area. Upon the adoption of a resolution, the clerk of the municipality shall, forthwith, transmit a copy of the resolution to the Commissioner of Community Affairs for review. If the area in need of redevelopment is not situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, the determination shall not take effect without first receiving the review and the approval of the commissioner. If the commissioner does not issue an approval or disapproval within 30 calendar days of transmittal by the clerk, the determination shall be deemed to be approved. If the area in need of redevelopment is situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, then the determination shall take effect after the clerk has transmitted a copy of the resolution to the commissioner. The determination, if supported by substantial evidence and, if required, approved by the commissioner, shall be binding and conclusive upon all persons affected by the determination. Notice of the determination shall be served, within 10 days after the determination, upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of determination may be sent.

(6) If written objections were filed in connection with the hearing, the municipality shall, for 45 days next following its determination to which the objections were filed, take no further action to acquire any property by condemnation within the redevelopment area.

(7) If a person who filed a written objection to a determination by the municipality pursuant to this subsection shall, within 45 days after the adoption by the municipality of the determination to which the person objected, apply to the Superior Court, the court may grant further review of the determination by procedure in lieu of prerogative writ; and in any such action the court may make any incidental order that it deems proper.

c. An area determined to be in need of redevelopment pursuant to this section shall be deemed to be a "blighted area" for the purposes of Article VIII, Section III, paragraph 1 of the Constitution. If an area is determined to be a redevelopment area and a redevelopment plan is adopted for that area in accordance with the provisions of this act, the municipality is authorized to utilize all those powers provided in section 8 of P.L.1992, c.79 (C.40A:12A-8).

5. Section 14 of P.L.1992, c.79 (C.40A:12A-14) is amended to read as follows:

**C.40A:12A-14 Conditions for determination of need for rehabilitation.**

14. a. A delineated area may be determined to be in need of rehabilitation if the governing body of the municipality determines by resolution that there exist in that area conditions such that (1) a significant portion of structures therein are in a deteriorated or substandard condition and there is a continuing pattern of vacancy, abandonment or underutilization of properties in the area, with a persistent arrearage of property tax payments thereon or (2) more than half of the housing stock in the delineated area is at least 50 years old, or a majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance; and (3) a program of rehabilitation, as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent further deterioration and promote the overall development of the community. Where warranted by consideration of the overall conditions and requirements of the community, a finding of need for rehabilitation may extend to the entire area of a municipality. Prior to adoption of the resolution, the governing body shall submit it to the municipal planning board for its review. Within 45 days of its receipt of the proposed resolution, the municipal planning board shall submit its recommendations regarding the proposed resolution, including any modifications which it may recommend, to the governing body for its consideration. Thereafter, or after the expiration of the 45 days if the municipal planning board does not submit recommendations, the governing body may adopt the resolution, with or without modification. The resolution shall not become effective without the approval of the commissioner pursuant to section 6 of P.L.1992, c.79 (C.40A:12A-6), if otherwise required pursuant to that section.

b. A delineated area shall be deemed to have been determined to be an area in need of rehabilitation in accordance with the provisions of this act if it has heretofore been determined to be an area in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.) or P.L.1979, c.233 (C.54:4-3.121 et seq.).

6. Section 2 of P.L.1991, c.431 (C.40A:20-2) is amended to read as follows:

**C.40A:20-2 Findings, declarations.**

2. The Legislature finds that in the past a number of laws have been enacted to provide for the clearance, replanning, development, and redevelopment of blighted areas pursuant to Article VIII, Section III, paragraph 1 of the New Jersey Constitution. These laws had as their public purpose the restoration of deteriorated or neglected properties to a use resulting in the

elimination of the blighted condition, and sought to encourage private capital and participation by private enterprise to contribute toward this purpose through the use of special financial arrangements, including the granting of property tax exemptions with respect to land and the buildings, structures, infrastructure and other valuable additions to and amelioration of land, provided that the construction or rehabilitation of buildings, structures, infrastructure and other valuable additions to and amelioration of land constitute improvements to blighted conditions.

The Legislature finds that these laws, separately enacted, contain redundant and unnecessary provisions, or provisions which have outlived their usefulness, and that it is necessary to revise, consolidate and clarify the law in this area in order to preserve and improve the usefulness of the law in promoting the original public purpose.

The Legislature declares that the provisions of this act are one means of accomplishing the redevelopment and rehabilitation purposes of the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) through the use of private entities and financial arrangements pertaining thereto, and that this act should be construed in conjunction with that act.

7. Section 3 of P.L.1991, c.431 (C.40A:20-3) is amended to read as follows:

**C.40A:20-3 Definitions.**

3. As used in P.L.1991, c.431 (C.40A:20-1 et seq.):

a. "Gross revenue" means annual gross revenue or gross shelter rent or annual gross rents, as appropriate, and other income, for each urban renewal entity designated pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.). The financial agreement shall establish the method of computing gross revenue for the entity, and the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, which shall be included in the gross revenue; provided, however, that any federal funds received, whether directly or in the form of rental subsidies paid to tenants, by a nonprofit corporation that is the sponsor of a qualified subsidized housing project, shall not be included in the gross revenue of the project for purposes of computing the annual services charge for municipal services supplied to the project; and provided further that any gain realized by the urban renewal entity on the sale of any unit in fee simple, whether or not taxable under federal or State law, shall not be included in computing gross revenue.

b. "Limited-dividend entity" means an urban renewal entity incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits and the entity are limited as follows. The allowable net profits of the entity shall be determined by

applying the allowable profit rate to each total project unit cost, if the project is undertaken in units, or the total project cost, if the project is not undertaken in units, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the unit or project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12% or the percentage per annum arrived at by adding 1 1/4% to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be the greater of 12% or the percentage per annum arrived at by adding 1 1/4% per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

c. "Net profit" means the gross revenues of the urban renewal entity less all operating and non-operating expenses of the entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all annual service charges paid pursuant to section 12 of P.L. 1991, c.431 (C.40A:20-12); (b) all payments to the municipality of excess profits pursuant to section 15 or 16 of P.L. 1991, c.431 (C.40A:20-15 or 40A:20-16); (c) an annual amount sufficient to amortize the total project cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, over the term of the abatement as set forth in the financial agreement; (d) all reasonable annual operating expenses of the urban renewal entity and any other entity whose revenue is included in the computation of excess profits, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies, and payments into repair or maintenance reserve accounts; (e) all payments of rent including, but not limited to, ground rent by the urban renewal entity; (f) all debt service;

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, except interest which is part of debt service, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding any proprietary ownership interest in the entity.



The urban renewal entity shall provide to the municipality an annual audited statement which clearly identifies the calculation of net profit for the urban renewal entity during the previous year. The annual audited statement shall be prepared by a certified public accountant and shall be submitted to the municipality within 90 days of the close of the fiscal year.

d. "Nonprofit entity" means an urban renewal entity incorporated pursuant to Title 15A of the New Jersey Statutes for which no part of its net profits inures to the benefit of its members.

e. "Project" means any work or undertaking pursuant to a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), which has as its purpose the redevelopment of all or any part of a redevelopment area including any industrial, commercial, residential or other use, and may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational and welfare facilities.

f. "Redevelopment area" means an area determined to be in need of redevelopment and for which a redevelopment plan has been adopted by a municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

g. "Urban renewal entity" means a limited-dividend entity, the New Jersey Economic Development Authority or a nonprofit entity which enters into a financial agreement pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) with a municipality to undertake a project pursuant to a redevelopment plan for the redevelopment of all or any part of a redevelopment area, or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project.

h. "Total project unit cost" or "total project cost" means the aggregate of the following items as related to a unit of a project, if the project is undertaken in units, or to the total project, if the project is not undertaken in units, all of which as limited by, and approved as part of the financial agreement: (1) cost of the land and improvements to the entity, whether acquired from a private or a public owner, with cost in the case of leasehold interests to be computed by capitalizing the aggregate rental at a rate provided in the financial agreement; (2) architect, engineer and attorney fees, paid or payable by the entity in connection with the planning, construction and financing of the project; (3) surveying and testing charges in connection therewith; (4) actual construction costs which the entity shall cause to be certified and verified to the municipality and the municipal governing body by an independent and qualified architect,

including the cost of any preparation of the site undertaken at the entity's expense; (5) insurance, interest and finance costs during construction; (6) costs of obtaining initial permanent financing; (7) commissions and other expenses paid or payable in connection with initial leasing; (8) real estate taxes and assessments during the construction period; (9) a developer's overhead based on a percentage of actual construction costs, to be computed at not more than the following schedule:

\$500,000 or less -	10%
\$500,000 through \$1,000,000 -	\$50,000 plus 8% on excess above \$500,000
\$1,000,001 through \$2,000,000 -	\$90,000 plus 7% on excess above \$1,000,000
\$2,000,001 through \$3,500,000 -	\$160,000 plus 5.6667% on excess above \$2,000,000
\$3,500,001 through \$5,500,000 -	\$245,000 plus 4.25% on excess above \$3,500,000
\$5,500,001 through \$10,000,000 -	\$330,000 plus 3.7778% on excess above \$5,500,000
over \$10,000,000 -	5%

If the project includes units in fee simple, with respect to those units, "total project cost" shall mean the sales price of the individual housing unit which shall be the most recent true consideration paid for a deed to the unit in fee simple in a bona fide arm's length sales transaction, but not less than the assessed valuation of the unit in fee simple assessed at 100 percent of true value.

If the financial agreement so provides, there shall be excluded from the total project cost: (1) actual costs incurred by the entity and certified to the municipality by an independent and qualified architect or engineer which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or federal law; and (2) any extraordinary costs incurred by the entity and certified to the chief financial officer of the municipality by an independent certified public accountant in order to alleviate blight conditions within the area in need of redevelopment including, but not limited to, the cost of demolishing structures considered by the entity to be an impediment to the proposed redevelopment of the property, costs associated with the relocation or removal of public utility facilities as defined pursuant to section 10 of P.L. 1992, c. 79 (C.40A:12A-10) considered necessary in order to implement the redevelopment plan, costs associated with the relocation of residents or businesses displaced or to be displaced by the proposed redevelopment, and the clearing of title to properties within the area in need of redevelopment in order to facilitate redevelopment.

i. "Housing project" means any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; the undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances of the undertaking, such as, but not limited to, streets, sewers, water, utilities, parks; site preparation; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing.

j. "Redevelopment relocation housing project" means a housing project which is necessary, useful or convenient for the relocation of residents displaced by redevelopment of all or any part of one or more redevelopment areas.

k. "Low and moderate income housing project" means a housing project which is occupied, or is to be occupied, exclusively by households whose incomes do not exceed income limitations established pursuant to any State or federal housing program.

l. "Qualified subsidized housing project" means a low and moderate income housing project owned by a nonprofit corporation organized under the provisions of Title 15A of the New Jersey Statutes for the purpose of developing, constructing and operating rental housing for senior citizens under section 202 of Pub.L. 86-372 (12 U.S.C. s.1701q) or rental housing for persons with disabilities under section 811 of Pub.L. 101-625 (42 U.S.C. s.8013), or under any other federal program that the Commissioner of Community Affairs by rule may determine to be of a similar nature and purpose.

m. "Debt service" means the amount required to make annual payments of principal and interest or the equivalent thereof on any construction mortgage, permanent mortgage or other financing including returns on institutional equity financing and market rate related party debt for a project for a period equal to the term of the tax exemption granted by a financial agreement.

8. Section 5 of P.L.1991, c.431 (C.40A:20-5) is amended to read as follows:

**C.40A:20-5 Urban renewal entities, qualification; provisions.**

5. Any duly formed corporation, partnership, limited partnership, limited partnership association, or other unincorporated entity may qualify as an urban renewal entity under P.L.1991, c.431 (C.40A:20-1 et seq.), if its certificate of incorporation, or other similar certificate or statement as may be required by law, shall contain the following provisions:

a. The name of the entity shall include the words "Urban Renewal."

b. The purpose for which it is formed shall be to operate under P.L.1991, c.431 (C.40A:20-1 et seq.) and to initiate and conduct projects for the

redevelopment of a redevelopment area pursuant to a redevelopment plan, or projects necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or part of one or more redevelopment areas, or low and moderate income housing projects, and, when authorized by financial agreement with the municipality, to acquire, plan, develop, construct, alter, maintain or operate housing, senior citizen housing, business, industrial, commercial, administrative, community, health, recreational, educational or welfare projects, or any combination of two or more of these types of improvement in a single project, under such conditions as to use, ownership, management and control as regulated pursuant to P.L. 1991, c.431 (C.40A:20-1 et seq.).

c. A provision that so long as the entity is obligated under financial agreement with a municipality made pursuant to P.L. 1991, c.431 (C.40A:20-1 et seq.), it shall engage in no business other than the ownership, operation and management of the project.

d. A declaration that the entity has been organized to serve a public purpose, that its operations shall be directed toward: (1) the redevelopment of redevelopment areas, the facilitation of the relocation of residents displaced or to be displaced by redevelopment, or the conduct of low and moderate income housing projects; (2) the acquisition, management and operation of a project, redevelopment relocation housing project, or low and moderate income housing project under P.L. 1991, c.431 (C.40A:20-1 et seq.); and (3) that it shall be subject to regulation by the municipality in which its project is situated, and to a limitation or prohibition, as appropriate, on profits or dividends for so long as it remains the owner of a project subject to P.L. 1991, c.431 (C.40A:20-1 et seq.).

e. A provision that the entity shall not voluntarily transfer more than 10% of the ownership of the project or any portion thereof undertaken by it under P.L. 1991, c.431 (C.40A:20-1 et seq.), until it has first removed both itself and the project from all restrictions of P.L. 1991, c.431 (C.40A:20-1 et seq.) in the manner required by P.L. 1991, c.431 (C.40A:20-1 et seq.) and, if the project includes housing units, has obtained the consent of the Commissioner of Community Affairs to such transfer; with the exception of transfer to another urban renewal entity, as approved by the municipality in which the project is situated, which other urban renewal entity shall assume all contractual obligations of the transferor entity under the financial agreement with the municipality. The entity shall file annually with the municipal governing body a disclosure of the persons having an ownership interest in the project, and of the extent of the ownership interest of each. Nothing herein shall prohibit any transfer of the ownership interest in the urban renewal entity itself provided that the transfer, if greater than 10 percent, is disclosed to the municipal governing body in the annual disclosure statement or in

correspondence sent to the municipality in advance of the annual disclosure statement referred to above.

f. A provision stating that the entity is subject to the provisions of section 18 of P.L. 1991, c.431 (C.40A:20-18) respecting the powers of the municipality to alleviate financial difficulties of the urban renewal entity or to perform actions on behalf of the entity upon a determination of financial emergency.

g. A provision stating that any housing units constructed or acquired by the entity shall be managed subject to the supervision of, and rules adopted by, the Commissioner of Community Affairs.

If the entity shall not by reason of any other law be required to file a statement or certificate with the Secretary of State, then the entity shall file a certificate in the office of the clerk of the county in which its principal place of business is located setting forth, in addition to the matters listed above, its full name, the name under which it shall do business, its duration, the location of its principal offices, the name of a person or persons upon whom service may be effected, and the name and address and extent of each person having any ownership or proprietary interest therein.

A certificate of incorporation, or similar certificate or statement, shall not be accepted for filing with the Secretary of State or office of the county clerk until the certificate or statement has been reviewed and approved by the Commissioner of the Department of Community Affairs.

9. Section 9 of P.L. 1991, c.431 (C.40A:20-9) is amended to read as follows:

**C.40A:20-9 Financial agreement for approved projects, form and contents of contract.**

9. Every approved project shall be evidenced by a financial agreement between the municipality and the urban renewal entity. The agreement shall be prepared by the entity and submitted as a separate part of its application for project approval. The agreement shall not take effect until approved by ordinance of the municipality. Any amendments or modifications of the agreement made thereafter shall be by mutual consent of the municipality and the urban renewal entity, and shall be subject to approval by ordinance of the municipal governing body upon recommendation of the mayor or other chief executive officer of the municipality prior to taking effect.

The financial agreement shall be in the form of a contract requiring full performance within 30 years from the date of completion of the project, and shall include the following:

a. That the profits of or dividends payable by the urban renewal entity shall be limited according to terms appropriate for the type of entity in conformance with the provisions of P.L. 1991, c.431 (C.40A:20-1 et seq.).

b. That all improvements and land, to the extent authorized pursuant to section 12 of P.L. 1991, c.431 (C.40A:20-12), in the project to be constructed or acquired by the urban renewal entity shall be exempt from taxation as provided in P.L. 1991, c.431 (C.40A:20-1 et seq.).

c. That the urban renewal entity shall make payments for municipal services as provided in P.L. 1991, c.431 (C.40A:20-1 et seq.).

d. That the urban renewal entity shall submit annually, within 90 days after the close of its fiscal year, its auditor's reports to the mayor and governing body of the municipality and to the Director of the Division of Local Government Services in the Department of Community Affairs.

e. That the urban renewal entity shall, upon request, permit inspection of property, equipment, buildings and other facilities of the entity, and also permit examination and audit of its books, contracts, records, documents and papers by authorized representatives of the municipality or the State.

f. That in the event of any dispute between the parties matters in controversy shall be resolved by arbitration in the manner provided in the financial agreement.

g. That operation under the financial agreement shall be terminable by the urban renewal entity in the manner provided by P.L. 1991, c.431 (C.40A:20-1 et seq.).

h. That the urban renewal entity shall at all times prior to the expiration or other termination of the financial agreement remain bound by the provisions of P.L. 1991, c.431 (C.40A:20-1 et seq.).

The financial agreement shall contain detailed representations and covenants by the urban renewal entity as to the manner in which it proposes to use, manage or operate the project. The financial agreement shall further set forth the method for computing gross revenue for the urban renewal entity, the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, the plans for financing the project, including the estimated total project cost, the amortization rate on the total project cost, the source of funds, the interest rates to be paid on the construction financing, the source and amount of paid-in capital, the terms of mortgage amortization or payment of principal on any mortgage, a good faith projection of initial sales prices of any condominium units and expenses to be incurred in promoting and consummating such sales, and the rental schedules and lease terms to be used in the project. Any financial agreement may allow the municipality to levy an annual administrative fee, not to exceed two percent of the annual service charge.

10. Section 10 of P.L. 1991, c.431 (C.40A:20-10) is amended to read as follows:

**C.40A:20-10 Provisions for transfer or sale.**

10. The financial agreement may provide:

a. That the municipality will consent to a sale of the project by the urban renewal entity to another urban renewal entity organized under P.L. 1991, c.431 (C.40A:20-1 et seq.), their successors, assigns, all owning no other project at the time of the transfer and that, upon assumption by the transferee urban renewal entity of the transferor's obligations under the financial agreement, the tax exemption of the improvements thereto and, to the extent authorized pursuant to section 12 of P.L. 1991, c.431 (C.40A:20-12), land shall continue and inure to the transferee urban renewal entity, its respective successors or assigns.

b. That the municipality will consent to a sale of the project to purchasers of units in the condominium if the project or any portion thereof has been devoted to condominium ownership, and to their successors, assigns, all owning (in the case of housing) no other condominium unit of a project at the time of the transfer, and that, upon assumption by the condominium unit purchaser of the transferor's obligations under the financial agreement, the tax exemption of the project buildings and improvements and, to the extent authorized pursuant to section 12 of P.L. 1991, c.431 (C.40A:20-12), land shall continue and inure to the unit purchaser, his respective successors or assigns.

c. That the municipality will consent to a sale of the project to purchasers of units in fee simple, if the project or any portion thereof has been devoted to fee simple ownership, and to their successors, assigns, all owning (in the case of housing) no other fee simple unit of a project at the time of the transfer, and that, upon assumption by the fee simple unit purchaser of the transferor's obligations under the financial agreement, the tax exemption of the project buildings and improvements and, to the extent authorized pursuant to section 12 of P.L. 1991, c.431 (C.40A:20-12), land shall continue and inure to the fee simple unit purchaser, his respective successors or assigns. The provisions of this subsection shall not be construed to authorize the sale of a project between an urban renewal entity and a for-profit developer.

d. Any financial agreement which provides for consent pursuant to subsection a., b. or c. of this section may allow the municipality to levy an administrative fee, not to exceed two percent of the annual service charge, for the processing of any such request for the continuation of a tax exemption.

11. Section 12 of P.L. 1991, c.431 (C.40A:20-12) is amended to read as follows:

**C.40A:20-12 Tax exemption, duration; annual service charges.**

12. The rehabilitation or improvements made in the development or redevelopment of a redevelopment area or area appurtenant thereto or for

a redevelopment relocation housing project, pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation for a limited period as hereinafter provided. When housing is to be constructed, acquired or rehabilitated by an urban renewal entity, the land upon which that housing is situated shall be exempt from taxation for a limited period as hereinafter provided. The exemption shall be allowed when the clerk of the municipality wherein the property is situated shall certify to the municipal tax assessor that a financial agreement with an urban renewal entity for the development or the redevelopment of the property, or the provision of a redevelopment relocation housing project, or the provision of a low and moderate income housing project has been entered into and is in effect as required by P.L. 1991, c.431 (C.40A:20-1 et seq.).

Delivery by the municipal clerk to the municipal tax assessor of a certified copy of the ordinance of the governing body approving the tax exemption and financial agreement with the urban renewal entity shall constitute the required certification. For each exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.), upon certification as required hereunder, the tax assessor shall implement the exemption and continue to enforce that exemption without further certification by the clerk until the expiration of the entitlement to exemption by the terms of the financial agreement or until the tax assessor has been duly notified by the clerk that the exemption has been terminated.

Upon the adoption of a financial agreement pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.), a certified copy of the ordinance of the governing body approving the tax exemption and the financial agreement with the urban renewal entity shall forthwith be transmitted to the Director of the Division of Local Government Services.

Whenever an exemption status changes during a tax year, the procedure for the apportionment of the taxes for the year shall be the same as in the case of other changes in tax exemption status during the tax year. Tax exemptions granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.) represent long term financial agreements between the municipality and the urban renewal entity and as such constitute a single continuing exemption from local property taxation for the duration of the financial agreement. The validity of a financial agreement or any exemption granted pursuant thereto may be challenged only by filing an action in lieu of prerogative writ within 20 days from the publication of a notice of the adoption of an ordinance by the governing body granting the exemption and approving the financial agreement. Such notice shall be published in a newspaper of general circulation in the municipality and in a newspaper of general circulation in the county if different from the municipal newspaper.

a. The duration of the exemption for urban renewal entities shall be as follows: for all projects, a term of not more than 30 years from the completion



of the entire project, or unit of the project if the project is undertaken in units, or not more than 35 years from the execution of the financial agreement between the municipality and the urban renewal entity.

b. During the term of any exemption, in lieu of any taxes to be paid on the buildings and improvements of the project and, to the extent authorized pursuant to this section, on the land, the urban renewal entity shall make payment to the municipality of an annual service charge, which shall remit a portion of that revenue to the county as provided hereinafter. In addition, the municipality may assess an administrative fee, not to exceed two percent of the annual service charge, for the processing of the application. The annual service charge for municipal services supplied to the project to be paid by the urban renewal entity for any period of exemption, shall be determined as follows:

(1) An annual amount equal to a percentage determined pursuant to this subsection and section 11 of P.L. 1991, c.431 (C.40A:20-11), of the annual gross revenue from each unit of the project, if the project is undertaken in units, or from the total project, if the project is not undertaken in units. The percentage of the annual gross revenue shall not be more than 15% in the case of a low and moderate income housing project, nor less than 10% in the case of all other projects.

At the option of the municipality, or where because of the nature of the development, ownership, use or occupancy of the project or any unit thereof, if the project is to be undertaken in units, the total annual gross rental or gross shelter rent or annual gross revenue cannot be reasonably ascertained, the governing body shall provide in the financial agreement that the annual service charge shall be a sum equal to a percentage determined pursuant to this subsection and section 11 of P.L. 1991, c.431 (C.40A:20-11), of the total project cost or total project unit cost determined pursuant to P.L. 1991, c.431 (C.40A:20-1 et seq.) calculated from the first day of the month following the substantial completion of the project or any unit thereof, if the project is undertaken in units. The percentage of the total project cost or total project unit cost shall not be more than 2% in the case of a low and moderate income housing project, and shall not be less than 2% in the case of all other projects.

(2) In either case, the financial agreement shall establish a schedule of annual service charges to be paid over the term of the exemption period, which shall be in stages as follows:

(a) For the first stage of the exemption period, which shall commence with the date of completion of the unit or of the project, as the case may be, and continue for a time of not less than six years nor more than 15 years, as specified in the financial agreement, the urban renewal entity shall pay the municipality an annual service charge for municipal services supplied to the project in an annual amount equal to the amount determined pursuant to

paragraph (1) of this subsection and section 11 of P.L. 1991, c.431 (C.40A:20-11). For the remainder of the period of the exemption, if any, the annual service charge shall be determined as follows:

(b) For the second stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L. 1991, c.431 (C.40A:20-11), or 20% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(c) For the third stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L. 1991, c.431 (C.40A:20-11), or 40% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(d) For the fourth stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L. 1991, c.431 (C.40A:20-11), or 60% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater; and

(e) For the final stage of the exemption period, the duration of which shall not be less than one year and shall be specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L. 1991, c.431 (C.40A:20-11), or 80% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater.

If the financial agreement provides for an exemption period of less than 30 years from the completion of the entire project, or less than 35 years from the execution of the financial agreement, the financial agreement shall set forth a schedule of annual service charges for the exemption period which shall be based upon the minimum service charges and staged adjustments set forth in this section.

The annual service charge shall be paid to the municipality on a quarterly basis in a manner consistent with the municipality's tax collection schedule.

Each municipality which enters into a financial agreement on or after the effective date of P.L. 2003, c. 125 (C.40A:12A-4.1 et al.) shall remit 5 percent of the annual service charge to the county upon receipt of that charge in accordance with the provisions of this section.

Against the annual service charge the urban renewal entity shall be entitled to credit for the amount, without interest, of the real estate taxes on land paid by it in the last four preceding quarterly installments.

Notwithstanding the provisions of this section or of the financial agreement, the minimum annual service charge shall be the amount of the total taxes levied against all real property in the area covered by the project in the last full tax year in which the area was subject to taxation, and the minimum annual service charge shall be paid in each year in which the annual service charge calculated pursuant to this section or the financial agreement would be less than the minimum annual service charge.

c. All exemptions granted pursuant to the provisions of P.L. 1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time prescribed in the financial agreement.

Upon the termination of the exemption granted pursuant to the provisions of P.L. 1991, c.431 (C.40A:20-1 et seq.), the project, all affected parcels, land and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the urban renewal entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

12. Section 15 of P.L. 1991, c.431 (C.40A:20-15) is amended to read as follows:

**C.40A:20-15 Excess profits of a limited dividend entity.**

15. An urban renewal entity which is a limited dividend entity under P.L. 1991, c.431 (C.40A:20-1 et seq.) shall be subject, during the period of the financial agreement and tax exemption under P.L. 1991, c.431 (C.40A:20-1 et seq.), to a limitation of its profits and in addition, in the case of a corporation, of the dividends payable by it. Whenever the net profits of the entity for the period, taken as one accounting period, commencing on the date on which the construction of the first unit of the project is completed, or on which the project is completed if the project is not undertaken in units, and terminating at the end of the last full fiscal year, shall exceed the allowable net profits for the period, the entity shall, within 120 days of the close of that fiscal year, pay the excess net profits to the municipality as an additional service charge. The entity may maintain during the term of the financial agreement a reserve against vacancies, unpaid rentals and contingencies in an amount established in the financial agreement not to exceed 10% of the gross revenues of the entity for the last full fiscal year, and may retain such part of those excess net profits as is necessary to eliminate a deficiency in that reserve. Upon the termination of the financial agreement, the amount of reserve, if any, shall be paid to the municipality.

No entity shall make any distribution of profits, or pay or declare any dividend or other distribution on any shares of any class of its stock, unless,

after giving effect thereto, the allowable net profit for the period as determined above and preceding the date of the proposed dividend or distribution would equal or exceed the aggregate amount of all dividends and other distributions paid or declared on any shares of its stock since its incorporation or establishment.

If an entity purchases an existing project from another urban renewal entity, the purchasing entity shall compute its allowable net profits, and, for the purpose of dividend payments, shall commence with the date of acquisition of the project. The date of transfer of title of the project to the purchasing entity shall be considered to be the close of the fiscal year of the selling entity. Within 90 days after that date of the transfer of title, the selling entity shall pay to the municipality the amount of reserve, if any, maintained by it pursuant to this section, as well as the excess net profit, if any, payable pursuant to this section.

For the purposes of this section, the calculation of an entity's "excess net profits" shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the financial agreement as provided for in subsection h. of section 3 of P.L.1991, c.431 (C.40A:20-3), even though those costs may have been deducted from the project cost for the purpose of calculating the in lieu of tax payment.

13. R.S.54:3-21 is amended to read as follows:

**Appeal by taxpayer or taxing district; petition; complaint; exception.**

54:3-21. a. Except as provided in subsection b. of this section a taxpayer feeling aggrieved by the assessed valuation of the taxpayer's property, or feeling discriminated against by the assessed valuation of other property in the county, or a taxing district which may feel discriminated against by the assessed valuation of property in the taxing district, or by the assessed valuation of property in another taxing district in the county, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer or taxing district may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, file a complaint directly with the Tax Court, if the assessed valuation of the property subject to the appeal exceeds \$750,000.00. Within ten days of the completion of the bulk mailing of notification of assessment, the assessor of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. If a county board of taxation completes the bulk mailing of notification of assessment, the tax administrator of the county

board of taxation shall within ten days of the completion of the bulk mailing prepare and keep on file a certification setting forth the date on which the bulk mailing was completed. A taxpayer shall have 45 days to file an appeal upon the issuance of a notification of a change in assessment. An appeal to the Tax Court by one party in a case in which the Tax Court has jurisdiction shall establish jurisdiction over the entire matter in the Tax Court. All appeals to the Tax Court hereunder shall be in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

If a petition of appeal or a complaint is filed on April 1 or during the 19 days next preceding April 1, a taxpayer or a taxing district shall have 20 days from the date of service of the petition or complaint to file a cross-petition of appeal with a county board of taxation or a counterclaim with the Tax Court, as appropriate.

b. No taxpayer or taxing district shall be entitled to appeal either an assessment or an exemption or both that is based on a financial agreement subject to the provisions of the "Long Term Tax Exemption Law" under the appeals process set forth in subsection a. of this section.

**C.40A:20-21 Severability.**

14. The provisions of P.L.2003, c.125 (C.40A:12A-4.1 et al.) shall be deemed to be severable, and if any phrase, clause, sentence, word or provision of P.L.2003, c.125 (C.40A:12A-4.1 et al.) is declared to be unconstitutional, invalid or inoperative in whole or in part, or the applicability thereof to any person is held invalid, by a court of competent jurisdiction, the remainder of this act shall not thereby be deemed to be unconstitutional, invalid or inoperative and, to the extent it is not declared unconstitutional, invalid or inoperative, shall be effectuated and enforced.

**C.40A:20-22 Tax exemptions approved pursuant to C.40A:20-1 et seq. ratified and validated.**

15. The terms and conditions of any tax exemption approved pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or its predecessor statutes, as the case may be, including any financial agreement, separate agreement or amendment implementing that exemption, are hereby ratified and validated. This ratification and validation shall include, without limitation, the structure and methods used to calculate excess profits and annual service charges, including the limitation of revenue, expenses and total project costs, to those of the urban renewal entity, regardless of any other entity, whether affiliated or unaffiliated, with the urban renewal entity.

16. This act shall take effect immediately and shall govern tax appeals filed for the 2003 tax year and thereafter.

Approved July 9, 2003.

## CHAPTER 126

AN ACT concerning collective negotiations for school employees and supplementing P.L.1941, c.100 (C.34:13A-1 et seq.).

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

**C.34:13A-31 Short title.**

1. This act shall be known and may be cited as the "School Employees Contract Resolution and Equity Act."

**C.34:13A-32 Definitions relative to school employee collective negotiations.**

2. For the purposes of this act:

"Employer" or "public employer" means any local or regional school district, charter school and its board of trustees, vocational school district, educational services commission, jointure commission, county special services school district, community college, county college, or board or commission under the authority of the Commissioner of Education, the State Board of Education, or the New Jersey Commission on Higher Education.

"Majority representative" means the majority representative of the employees in a collective bargaining unit which is recognized or certified as the majority representative as the result of recognition or certification procedures under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or is voluntarily recognized by the employer.

"Commission" means the New Jersey Public Employment Relations Commission.

**C.34:13A-33 Terms, conditions of employment under expired agreements.**

3. Notwithstanding the expiration of a collective negotiations agreement, an impasse in negotiations, an exhaustion of the commission's impasse procedures, or the utilization or completion of the procedures required by this act, and notwithstanding any law or regulation to the contrary, no public employer, its representatives, or its agents shall unilaterally impose, modify, amend, delete or alter any terms and conditions of employment as set forth in the expired or expiring collective negotiations agreement, or unilaterally impose, modify, amend, delete, or alter any other negotiable terms and conditions of employment, without specific agreement of the majority representative.

**C.34:13A-34 Participation in mandatory fact finding; report; appointment of super conciliator.**

4. a. In any case in which collective negotiations between an employer and a majority representative have failed to result in the parties reaching

agreement on the terms of a negotiated agreement and the commission's mediation procedures have been exhausted with no final agreement having been reached, the parties shall be required to participate in mandatory fact finding, which shall be conducted by a fact finder under the jurisdiction of the commission, subject to procedures established by the commission pursuant to regulation. The fact finder shall be appointed no later than 30 days after the last meeting between the parties and the mediator in connection with the mediation pursuant to this act.

b. Following completion of such fact finding, the fact finder's report shall be made available to the parties immediately after its issuance, and to the public 10 days thereafter.

c. If the employer and the majority representative do not reach a voluntary negotiated agreement within 20 days after the issuance of the fact finder's report, the commission shall appoint a super conciliator to assist the parties, based upon procedures and subject to qualifications established by the commission pursuant to regulation.

**C.34:13A-35 Investigatory proceedings.**

5. The super conciliator shall promptly schedule investigatory proceedings. The purpose of the proceedings shall be to:

a. Investigate and acquire all relevant information regarding the dispute between the parties;

b. Discuss with the parties their differences, and utilize means and mechanisms, including but not limited to requiring 24-hour per day negotiations, until a voluntary settlement is reached, and provide recommendations to resolve the parties' differences;

c. Modify or amend the fact finder's report for reconsideration by the parties in a further effort to achieve a voluntary settlement by the parties; and

d. Institute any other non-binding procedures deemed appropriate by the super conciliator.

**C.34:13A-36 Final report.**

6. If the actions taken by the super conciliator fail to resolve the dispute, the super conciliator shall issue a final report, which shall be provided to the parties promptly and made available to the public within 10 days thereafter.

**C.34:13A-37 Confidentiality; exceptions.**

7. The mediator, fact finder, or super conciliator, while functioning in a mediatory capacity, shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential which are received or prepared by him or to testify with regard to mediation conducted by him under this act. Nothing contained herein shall exempt an individual from disclosing information relating to the commission of a crime.

**C.34:13A-38 Report to Governor, Legislature.**

8. Five years after the effective date of this act, the commission shall submit a report to the Governor and to the Legislature on the effects of this act on the negotiations and settlement between school employees and their employers with any recommendations it may have for any changes in the law.

**C.34:13A-39 Rules, regulations.**

9. The commission, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall promulgate rules and regulations to effectuate the purposes of this act.

10. This act shall take effect immediately.

Approved July 10, 2003.

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**CHAPTER 127**

AN ACT concerning retirement benefits for employees of certain public agencies or instrumentalities participating in the Public Employees' Retirement System and the funding of the liabilities for those benefits, and supplementing P.L.1954, c.84 (C.43:15A-1 et seq.).

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

1. An employee of a public agency or instrumentality that elects to provide the benefits authorized under this act who:

a. is at least 50 years of age and has at least 25 years of service credit under the Public Employees' Retirement System (PERS) before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 5 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, other than a veteran who retires on a special veteran's retirement, shall receive an additional three years of service credit under PERS. If the member is under age 55 at the time of retirement, the member's retirement allowance shall not be reduced.

An employee who meets the age and service credit requirements under this section and retires on a special veteran's retirement under PERS shall



receive an additional pension under the retirement system in the amount of 3/55 of the compensation upon which the retirement allowance is based.

The additional retirement benefit under this section is applicable only to the full-time employment with the employer that elects to provide the benefits authorized under this act and from which the employee retires to receive the benefit and the compensation for that employment.

2. For an employee of a public agency or instrumentality that provides paid health care benefits to retirees pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), N.J.S.40A:10-23, or another group health insurance contract or health care benefits plan and that elects to provide the benefits authorized under this section who:

a. is at least 60 years of age and has at least 20, but less than 25, years of service credit under the PERS before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 5 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, the employer shall pay the entire cost for coverage for the retired employee and the employee's dependents, but not including survivors unless the employer is paying the entire cost for coverage for survivors on the effective date of this act. For employers participating in the New Jersey State Health Benefits Program (NJSHBP), the payment shall be made in the same manner provided for payment by an employer other than the State of premiums or periodic charges for retired employees under section 7 of P.L.1964, c.125 (C.52:14-17.38). For employers not participating in the NJSHBP, the payment shall be made in the same manner provided for payment of premiums after retirement under N.J.S.40A:10-23 or section 8 of P.L.1979, c.391 (C.18A:16-19), or the employer's group health insurance contract or health care benefits plan.

The level of benefits to retirees under this section shall be the same as the level of benefits provided by that employer to other retirees who would retire during the same period.

3. A public agency or instrumentality that does not provide paid health care benefits to retirees and that elects to provide the benefits authorized under this act shall pay to an employee who meets the qualifications of subsections a., b. and c. of section 2 of this act an additional pension of \$500 per month in each of the 24 months following the date of retirement.

4. For an employee of a public agency or instrumentality that elects to provide the benefits authorized under this act who:

- a. is at least 60 years of age and has at least 10, but less than 20, years of service credit under PERS before the effective date of retirement;
- b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 5 of this act; and
- c. retires under the retirement system within three months after the effective date of the resolution, the employer shall pay an additional pension of \$500 per month in each of the 24 months following the date of retirement.

5. An employer may elect to provide the benefits under this act by the adoption of a resolution by its governing body, which is to be effective on the first day of a month, within one year of the effective date of this act, P.L.2003, c.127, and the filing of a certified copy of the resolution with the Director of the Division of Pensions and Benefits within 3 business days after its adoption. The governing body may elect to provide the benefits under this act one time only and the effective date of the resolution shall fall within the one-year period following the effective date of this act. The employer shall submit to the director any information necessary to provide the benefits or to determine the liability for them.

6. The actuary for the PERS shall determine the liability of the retirement system for the additional service credit or pensions provided under this act and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the board of trustees of the retirement system. This liability shall be added to the unfunded accrued liability of the employer under the retirement system and shall be paid by the employer over a period of 15 years in the same manner as provided for the employer's unfunded accrued liability of the retirement system under section 24 of P.L.1954, c.84 (C.43:15A-24).

The retirement system shall annually certify to each employer the contributions due to the contingent reserve fund for the liability under this act. The contributions certified by the retirement systems shall be paid by the employer to the retirement system on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 30 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the thirtieth day.

The employer shall pay the cost of the actuarial work to determine the additional liability of the retirement system for the benefits under this act and that cost shall be included in the initial contribution required from the employer.

7. An employee who receives a benefit under this act shall forfeit all tenure rights.

8. When the needs of a public agency or instrumentality require the services of an employee who elects to retire and receive a benefit under this act, the employer, with the approval of the governing body of that agency or instrumentality and with the consent of the employee, may delay the effective retirement date of the employee until the first day of any calendar month after the third month after the effective date of the resolution adopted by the governing body of the employer pursuant to section 5 of this act but not later than one year after that three-month period. A delay in the effective retirement date of an employee shall not extend the dates set forth in sections 1 through 4 of this act to qualify for benefits under this act.

For a member of the PERS whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member if the member's beneficiary requests in writing to the board of trustees of the retirement system that the retirement be effective under the Option settlement selected by the member, or under Option 3 if the member did not select an Option.

9. An employee of a public agency or instrumentality purchasing service credit on or after the effective date of this act to qualify for a benefit under this act may purchase a portion of the credit that the employee is eligible to purchase.

10. For the purposes of this act, "employee of a public agency or instrumentality" means a full-time employee of an authority, board, commission, corporation, or other agency or instrumentality that is a participating employer in the PERS, excluding an agency or instrumentality authorized to participate in the PERS under section 73 of P.L.1954, c.84 (C.43:15A-73) and P.L.1990, c.25 (C.43:15A-73.2 et seq.) and excluding an agency or instrumentality whose employees were covered by P.L.2002, c.23, and including a public agency or organization as defined in section 71 of P.L.1954, c.84 (C.43:15A-71) but not any State agency or organization, but excluding Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, a State or a county college, a board of education, a county and a municipality, who is eligible to participate in the employer's health care benefits plan.

11. Prior to the end of the one-year period following the effective date of this act, each public agency or instrumentality covered by the provisions of this act shall meet and consult with the representatives of the bargaining

unit or units representing the employees who would be eligible for benefits under this act.

12. The Director of the Division of Pensions and Benefits may promulgate rules and regulations that the director deems necessary for the effective implementation of this act.

**C.43:15A-24.2 Refunding bonds of public agency, instrumentality relative to early retirement incentives.**

13. A public agency or instrumentality that has the power pursuant to P.L.2002, c.42 to issue bonds from time to time in its discretion for any of its purposes, including the paying or retiring of any bonds previously issued by it, and the power to issue bonds to retire the present value of the unfunded accrued liability due and owing by an agency or instrumentality, as calculated by the system actuary for a date certain upon the request of an agency or instrumentality, for early retirement incentive benefits granted by the agency or instrumentality shall have the power to do the same for benefits granted pursuant to P.L.2003, c.127.

14. This act shall take effect immediately.

Approved July 14, 2003.

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## CHAPTER 128

AN ACT concerning retirement benefits for certain employees of public employers other than the State and the funding of liabilities for those benefits, and amending P.L.2002, c.42 and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

1. An employee of a county or county college or an employee of a municipality under the Public Employees' Retirement System (PERS), the Teachers' Pension and Annuity Fund (TPAF) or the Alternate Benefit Program (ABP) that elects to provide the benefits authorized under this act who:

a. is at least 50 years of age and has at least 25 years of service credit under the PERS or TPAF, or service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, other than a veteran who retires on a special veteran's retirement, shall receive an additional three years of service credit under the PERS or TPAF, or an amount equal to 100% of the employee's base annual salary at the time of retirement from the employer for participants of the ABP. The payments shall be made to the employee's retirement annuity contract under the ABP up to the maximum contribution allowable under section 415 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.415. Any payment amount in excess of the section 415 contribution limit shall be contributed to a contract on behalf of the employee that meets the requirements of subsection (b) of section 403 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.403, to the extent that the payment may be contributed on a before-tax basis under the maximum limits allowed under the Internal Revenue Code of 1986. Payment amounts in excess of the section 403(b) limit shall be paid directly to the employee.

If a member of PERS or TPAF is under age 55 at the time of retirement, the member's retirement allowance shall not be reduced.

An employee who meets the age and service requirements under this section and retires on a special veteran's retirement shall receive an additional pension under the retirement system in the amount of 3/55 of the compensation on which the retirement allowance is based.

The additional retirement benefit under this section is applicable only to the full-time employment with the employer that elects to provide the benefits authorized under this act and from which the employee retires to receive the benefit and the compensation for that employment.

A county college shall be responsible for the full cost of health care benefits in retirement provided under section 3 of P.L.1987, c.384 (C.52:14-17.32f) and section 2 of P.L.1992, c.126 (C.52:14-17.32f1) for each employee retiring under the provisions of this act for a period of three years following the employee's retirement.

2. For an employee of a county college or an employer participating under the PERS, TPAF or ABP, that elects to provide the benefits authorized under this act who:

a. is at least 60 years of age and has at least 20, but less than 25, years of service credit under the PERS or TPAF, or service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, the employer shall pay the entire cost for health care benefits coverage for the retired employee and the employee's dependents, but not including survivors unless the employer is paying the entire cost for coverage for survivors on the effective date of this act. The coverage shall be provided through the New Jersey State Health Benefits Program, and the retired employee, the employee's dependents and survivors shall be eligible for coverage pursuant to section 15 of P.L.2003, c.128 (C.52:14-17.32l). The payment for the coverage shall be made by the employer in the same manner provided for payment by an employer other than the State of premiums or periodic charges for retired employees under section 7 of P.L.1964, c.125 (C.52:14-17.38).

3. For an employee of a participating employer under the PERS, TPAF or ABP that elects to provide the benefits under this act who:

a. is at least 60 years of age and has at least 10, but less than 20, years of service credit under the PER or TPAF, or service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, the employer shall pay an additional pension of \$500 per month in each of the 24 months following the date of retirement.

4. An employer may elect to provide the benefits under this act by the adoption of a resolution by its governing body, which is to be effective on the first day of a month, within one year of the effective date of this act, P.L.2003, c.128, and the filing of a certified copy of the resolution with the Director of the Division of Pensions and Benefits within three business days after its adoption. With respect to county colleges, the governing body is the board of trustees. The governing body may elect to provide the benefits under this act one time only and the effective date of the resolution shall fall within the one-year period following the effective date of this act. The employer shall submit to the director any information necessary to provide the benefits or to determine the liability for them.

5. The actuaries for the PERS and TPAF shall determine the liability of the retirement systems for the additional service credit or pensions provided under this act and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the board of trustees of the retirement systems.

For the PERS, this liability shall be added to the unfunded accrued liability of the employer under the retirement system and shall be paid by the employer over a period of 15 years in the same manner as provided for the employer's unfunded accrued liability of the retirement system under sections 24, 68 and 81 of P.L.1954, c.84 (C.43:15A-24, 68 and 81).

For the TPAF, the liability and contribution requirements for each employer shall be determined by the actuary of the system in the same manner as provided for the unfunded accrued liability of the retirement system under N.J.S.18A:66-18 and shall be paid by the employer over a period of 15 years.

The retirement systems shall annually certify to each employer the contributions due to the contingent reserve fund for the liability under this act. The contributions certified by the retirement systems shall be paid by the employer to the retirement systems on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 30 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the thirtieth day.

The employer shall pay the cost of the actuarial work to determine the additional liability of the retirement systems for the benefits under this act and that cost shall be included in the initial contribution required from the employer.

6. The cost of the cash payments under this act for the ABP participants shall be funded by the employer from appropriations to the employer for annual operating expenses or from funds otherwise available to the employer for operating expenses.

7. An employee who receives a benefit under this act shall forfeit all tenure rights.

8. When the needs of the employer require the service of an employee who elects to retire and receive a benefit under this act, the employer, with the approval of the governing body of the employer and with the consent of the employee, may delay the effective retirement date of the employee until the first day of any calendar month after the third month after the effective date of the resolution adopted by the governing body of the employer pursuant to section 4 of this act, but not later than one year after that three-month

period. With respect to county colleges, the governing body is the board of trustees. A delay in the effective retirement date of an employee shall not extend the dates set forth in sections 1 through 3 of this act to qualify for benefits under this act.

For a member of the PERS or TPAF whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member if the member's beneficiary requests in writing to the board of trustees of the retirement system that the retirement be effective under the Option settlement selected by the member, or under Option 3 if the member did not select an Option.

9. An employee purchasing service credit on or after the effective date of this act to qualify for a benefit under this act may purchase a portion of the credit that the employee is eligible to purchase.

10. For the purposes of this act, "employee" means a full-time employee of a county, a county college, or a municipality who is eligible to participate in the employer's health care benefits plan. The term does not include an employee of a public agency or organization as defined in section 71 of P.L.1954, c.84 (C.43:15A-71), nor does it include an employee participating in PERS under the provisions of P.L.2001, c.366 (C.43:15A-155 et seq.).

11. The provisions of this act shall be applicable to employers and employees participating in a county pension fund created under Article 1 or Article 6 of Chapter 10 of Title 43 of the Revised Statutes, P.L.1943, c.160 (C.43:10-18.1 et seq.), P.L.1948, c.310 (C.43:10-18.50 et seq.), R.S.43:10-1 et seq., or Article 2 of Chapter 66 of Title 18A of the New Jersey Statutes, or in a municipal retirement system created under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275 (C.43:13-22.50 et seq.), and shall become operative upon the adoption of the provisions of this act by the employer.

The provisions of this act shall apply to counties of the first class with a population of more than 500,000 persons and a population density of more than 11,000 persons per square mile granting a pension pursuant to the "General Noncontributory Pension Act", P.L.1955, c.263 (C.43:8B-1 et seq.).

12. Prior to the end of the one-year period following the effective date of this act, each employer covered by the provisions of this act shall meet and consult with the representatives of the bargaining unit or units representing the employees who would be eligible for benefits under this act.



13. The Director of the Division of Pensions and Benefits may promulgate rules and regulations that the director deems necessary for the effective implementation of this act.

14. Section 1 of P.L.2002, c.42 (C.40A:2-51.3) is amended to read as follows:

**C.40A:2-51.3 Issuance of refunding bonds by local government entity for certain ERI liabilities.**

1. Notwithstanding the provisions of N.J.S.40A:2-51 to the contrary, a county or municipality may incur indebtedness, borrow money, authorize and issue negotiable refunding bonds, in any amount determined to be necessary by the county or the municipality and approved by the Local Finance Board to effect the refunding for the purpose of retiring the present value of the unfunded accrued liability for early retirement incentive benefits granted pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, P.L.1993, c.181, P.L.1993, c.99, P.L.1999, c.59, and P.L.2003, c. 128, in addition to the other purposes for which it may do the same under N.J.S.40A:2-51. The system actuary shall calculate the present value of the unfunded liability due and owing by the municipality or county on a date certain upon the request of the county or municipality. For purposes of this section, "county" means any county of any class and all boards or commissions organized under such county, including but not limited to welfare boards, boards of social services, park commissions and mosquito control authorities.

**C.52:14-17.32l Enrollment of certain retirees in SHBP.**

15. After the effective date of P.L.2003, c.128, a former employee of a county, county college or municipality who:

a. retires from employment with the county, county college or municipality pursuant to the provisions of section 2 of P.L.2003, c.128 in accordance with the action taken pursuant to section 4 or 11 of P.L.2003, c.128,

b. is receiving a retirement benefit from a State- or locally-administered retirement system, may enroll in the State Health Benefits Program upon retirement, but not later than 60 days following retirement. The laws and regulations governing the program, except as provided in this section, are applicable to enrollments in the program under this section.

16. This act shall take effect immediately.

Approved July 14, 2003.

## CHAPTER 129

AN ACT concerning early retirement incentives for certain members of the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund who are employed by school boards, educational services commission and jointure commissions, and the funding of liabilities for those benefits, and amending P.L.1969, c.130.

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

1. An employee of a school board, educational services commission or jointure commission under the Teachers' Pension and Annuity Fund (TPAF) or Public Employees' Retirement System (PERS) that elects to provide the benefits authorized under this act who:

a. is at least 50 years of age and has at least 25 years of service credit under the PERS or the TPAF;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within two months after the effective date of the resolution, other than a veteran who retires on a special veteran's retirement, shall receive an additional three years of service credit under PERS or TPAF. If a member of the PERS or TPAF is under age 55 at the time of retirement, the member's retirement allowance shall not be reduced.

An employee who meets the age and service credit requirements and retires on a special veteran's retirement under the PERS or TPAF shall receive an additional pension under the retirement system in the amount of 3/55 of the compensation upon which the retirement allowance is based.

The additional retirement benefit under this section is applicable only to the employment with the employer that elects to provide the benefits authorized under this section and from which the employee retires to receive the benefit and the compensation for that employment.

The school board, educational services commission or jointure commission shall be responsible for the full cost of health care benefits in retirement provided under section 3 of P.L.1987, c.384 (C.52:14-17.32f) and section 2 of P.L.1992, c.126 (C.52:14-17.32f1) for each employee retiring under the provisions of this act for a period of three years following the employee's retirement.

2. For an employee of a school board, educational services commission or jointure commission under the TPAF or PERS that elects to provide the benefits authorized under this act who:

a. is at least 60 years of age and has at least 20, but less than 25, years of service credit under the PERS or TPAF;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within two months after the effective date of the resolution, the retired employee and that employee's dependents, but not including survivors, shall be eligible for the benefits provided under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.) in the same manner provided for retired State employees under subsection c. of section 8 of P.L.1961, c.49 (C.52:14-17.32). For each retired employee and for that employee's eligible dependents, the school board, educational services commission or jointure commission, as the case may be, shall pay the full premium or periodic charges for benefits provided under this section to that retired employee and the employee's dependents, but not including survivors, in the same manner as provided for payment by the State of the premium or charges with respect to active covered State employers and their dependents under section 6 of P.L.1961, c.49 (C.52:14-17.30).

3. For an employee of a school board, educational services commission or jointure commission under the PERS or TPAF that elects to provide the benefits authorized under this act who:

a. is at least 60 years of age and has at least 10, but less than 20, years of service credit under the PERS or the TPAF;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within two months after the effective date of the resolution, the employer shall pay an additional pension of \$500 per month in each of the 24 months following the date of retirement.

4. An employer may elect to provide the benefits under this act by the adoption of a resolution by the governing body, which is to be effective on July 1, within one year of the effective date of this act, P.L.2003, c.129, and the filing of a certified copy of the resolution with the Director of the Division of Pensions and Benefits within three business days after its adoption. The governing body may elect to provide the benefits under this act one time only and the effective date of the resolution shall fall within the 15-month period

following the effective date of this act. The employer shall submit to the director any information necessary to provide the benefits or to determine the liability for them.

5. The actuaries for the PERS and TPAF shall determine the liability of the retirement systems for the additional service credit or pensions provided under this act and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the board of trustees of the retirement systems.

For PERS, this liability shall be paid by the employer in level annual payments over a period of 15 years as provided for the unfunded accrued liability of the retirement system under section 24 of P.L.1954, c.84 (C.43:15A-24).

For TPAF, this liability shall be paid by the employer in level annual payments over a period of 15 years as provided for the unfunded accrued liability of the retirement system under N.J.S.18A:66-18.

The retirement systems shall annually certify to each employer the contributions due to the contingent reserve fund for the liability under this act. The contributions certified by the retirement systems shall be paid by the employer to the retirement systems on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 30 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the thirtieth day.

The employer shall pay the cost of the actuarial work to determine the additional liability of the retirement systems for the benefits under this act and that cost shall be included in the initial contribution required from the employer.

6. An employee who receives a benefit under this act shall forfeit all tenure rights.

7. When the needs of a school board, educational services commission or jointure commission require the services of an employee who elects to retire and receive a benefit under this act, the school board, educational services commission or jointure commission may delay, with the consent of the employee, the effective retirement date of the employee until the first day of any calendar month after the second month after the effective date of the resolution adopted by the governing body of the employer pursuant to section 4 of this act but not later than one year after that two-month period. A delay

in the effective retirement date of an employee shall not extend the dates set forth in sections 1 through 3 of this act to qualify for benefits under this act.

For a member of the PERS or TPAF whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member if the member's surviving beneficiary requests in writing to the board of trustees of the retirement system that the retirement be effective under the option settlement selected by the member, or under Option 3 if the member did not select an option.

8. An employee purchasing service credit on or after the effective date of this act to qualify for a benefit under this act may purchase a portion of the credit that the employee is eligible to purchase.

9. For the purposes of this act:

"school board" means the board of education of any local school district, consolidated school district, regional school district, county special services school district, or county vocational school.

"educational services commission" means an agency established in one or more counties for the purpose of carrying on programs of educational research and development and providing to public school districts such educational and administrative services as may be authorized pursuant to rules of the State Board of Education.

"jointure commission" means a commission set up by two or more boards of education to carry out jointly by agreement the duties imposed upon them in regard to the education and training of handicapped pupils.

"employee" shall not include any employee that was, or could have been if the employer so elected, eligible for benefits pursuant to P.L.2002, c.23.

10. Prior to the end of the one-year period following the effective date of this act, as appropriate, each employer covered by the provisions of this act shall meet and consult with the representatives of the bargaining unit or units representing the employees who would be eligible for benefits under this act.

11. The Director of the Division of Pensions and Benefits may promulgate rules and regulations that the director deems necessary for the effective implementation of this act.

12. Section 2 of P.L.1969, c.130 (C.18A:24-61.2) is amended to read as follows:

**C.18A:24-61.2 Purposes for which refunding bonds may be authorized; exclusions from net school debt.**

2. Notwithstanding the provisions of any other law or any debt limitation or requirement for down payment or for referendum or other action by legal voters, refunding bonds may be authorized and issued for the purpose of paying, funding or refunding: any refunded bonds; the cost of retiring the present value of the unfunded accrued liability due and owing by a board of education, as calculated by the system actuary for a date certain upon the request of a board of education, for early retirement incentive benefits granted by the board of education pursuant to P.L.1991, c.231, P.L.1993, c.163 and P.L.2003, c.129; and the cost or expense of issuing refunding bonds including printing, advertising, accounting, financial, legal or other expense in connection therewith. Obligations to be paid, funded or refunded with respect to which an ordinance authorizing the issuance of refunding bonds has been adopted pursuant to this act and not otherwise deductible shall be excluded in calculating the net school debt of a municipality or a district. Refunding bonds shall be authorized (a) in the case of any county or municipality by a refunding bond ordinance enacted in the manner or mode of procedure provided for adoption of a refunding bond ordinance pursuant to the Local Bond Law, constituting chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes, and (b) in the case of a Type II school district by an ordinance (herein called the "refunding bond ordinance") adopted by the board of education of such school district as provided in this chapter.

13. This act shall take effect immediately.

Approved July 14, 2003.

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## CHAPTER 130

AN ACT concerning retirement benefits for county and municipal employees who are members of the Police and Firemen's Retirement System of New Jersey and the funding of liabilities for those benefits, and amending P.L.2002, c.42 and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

1. An employee of an employer other than the State participating in the Police and Firemen's Retirement System (PFRS) that elects to provide the benefits authorized under this act, who:

a. has at least 25 years of service credit under the PFRS before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, shall receive an additional three years of service credit in the retirement system or any lesser number of years of service credit under PFRS as will provide the employee, as of the date of retirement, with a total of not more than 30 years of service credit under PFRS.

The additional retirement benefit under this section is applicable only to the full-time employment with the employer that elects to provide the benefits authorized under this act, and from which employment the employee retires to receive the benefit and the compensation for that employment.

2. For an employee of an employer other than the State participating in the Police and Firemen's Retirement System that elects to provide the benefits authorized under this act, who:

a. is at least 55 years of age and has at least 20, but less than 25, years of service credit under the PFRS before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, the employer shall pay the entire cost for health care benefits coverage for the retired employee and the employee's dependents, but not including survivors unless the employer is paying the entire cost for coverage for survivors on the effective date of this act. The coverage shall be provided through the New Jersey State Health Benefits Program. The retired employee, the employee's dependents and survivors shall be eligible for coverage pursuant to section 13 of P.L.2003, c.130 (C.52:14-17.32m), if the employer is not a program participant at the time of the employee's retirement. The payment for the coverage shall be made by an employer other than the State in the same manner provided for payment by an employer other than the State of premiums or periodic charges for retired employees under P.L.1961, c.49 (C.52:14-17.25 et seq.).

3. For an employee of an employer other than the State participating in the Police and Firemen's Retirement System that elects to provide the benefits authorized under this act, who:

a. is at least 55 years of age and has at least 10, but less than 20, years of service credit under the PFRS before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, the employer shall pay an additional pension of \$500 per month in each of the 24 months following the date of retirement.

4. An employer other than the State may elect to provide the benefits under this act by the adoption of a resolution by its governing body, which is to be effective on the first day of a month, within one year of the effective date of this act, P.L.2003, c.130, and the filing of a certified copy of the resolution with the Director of the Division of Pensions and Benefits in the Department of the Treasury within three business days after its adoption. The governing body may elect to provide the benefits under this act one time only and the effective date of the resolution shall fall within the one-year period following the effective date of this act.

The employer shall submit to the director any information necessary to provide the benefits or to determine the liability for them.

5. The actuary for the PFRS shall determine the liability of the retirement system for the additional service credit or pensions provided under this act and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the board of trustees of the retirement system. This liability shall be added to the unfunded accrued liability of the employer under the retirement system and shall be paid by the employer over a period of 15 years in the same manner as provided for the employer's unfunded accrued liability of the retirement system under section 15 of P.L.1944, c.255 (C.43:16A-15). The employer may elect to pay this liability in full at any time.

The retirement system shall annually certify to each employer the contributions due to the pension accumulation fund for the liability under this act. The contributions certified by the retirement system shall be paid by the employer to the retirement system on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 15 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the fifteenth day.

The employer shall pay the cost of the actuarial work to determine the additional liability of the retirement system for the benefits under this act and that cost shall be included in the initial contribution required from the employer.

6. An employee who receives a benefit under this act shall forfeit all tenure rights.



7. When the needs of the employer require the service of an employee who elects to retire and receive a benefit under this act, the employer, with the approval of the governing body of the employer, and with the consent of the employee, may delay the effective retirement date of the employee until the first day of any calendar month after the third month after the effective date of the resolution adopted by the governing body of the employer pursuant to section 4 of this act, but not later than one year after that three-month period. A delay in the effective retirement date of an employee shall not extend the dates set forth in sections 1 through 3 of this act to qualify for benefits under this act.

For a member of the PFRS whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member if the member's beneficiary requests in writing to the board of trustees of the retirement system that the retirement be effective.

8. An employee purchasing service credit on or after the effective date of this act to qualify for a benefit under this act may purchase a portion of the credit that the employee is eligible to purchase.

9. For the purposes of this act, "employee" means a policeman or a fireman as defined in section 1 of P.L.1944, c.255 (C.43:16A-1).

The employers and employees covered by this act shall not include Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, or any State college or university, and their employees participating in the PFRS.

10. Prior to the end of the one-year period following the effective date of this act each employer covered by the provisions of this act shall meet and consult with the representatives of the bargaining unit or units representing the employees who would be eligible for benefits under this act.

11. The Director of the Division of Pensions and Benefits may promulgate rules and regulations that the director deems necessary for the effective implementation of this act.

12. Section 1 of P.L.2002, c.42 (C.40A:2-51.3) is amended to read as follows:

**C.40A:2-51.3 Issuance of refunding bonds by local government entity for certain ERI liabilities.**

1. Notwithstanding the provisions of N.J.S.40A:2-51 to the contrary, a county or municipality may incur indebtedness, borrow money, authorize and issue negotiable refunding bonds, in any amount determined to be necessary by the county or the municipality and approved by the Local

Finance Board to effect the refunding for the purpose of retiring the present value of the unfunded accrued liability for early retirement incentive benefits granted pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, P.L.1993, c.181, P.L.1993, c.99, P.L.1999, c.59, P.L.2003, c.128, and P.L.2003, c.130, in addition to the other purposes for which it may do the same under N.J.S.40A:2-51. The system actuary shall calculate the present value of the unfunded liability due and owing by the municipality or county on a date certain upon the request of the county or municipality. For purposes of this section, "county" means any county of any class and all boards or commissions organized under such county, including but not limited to welfare boards, boards of social services, park commissions and mosquito control authorities.

**C.52:14-17.32m Enrollment of certain PFRS retirees in SHBP.**

13. After the effective date of P.L.2003, c.130, a former employee of an employer participating in the Police and Firemen's Retirement System, P.L.1944, c.255 (C.43:16A-1 et seq.) who retires from employment with the employer pursuant to the provisions of section 2 of P.L.2003, c.130 in accordance with the action taken pursuant to section 4 of P.L.2003, c.130 and the former employee's dependents, may enroll in the State Health Benefits Program upon retirement, but not later than 60 days following retirement. The laws and regulations governing the program, except as provided in this section, are applicable to enrollment in the program under this section.

14. This act shall take effect immediately.

Approved July 14, 2003.

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## CHAPTER 131

AN ACT concerning highway safety, and amending and supplementing various parts of the statutory law.

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

1. Section 1 of P.L.1993, c.332 (C.39:4-203.5) is amended to read as follows:

**C.39:4-203.5 Offenses in area of highway construction, repair or designated safe corridor.**

1. a. For the purposes of this act:

"Area of highway construction or repair" means that segment of any highway which is identified by properly posted traffic control devices or signs

as undergoing construction, reconstruction, repair, or maintenance operation. An area of highway construction or repair shall consist of that area between the first traffic control device or sign informing motor vehicle operators of their approaching highway construction or repair and the last traffic control device or sign indicating all restrictions are removed and normal motor vehicle operations may resume.

"Highway" means any highway under the jurisdiction of the State Department of Transportation, a county, a municipality or a toll road authority.

"Safe corridor" or "safe corridor area" means a segment of highway under the jurisdiction of the Department of Transportation which, based upon accident rates, fatalities, traffic volume and other highway traffic safety criteria, is identified by the Commissioner of Transportation as a segment warranting designation as a "safe corridor."

"Toll road authority" means the New Jersey Turnpike Authority, the New Jersey Highway Authority, or the South Jersey Transportation Authority.

b. The fine for a motor vehicle offense embodied in the following sections of statutory law, when committed in an area of highway construction or repair, or when committed in a designated safe corridor, shall be double the amount specified by law:

Subsection b. of R.S.39:3-20;

R.S.39:4-52;

R.S.39:4-57;

R.S.39:4-71;

R.S.39:4-80;

R.S.39:4-81;

R.S.39:4-82;

R.S.39:4-83;

R.S.39:4-84;

R.S.39:4-85;

R.S.39:4-86;

R.S.39:4-88;

R.S.39:4-89;

R.S.39:4-90;

R.S.39:4-96;

R.S.39:4-97;

R.S.39:4-98;

R.S.39:4-99;

R.S.39:4-105;

R.S.39:4-115;

R.S.39:4-119;

R.S.39:4-122;

R.S.39:4-123;

R.S.39:4-124;  
R.S.39:4-125;  
R.S.39:4-127;  
R.S.39:4-129;  
R.S.39:4-144;  
P.L.1955, c.217 (C.39:5C-1);  
Section 48 of P.L.1951, c.23 (C.39:4-66.1);  
Section 41 of P.L.1951, c.23 (C.39:4-82.1);  
Section 51 of P.L.1951, c.23 (C.39:4-90.1);  
Section 1 of P.L.2000, c.75 (C.39:4-97.2);  
Section 6 of P.L.1997, c.415 (C.39:4-98.7);  
Section 5 of P.L.1951, c.264 (C.27:23-29);  
Section 18 of P.L.1952, c.16 (C.27:12B-18); and  
Section 21 of P.L.1991, c.252 (C.27:25A-21).

When an area of highway construction or repair is within a safe corridor, the fine for a motor vehicle offense embodied in the preceding sections of statutory law shall be doubled only once. When a safe corridor is within an area of highway construction or repair, the fine for a motor vehicle offense embodied in the preceding sections of statutory law shall be doubled only once. Fines for violation of section 6 of P.L.1997, c.415 (C.39:4-98.7) in a safe corridor or an area of highway construction or repair shall be doubled only once. Notwithstanding any other provision of law, the increase from the doubled fines imposed and collected in designated safe corridor areas shall be forwarded by the person to whom they are paid to the State Treasurer, who shall annually deposit those moneys in the "Highway Safety Fund" established pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

c. (1) Signs designed in compliance with the specifications of the Department of Transportation or, if appropriate, the toll road authority having jurisdiction over the appropriate highway, shall be appropriately placed, by order of the Commissioner of Transportation, the appropriate local official, or the affected toll road authority, as the case may be, to notify drivers approaching areas of highway construction or repair, or designated safe corridor areas, that the fines are doubled for motor vehicle offenses in those areas.

(2) In addition, all traffic control signs and devices erected or displayed by the State Department of Transportation, a county, a municipality or a toll road authority within an area of highway construction or repair or safe corridor area shall conform to the uniform system specified in the most current "Manual on Uniform Traffic Control Devices for Streets and Highways," prepared by the Federal Highway Administration in the United States Department of Transportation.

d. It shall not be a defense to the imposition of the fines authorized under the provisions of this act that a sign notifying drivers who are approaching highway construction or repair areas, or designated safe corridor areas, that fines are doubled for motor vehicle offenses in those areas was not posted, improperly posted, wrongfully removed or stolen, or that signs or devices were not placed in compliance with the most current "Manual on Uniform Traffic Control Devices for Streets and Highways" as required pursuant to paragraph (2) of subsection c. of this section.

e. The director shall include information concerning the penalties imposed pursuant to this act in any subsequent revision of the New Jersey Driver Manual and the New Jersey Motorist Guide.

f. Safe corridor areas shall be designated by traffic order issued pursuant to P.L.1998, c.28 (C.39:4-8.2 et seq.).

2. Section 5 of P.L.1983, c.401 (C.39:5B-29) is amended to read as follows:

**C.39:5B-29 Violations, penalties.**

5. a. Any person who violates the provisions of this act or any rule or regulation adopted pursuant thereto shall be subject to a penalty of not less than \$100 nor more than \$5,000.00 for the first offense, nor less than \$200 nor more than \$10,000.00 for the second offense, nor less than \$500 nor more than \$25,000.00 for the third or any subsequent offense. Notwithstanding any other provision of law, 50 percent of the penalty moneys collected pursuant to this paragraph shall be deposited into the "Highway Safety Fund" created pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

The complaint and summons shall state whether the charges pertain to a first offense, or to a second or subsequent offense, but if the complaint or summons fails to allege a second or subsequent offense, the penalty imposed shall be for a first offense. The penalty may be reduced to \$25 for a first offense, \$50 for a second offense, and \$125 for a third and subsequent offense for a non-out-of-service equipment violation if the defendant provides proof of repair to the vehicle that is satisfactory to the court. Proof that the violation has been corrected shall be by a document certifying that the non-out-of-service equipment violation has been corrected. The Division of State Police, a diesel emissions inspection center licensed by the New Jersey Motor Vehicle Commission, a certified fleet mechanic approved by the New Jersey Motor Vehicle Commission, or any other entity approved by the New Jersey Motor Vehicle Commission shall be authorized to issue the requisite certifying documentation. The Division of State Police may, in its discretion, designate times and locations where a defendant may bring a vehicle for an inspection pursuant to which a requisite certifying document may be issued. Nothing in this act shall be construed as requiring the Division of State Police to

conduct a vehicle inspection pursuant to which a requisite certifying document may be issued other than at the time and locations as the Division of State Police may provide.

Repairs to effect a reduction of penalty under the provisions of this section shall be made before the hearing date. A defendant may be permitted to submit the certification of repairs by mail; provided that if the court deems the certification to be inadequate, it shall afford the defendant the option to withdraw the defendant's guilty plea.

The Department of Transportation is authorized to adopt a schedule of penalties for any specific violation of P.L.1983, c.401 (C.39:5B-25 et seq.) or any rule or regulation adopted pursuant thereto. A penalty imposed pursuant to this act may be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or in a summary proceeding before a court of competent jurisdiction wherein injunctive relief has been sought. The State Police and police officers of the Port Authority of New York and New Jersey may issue a summons and complaint returnable in a municipal court or other court of competent jurisdiction for violations of P.L.1983, c.401 (C.39:5B-25 et seq.) and this amendatory and supplementary act or any rule or regulation adopted pursuant thereto. In addition to the jurisdiction conferred by the "Penalty Enforcement Law of 1999," the Law and Chancery Divisions of the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalties provided in this act. The various municipal courts shall have jurisdiction of proceedings for the enforcement of penalties under \$5,000.00 provided in P.L.1983, c.401 (C.39:5B-25 et seq.).

b. Penalties imposed pursuant to this act shall in no way reduce or otherwise limit the liability of any person, pursuant to the laws of this State, for cleanup costs or other damages arising from a discharge of hazardous materials.

c. The Superintendent of the State Police, police officers of the Port Authority of New York and New Jersey and personnel of the Department of Transportation and of the Department of Environmental Protection duly authorized by the superintendent may, in addition to seeking a civil penalty, seek injunctive relief in the Chancery Division, General Equity Part of the Superior Court as to any person found to have violated any provision of P.L.1983, c. 401 (C. 39:5B-25 et seq.) or this amendatory and supplementary act or any rule or regulation adopted pursuant to either.

d. (Deleted by amendment, P.L.2003, c.131).

3. R.S.39:5-30 is amended to read as follows:

**Suspension, revocation of registration, license certificates.**

39:5-30. a. Every registration certificate, every license certificate, every privilege to drive motor vehicles, including commercial motor vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al.), every endorsement, class of license, and commercial driver's license, may be suspended or revoked, and any person may be prohibited from obtaining a driver's license or a registration certificate, or disqualified from obtaining any class of or endorsement on a commercial driver's license, and the reciprocity privilege of any nonresident may be suspended or revoked by the director for a violation of any of the provisions of this Title or on any other reasonable grounds, after due notice in writing of such proposed suspension, revocation, disqualification or prohibition and the ground thereof.

He may also summon witnesses to appear before him at his office or at any other place he designates, to give testimony in a hearing which he holds looking toward a revocation of a license or registration certificate issued by or under his authority. The summons shall be served at least five days before the return date, either by registered mail or personal service. A person who fails to obey the summons shall be subject to a penalty not exceeding \$100.00, to be recovered with costs in an action at law, prosecuted by the Attorney General, and in addition the vehicle registration or driver's license, or both, as the case may be, shall forthwith be revoked. The fee for witnesses required to attend before the director shall be \$1.00 for each day's attendance and \$0.03 for every mile of travel by the nearest generally traveled route in going to and from the place where the attendance of the witness is required. These fees shall be paid when the witness is excused from further attendance, and the disbursements made from payment of the fees shall be audited and paid in the manner provided for expenses of the department. The actual conduct of said hearing may be delegated by the director to such departmental employees as he may designate, in which case the said employees shall recommend to the director in writing whether the said licenses or certificates shall or shall not be suspended or revoked.

b. Whenever a matter is presented to the director involving an alleged violation of

- (1) R.S.39:4-98, where an excess of 20 miles per hour over the authorized speed limit is alleged, and which has resulted in the death of another;
- (2) R.S.39:4-50, and which has resulted in the death of another;
- (3) R.S.39:4-96, and which has resulted in the death of another; or
- (4) R.S.39:4-129, wherein the death of another has occurred, and the director has not determined to immediately issue a preliminary suspension pursuant to subsection e. of this section, the director shall issue a notice of proposed final suspension or revocation of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized

bicycle held by the individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State.

In the notice, the director shall provide the individual charged with an opportunity for a plenary hearing to contest the proposed final suspension, revocation or other final agency action. Unless the division receives, no later than the 10th day from the date the notice was mailed, a written request for hearing, the proposed final agency action shall take effect on the date specified in the notice.

Upon receipt of a timely request for a plenary hearing, a preliminary hearing shall be held by an administrative law judge within 15 days of the receipt of the request. The preliminary hearing shall be for the purpose of determining whether, pending a plenary hearing on the proposed final agency action, a preliminary suspension shall be immediately issued by the judge. Adjournment of such hearing upon motion by the individual charged shall be given only for good cause shown.

At the preliminary hearing, the parties shall proceed on the papers submitted to the judge, including the summons, the police reports and the charged individual's prior driving record submitted by the division, and any brief affidavits permitted by the judge from persons who shall be witnesses at the plenary hearing, and the parties may present oral argument. Based on the papers, on any oral argument, on the individual's prior driving record, and on the circumstances of the alleged violation presented in the papers, the judge shall determine whether the individual was properly charged with a violation of the law and a death occurred; and, if so, whether in the interest of public safety, a preliminary suspension shall be immediately ordered pending the plenary hearing on the proposed suspension or revocation. The administrative law judge shall transmit his findings to the director.

A plenary hearing shall be held no later than the 45th day following the preliminary hearing. Adjournment of the hearing shall be given only for good cause shown. If the hearing is otherwise postponed or delayed solely at the instance of the individual charged, the administrative law judge shall immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege held by the individual charged, or if any such preliminary suspension or order is in effect, he shall continue such suspension or order. Such preliminary suspension or temporary order shall remain in effect pending a final agency decision on the matter. If the hearing is otherwise postponed or delayed at the instance of anyone other than the individual charged, the judge shall immediately issue an order restoring the individual's license certificate or any nonresident reciprocity privilege pending final agency decision in the matter. The period of any preliminary suspension



imposed under this section shall be deducted from any suspension imposed by the final agency decision in the matter.

c. Whenever any other matter is presented to the director involving an alleged violation of this title, wherein the death of another occurred and for which he determines immediate action is warranted, he may proceed in the manner prescribed in subsection b. above.

d. Whenever a fatal accident occurs in this State, an investigation of the incident, whether performed by the State Police or by local police, shall be completed and forwarded to the director within 72 hours of the time of the accident.

e. Whenever a matter is presented to the director involving an alleged violation of

(1) R.S.39:4-98, where an excess of 20 miles per hour over the authorized speed limit is alleged, and which has resulted in the death or serious bodily injury of another;

(2) R.S.39:4-50, which has resulted in the death or serious bodily injury of another;

(3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death or serious bodily injury of another; or

(4) R.S.39:4-129, wherein the death or serious bodily injury of another has occurred, the director for good cause may, without hearing, immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized bicycle held by an individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State. For purposes of this subsection, "serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Along with the notice of preliminary suspension, the director shall issue a notice of proposed final suspension, revocation or other final agency action, and shall afford the individual the right to a preliminary hearing to contest the preliminary suspension and a plenary hearing to contest the proposed final agency action.

The preliminary suspension shall remain in effect pending a final agency decision on the proposed final agency action, unless a request for a preliminary hearing is received by the division no later than the 10th day from the date on which the notice was mailed. The proposed final agency action shall take effect on the date specified in the notice unless a request for a plenary hearing is received by the division no later than the 10th day from the date on which the notice was mailed.

Upon timely request by the individual, a preliminary hearing shall be held by an administrative law judge, no later than the 15th day from the date on

which the division receives the request. The preliminary hearing shall be for the purpose of determining whether, pending a final agency decision on the matter, the preliminary suspension issued by the director shall remain in effect. Adjournment of the hearing shall be given only for good cause shown. If the preliminary hearing is otherwise postponed or delayed solely at the instance of someone other than the individual charged, the judge shall immediately order that the individual's license certificate or any nonresident reciprocity privilege be restored pending the rescheduled preliminary hearing.

At the preliminary hearing, the parties shall proceed on the papers submitted to the judge, including the summons, the police reports and the charged individual's prior driving record submitted by the division, and any brief affidavits permitted by the judge from persons who shall be witnesses at the final hearing, and the parties may present oral arguments. Based on the papers, on any oral argument, on the individual's prior driving record, and on the circumstances of the alleged violation presented in the papers, the judge shall immediately determine whether the individual was properly charged with a violation of the law and a death occurred; and, if so, whether in the interest of public safety, the preliminary suspension shall be continued pending the final agency decision on the matter. The administrative law judge shall transmit his findings to the director.

Any plenary hearing to contest the proposed final agency action shall conform to the requirements for a plenary hearing contained in subsection b. of this section.

f. In addition to any other final agency action, the director shall require any person whose privileges to operate a motor vehicle or motorized bicycle are suspended or who has been prohibited from obtaining a license, pursuant to this section, to be reexamined to determine the person's ability to operate a motor vehicle or motorized bicycle, prior to regaining or obtaining any driving privileges in this State.

Any determination resulting from any preliminary or plenary hearing held pursuant to subsection b., c., or e. of this section shall not be admissible at any criminal or quasi-criminal proceedings on the alleged violation or violations.

g. In addition to any other requirements imposed by statute or regulation, as a condition for the restoration of a revoked or suspended license issued under the provisions of the "New Jersey Commercial Driver License Act," P.L.1990, c.103 (C.39:3-10.9 et seq.), the person whose commercial driving privileges are revoked or suspended shall successfully complete a commercial driver improvement program. The director, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations prescribing the scope and content of the program, the qualifications of third parties that may offer a commercial

driver improvement program, a fee schedule for persons attending a commercial driver improvement program and such other matters as the director may deem appropriate and necessary. The successful completion of a commercial driver improvement program pursuant to this subsection shall not entitle a person to any reduction in the points assessed and recorded under P.L.1982, c.43 (C.39:5-30.5 et seq.). In addition, the director may also require a person holding a commercial driver's license pursuant to P.L.1990, c.103 (C.39:3-10.9 et seq.) who receives 12 or more points during a 24-month period to complete a commercial driver improvement program successfully or face full suspension of the commercial driver's license driving privilege.

**C.39:3-20.3 Weight limit for vehicles registered out-of-State; violations, penalties, fines.**

4. It shall be unlawful for any vehicle or combination of vehicles registered as a commercial motor vehicle by another state or jurisdiction to operate on the highways of this State if it has a gross weight, including load or contents, which is in excess of the gross weight limit permitted on the registration certificate issued for it by that other state or jurisdiction.

The owner, lessee or bailee of any vehicle or combination of vehicles that is found or operated on any public road, street or highway or on any public or quasi-public property in this State with a gross weight in excess of the weight limitation permitted by the certificate of registration issued for it by that other state or jurisdiction shall be assessed a penalty of \$500 plus an amount equal to \$100 for each 1,000 pounds or fractional portion of 1,000 pounds of weight in excess of the weight limitation permitted by that certificate of registration.

For the purposes of enforcement, a vehicle or combination of vehicles for which there is no valid certificate of registration shall be deemed to have been registered for zero pounds.

All fines, penalties and forfeitures imposed and collected in the enforcement of this section shall be forwarded by the person to whom they are paid to the State Treasurer, who shall annually deposit those moneys in the "Highway Safety Fund" established pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

**C.39:3-20.4 "Highway Safety Fund."**

5. There is established in the General Fund a separate, nonlapsing, dedicated account to be known as the "Highway Safety Fund." All fines, penalties and forfeitures imposed and collected as a result of the enforcement of section 4 of P.L.2003, c.131 (C.39:3-20.3) and 50 percent of all fines and penalties imposed and collected in enforcement of section 5 of P.L.1983, c.401 (C.39:5B-29), and the increase from the doubling of fines imposed and collected pursuant to section 1 of P.L.1993, c.332 (C.39:4-203.5) in designated safe corridor areas shall be forwarded to the State Treasurer for

deposit into the Highway Safety Fund account. The fund shall be administered by the Department of Transportation which shall establish a grant program to fund local law enforcement agencies for special enforcement efforts associated with this act. The department shall annually, in conjunction with the Division of State Police, submit a report on the results of the safe corridor areas and a list of highway safety projects and programs paid for by the fund within the past year to the Senate Transportation Committee and the Assembly Transportation Committee, the President and minority leader of the Senate, and the Speaker and the minority leader of the General Assembly. The moneys in the account shall be used exclusively for highway safety projects and programs, including education, enforcement, capital improvements and such other related measures and undertakings as the Department of Transportation and the Division of State Police may deem appropriate to foster highway safety.

6. This act shall take effect on the 15th day of the seventh month following enactment, except that section 3 of this act shall take effect on the 15th day of the 10th month following enactment. The Department of Transportation, the New Jersey Motor Vehicle Commission, the Administrative Office of the Courts, the Department of Law and Public Safety and other relevant agencies may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved July 15, 2003.

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## CHAPTER 132

AN ACT creating the "Statewide Tuition Waiver Program" for certain students under the care or custody of the State and supplementing P.L. 1951, c.138 (C.30:4C-1 et seq.).

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

**C.30:4C-101 "Tuition" defined.**

1. As used in this act:

"Tuition" means the charges imposed by a New Jersey public institution of higher education or county vocational school providing post-secondary vocational education, for enrollment at the institution or school.

**C.30:4C-102 "State Tuition Waiver Program."**

2. There is created in the Department of Human Services the "Statewide Tuition Waiver Program." The purpose of the program is to provide State-

paid tuition to children who have been under the care and custody of the Division of Youth and Family Services pursuant to section 11 of P.L.1951, c.138 (C.30:4C-11), and who are interested in pursuing a college or post-secondary vocational education at a public institution of higher education or county vocational school in this State.

**C.30:4C-103 Eligibility requirements for program.**

3. a. A child shall be eligible to qualify for the program if the child meets the following requirements at the time of the initial application to the Commissioner of Human Services for a tuition waiver pursuant to subsection b. of this section:

- (1) the child is 16 to 23 years of age;
- (2) the child:

(a) has been in the care and custody of the Division of Youth and Family Services in the Department of Human Services for a period of nine months or more following the child's sixteenth birthday;

(b) is or has been residing in an independent living arrangement, or a transitional living program established pursuant to P.L.1999, c.224 (C.9:12A-2 et seq.), operated or approved for payment by the division; or

(c) is or has been residing in a transitional living program located in the State of New Jersey and approved for payment by the federal government pursuant to the federal "Runaway and Homeless Youth Act," Title III of Pub.L.93-415 (42 U.S.C.A. s.5701 et seq.);

(3) the child has received a high school diploma or a certificate of high school equivalency; and

(4) the child has been granted admission to a New Jersey public institution of higher education or county vocational school.

b. A child who meets the eligibility requirements listed in this section may apply to the Commissioner of Human Services for a tuition waiver in a form and manner prescribed by the commissioner.

c. Upon receipt of an application, the Commissioner of Human Services shall review the application and if the child meets the program eligibility requirements, the commissioner shall approve the application and notify the appropriate New Jersey public institution of higher education or county vocational school that the child qualifies for a tuition waiver.

d. Eligibility for the program shall be limited to five years from the date the child applied to the Commissioner of Human Services for a tuition waiver pursuant to subsection b. of this section.

e. Each child approved for the program shall be required to enroll in a full-time degree, diploma or certificate program or course of undergraduate study and retain satisfactory academic progress during the time the child qualifies for a tuition waiver.

**C.30:4C-104 Application procedure, maximum benefit.**

4. The applicant shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for State and federal financial aid programs. If the sum of the tuition waiver plus other federal, State and institutional student financial assistance, except loans, exceeds the total cost of the child's tuition, the tuition waiver shall be reduced by the amount exceeding that cost.

**C.30:4C-105 Rules, regulations.**

5. Subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Human Services, in consultation with the Higher Education Student Assistance Authority shall adopt rules and regulations to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved July 17, 2003.

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**CHAPTER 133**

AN ACT concerning certain medical school clinical clerkships and supplementing P.L.1977, c.390 (C.18A:64H-1 et seq.).

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

**C.18A:64H-9 "Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships".**

1. a. There is created, within the Commission on Higher Education, the "Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships."

The advisory committee shall consist of 11 members as follows: the Commissioner of Health and Senior Services or his designee, who shall serve ex officio; four members appointed by the Governor who include one representative of the Medical Society of New Jersey, one representative of the New Jersey Association of Osteopathic Physicians and Surgeons, one representative of the New Jersey Hospital Association and one representative of an alternatively accredited medical school; two members appointed by the President of the Senate who include one representative of the New Jersey Council of Teaching Hospitals and one representative of a teaching hospital in New Jersey that has students from an alternatively accredited medical school participating in a clinical clerkship program; two members appointed by the Speaker of the General Assembly who include one representative of

an alternatively accredited medical school and one representative of a teaching hospital in New Jersey that has students from a medical school of the University of Medicine and Dentistry of New Jersey in a clinical clerkship program; one member appointed by the State Board of Medical Examiners; and one member appointed by the President of the University of Medicine and Dentistry of New Jersey. No two members of the advisory committee shall be representatives of the same medical school or hospital.

b. Members shall serve for a term of three years from the date of their appointment and until their successors are appointed and qualified, except that of the members first appointed, four members shall serve for a term of one year, three members shall serve for a term of two years and three members shall serve for a term of three years. Vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointments were made. A member of the advisory committee shall be eligible for reappointment.

c. The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses actually incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the advisory committee for this purpose.

d. The advisory committee shall select a chairman from among its members, who shall serve a one-year term but may serve successive terms. The advisory committee shall meet upon the call of the chairman or of a majority of its members. A majority of the members of the advisory committee shall constitute a quorum, and no action of the advisory committee shall be taken except upon the affirmative vote of a majority of the members of the entire advisory committee.

e. As used in this act, "alternatively accredited medical school" means a medical school located outside the United States: (1) in a country that applies accreditation standards that have been determined by the National Committee on Foreign Medical Education and Accreditation within the United States Department of Education to be comparable to the accreditation standards applied to medical schools located within the United States; (2) that continues to meet the accreditation standards of that country; and (3) has medical school students participating in a clinical clerkship program in New Jersey prior to the effective date of this act, or is approved by the Advisory Graduate Medical Education Council of New Jersey pursuant to section 4 of this act to operate a clinical clerkship program in this State.

**C.18A:64H-10 Duties of committee.**

2. The Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships shall:

- a. Recommend standards for appropriate facilities to be used in clinical clerkship programs operated by an alternatively accredited medical school;
- b. Make recommendations as to the number and type of clinical clerkship programs that may be directed by an alternatively accredited medical school at a teaching hospital in this State, based upon the capacity of that hospital and the health care needs of the community in which the hospital is located;
- c. Review the clinical clerkship programs operated by alternatively accredited medical schools in this State, and prepare a report which shall include, but not be limited to, a description and analysis of:

- (1) the teacher to student ratio, the resident to clinical clerkship student ratio and the capacity of each teaching hospital operating a clinical clerkship program;

- (2) the number and type of clerkship positions that are filled and the number and type of clerkship positions that are requested by alternatively accredited medical schools;

- (3) the number of alternatively accredited medical school graduates who participated in clinical clerkships in the State and have attained residencies in New Jersey;

- (4) the types and locations of residencies accepted by clinical clerkship students, identifying types and locations of residencies accepted by students of alternatively accredited medical schools and of medical schools located within the United States;

- (5) the degree of success of the clinical clerkship programs operated by alternatively accredited medical schools as measured by the use of the same criteria as published in the Journal of the American Medical Association annual education report; and

- (6) any recommendations to the Legislature, including any proposed legislation, which it may desire to recommend for enactment; and

- d. Make recommendations to the Advisory Graduate Medical Education Council of New Jersey with respect to the operation of clinical clerkship programs operated by alternatively accredited medical schools at teaching hospitals in this State.

**C.18A:64H-11 Existing clinical clerkship programs continued.**

3. An alternatively accredited medical school that is operating a clinical clerkship program on the effective date of this act is authorized to continue its existing clinical clerkship program, provided it maintains its accreditation status as provided in subsection e. of section 1 of this act.

**C.18A:64H-12 Regulations relative to medical schools located outside the U.S.**

4. a. A medical school located outside of the United States: (1) in a country that applies accreditation standards that have been determined by the National Committee on Foreign Medical Education and Accreditation



within the United States Department of Education to be comparable to the accreditation standards applied to medical schools located within the United States; and (2) that continues to meet the accreditation standards of that country, but is not an alternatively accredited medical school on the effective date of this act, as that term is defined in this act, may apply to the Advisory Graduate Medical Education Council of New Jersey, pursuant to this section, to be approved to operate a clinical clerkship program in this State.

b. The council shall adopt regulations specifying the criteria for approval of a foreign medical school to operate a clinical clerkship program in the State. The criteria shall include, but not be limited to, satisfactory evaluation, pursuant to a site visit, of the applicant's institution, including both its main campus and any clinical facilities in locations other than the main campus.

c. The applicant shall be responsible for all costs incurred by persons designated by the council, who are experienced in medical education program evaluation, for conducting the site visit, and by the council for reviewing and processing the application.

d. After a medical school is approved by the council to operate a clinical clerkship program, it may apply to the council for authorization to operate a specific clinical clerkship program in this State, in accordance with standards adopted by the council. The standards shall include, but not be limited to, those standards listed in paragraphs (1) through (9) of subsection b. of section 5 of this act.

e. A medical school that has been approved by the council, pursuant to this act, to operate a specific clinical clerkship program in this State shall be deemed an alternatively accredited medical school for the purposes of this act, provided it maintains its accreditation status as provided in subsection e. of section 1 of this act.

f. A medical school authorized to operate a specific clinical clerkship program pursuant to this section may apply to the council to increase the number of students participating in the clinical clerkships or to increase the number of programs operated by the school, pursuant to the requirements of section 5 of this act.

**C.18A:64H-13 Review of applications, conditions for approval.**

5. The Advisory Graduate Medical Education Council of New Jersey shall review each application made by an alternatively accredited medical school to increase the number of students participating in clinical clerkships or to increase the number of programs operated by the school. The application shall be made in a form and manner prescribed by the council.

a. The council shall notify the applicant, in writing, of the approval or disapproval of an application within 90 days; except that, if the council determines that the application is not complete or additional information is

required before the council can make a determination, the council shall notify the applicant in writing and shall have an additional 90 days after receipt of the requested information to approve or disapprove the application. If the council does not affirmatively approve or disapprove the application, or request additional information concerning the application, within 90 days of its submission, the application shall be deemed approved.

b. The council shall approve an application if the applicant demonstrates that it meets the registration standards comparable to those promulgated by the Liaison Committee on Medical Education, which include, but are not limited to: (1) a requirement that a medical student who will participate in a clinical clerkship program shall have successfully completed the United States Medical Licensing Examination - Step 1; (2) the hospital is accredited by the Joint Commission on Accreditation of HealthCare Organizations; (3) the clinical clerkship program shall take place in a hospital with an approved Accreditation Council for Graduate Medical Education or American Osteopathic Association residency training program in the clinical area of instruction for which credit is sought; (4) clinical instruction shall be supervised by a Director of Medical Education; (5) clinical instruction shall be provided pursuant to a written agreement that includes a written curriculum for each individual clinical subject; (6) the hospital shall insure that there is a minimum daily census in each clerkship area that will meet the instructional needs of the clinical subject; (7) the hospital shall have on the premises a library facility that has adequate resources to support clinical clerkships in each core area; (8) each department chair shall be board certified in the specialty area in his department; and (9) the hospital shall ensure a ratio of no less than one medical resident for every two clinical clerkship students.

c. If the council disapproves the application, the notification of disapproval shall specify each deficiency, including the reason the applicant failed to meet the registration standards, and shall provide information on remedial steps that applicant must take to meet the standard. An applicant shall be provided the opportunity to submit evidence of remediation, within a time period specified by the council.

d. The applicant shall be responsible for all costs incurred by the council for reviewing and processing the application.

**C.18A:64H-14 Procedures when clinical clerkship student rejected by teaching hospital.**

6. Notwithstanding the provisions of this act to the contrary, if a State-funded institution of higher education and an alternatively accredited medical school both operate clinical clerkship programs at a teaching hospital with an institutional academic clinical clerkship agreement with that State-funded institution of higher education:

a. Upon a showing by a State-funded institution of higher education that one or more of its clinical clerkship students has been rejected by that teaching hospital because the hospital's clinical clerkship positions were filled to capacity, the alternatively accredited medical school shall take immediate steps to withdraw a corresponding number of its students from its clinical clerkship program at the hospital so that the students at the State-funded institution are able to secure clerkship positions at that hospital.

In the event that its students have been rejected by a hospital pursuant to this subsection, the State-funded institution of higher education shall provide the Advisory Graduate Medical Education Council of New Jersey with a letter from the hospital, which states that the hospital's clinical clerkship program is filled to capacity; or

b. If a State-funded institution of higher education receives notice from the Liaison Committee on Medical Education, in the course of its standard four-year review, that the committee finds that such hospital does not have the capacity to support all of the clinical clerkship positions or programs that are currently operating at the hospital and the accreditation status of the State-funded institution may be in jeopardy because of the lack of capacity at that hospital, the alternatively accredited medical school shall take immediate steps to withdraw its students from its clinical clerkship program at the hospital.

In the event that the committee provides such notice to the State-funded institution, the institution shall provide the Advisory Graduate Medical Education Council of New Jersey with a letter from the committee stating the committee's findings.

c. If an alternatively accredited medical school is required to withdraw any of its students from such hospital pursuant to subsection a. or b. of this section, the school shall not be permitted to increase the number of students participating in the school's clinical clerkship program at that hospital until such time as the school provides a letter from the hospital or the committee, as appropriate, which states that the hospital has sufficient capacity to absorb the increase without jeopardizing existing clinical clerkship programs at that hospital operated by the State-funded institution. Upon providing the letter to the Advisory Graduate Medical Education Council of New Jersey, the school may apply to increase the number of students participating in the clerkship program in accordance with the provisions of this act.

**C.18A:64H-15 Regulations.**

7. The Commission on Higher Education, in consultation with the Advisory Graduate Medical Education Council of New Jersey, shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the purposes of this act.

8. This act shall take effect 180 days after enactment.

Approved July 24, 2003.

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## CHAPTER 134

AN ACT appropriating \$6,036,777 from the "Garden State Historic Preservation Trust Fund" for the purpose of providing grants, as awarded by the New Jersey Historic Trust, for certain historic preservation projects.

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

1. a. There is appropriated from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of P.L.1999, c.152 (C.13:8C-21), to the New Jersey Historic Trust the sum of \$5,635,927 for the purpose of providing capital preservation grants, as awarded by the New Jersey Historic Trust, for historic preservation projects listed in this subsection. The following projects are eligible for funding with the moneys appropriated pursuant to this subsection:

County	Municipality	Name of Organization	Project Name	Grant Award
Bergen	Demarest Boro	Demarest Boro	Demarest Railroad Station	\$176,406
Bergen	Ho-Ho-Kus Boro	Friends of the Hermitage	The Hermitage	15,174
Bergen	Mahwah Twp	Ramapo Reformed Church	Ramapo Reformed Church	46,980
Bergen	Woodcliff Lake Boro	Woodcliff Lake Boro	Westervelt-Lydecker House/Driscoll Residence	50,000
Bergen	Wyckoff Twp	Wyckoff Reformed Church	Wyckoff Reformed Church	114,991
Burlington	Eastampton Twp	Burlington County	Smithville Park	750,00
Burlington	Mount Laurel Twp	Alice Paul Centennial Foundation	Paulsdale	199,361
Burlington	Southampton Twp	Pinelands Preservation Alliance	Bishop-Irick Farmstead/Drowsey Tree Farm	23,655

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Hunterdon	Flemington Boro	Hunterdon County	Hunterdon County Courthouse	750,000
Monmouth	Middletown Twp	Monmouth County	Seabrook Wilson House	574,378
Monmouth	Millstone Twp	Millstone Twp	Clarksburg School	399,647
Monmouth	Red Bank Boro	Women's Club of Red Bank	Anthony Reckless Estate	35,549
Morris	Chester Twp	Morris County Park Commission	Gardens at Bamboo Brook	750,000
Morris	Dover Town	St. John's Episcopal Church	St. John's Episcopal Church	32,193
Morris	Mendham Boro	Mendham Boro	The Phoenix House	280,468
Morris	Parsippany - Troy Hills Twp	Stickley Museum	Craftsman Farms	299,763
Passaic	Wayne Twp	Wayne Twp	Schuyler-Colfax House Museum	184,170
Somerset	Somerville Boro	Somerville Boro	Somerville Fire Museum	186,872
Somerset	Somerville Boro	St. John's Episcopal Church	St. John's Episcopal Church	750,000
Sussex	Sussex Boro	Tri-State	Crescent Theater Actors Theater	<u>16,320</u>
TOTAL				<u>\$ 5,635,927</u>

b. There is appropriated from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of P.L.1999, c.152 (C.13:8C-21), to the New Jersey Historic Trust the sum of \$400,850 for the purpose of providing historic site management grants, as awarded by the New Jersey Historic Trust, for historic preservation projects listed in this subsection. The following projects are eligible for funding with the moneys appropriated pursuant to this subsection:

County	Municipality	Name of Organization	Project Name	Grant Award
Burlington	Beverly City	St. Stephen's Episcopal Church	St. Stephen's Episcopal Church	\$43,375
Burlington	Springfield Twp	Mount Holly Meeting/Society of Friends	Arney's Mount Meeting House	7,312
Burlington	Mount Holly Twp	Mount Holly Twp	Mount Holly Mill Race Way	29,250
Burlington	Pemberton Twp	Whitesbog Preservation Trust	Whitesbog Farm	13,968

Cape May	Lower Twp	Naval Air Station Wildwood Foundation	Hanger No. 1, Cape May County Airport	33,917
Hunterdon	Lambertville City	Centenary United Methodist Church	Centenary United Methodist Church	10,759
Monmouth	Middletown Twp	Christ Episcopal Church	Christ Episcopal Church	46,500
Monmouth	Shrewsbury Boro	Monmouth County Historical Association	Allen House	38,805
Morris	Boonton Town	St. John's Episcopal Church	St. John's Episcopal Church	30,615
Passaic	Wayne Twp	Passaic County	Dey Mansion	36,000
Somerset	Bedminster Twp	Friends of the Vanderveer House	Jacobus Vanderveer House	16,590
Somerset	Montgomery Twp	Friends of Homeless Animals of Trenton-Mercer	James Van Zandt House	13,703
Somerset	Raritan Boro	Raritan Boro	Relief Hose Company No. 2 Engine House	47,431
Somerset	South Bound Brook Boro	South Bound Brook Historical Commission	Abraham Staats House	5,250
Sussex	Sussex Boro	Tri-State Actors Theater	Crescent Theater	<u>27,375</u>
TOTAL				<u>\$ 400,850</u>

c. Any transfer of any funds, or change in project sponsor, site, or type, listed in subsection a. or b. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

d. To the extent that moneys remain available after the projects listed in subsection a. or b. of this section are offered funding pursuant thereto, any project of a local government unit or qualifying tax exempt nonprofit organization that previously received funding for historic preservation purposes appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Historic Preservation Trust Fund, or that receives funding pursuant to this act or pursuant to P.L.2003, c.135, shall be eligible to receive additional funding, as determined by the New Jersey Historic Trust, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1987, c.265.

2. This act shall take effect immediately.

Approved July 30, 2003.

## CHAPTER 135

AN ACT appropriating \$5,291,621 from the "Garden State Historic Preservation Trust Fund" for the purpose of providing grants, as awarded by the New Jersey Historic Trust, for certain historic preservation projects.

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

1. a. There is appropriated from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of P.L.1999, c.152 (C.13:8C-21), to the New Jersey Historic Trust the sum of \$5,001,083 for the purpose of providing capital preservation grants, as awarded by the New Jersey Historic Trust, for historic preservation projects listed in this subsection. The following projects are eligible for funding with the moneys appropriated pursuant to this subsection:

County	Municipality	Name of Organization	Project Name	Grant Award
Bergen	Rutherford Boro	Felician College	The Castle at Felician College	\$ 750,000
Camden	Camden City	Diocese of Camden	Cathedral of the Immaculate Conception	233,000
Camden	Camden City	Diocese of Camden	St. Joseph's Catholic Church	454,355
Camden	Pine Hill Boro	Pine Hill Boro	Tomlinson House	102,282
Cumberland	Commercial Twp	Delaware Bay Project	Bivalve Packing Houses and Docks	600,000
Essex	Newark City	Ahavas Sholom	Ahavas Sholom	103,128
Essex	Newark City	Mount Pleasant Cemetery	Mount Pleasant Cemetery	224,227
Essex	South Orange Village Twp	South Orange Historical and Preservation Society	Old Stone House	154,943
Essex	South Orange Village Twp	South Orange Village Twp	South Orange Fire Station	440,675
Hudson	Jersey City	Hudson County	Hudson County Courthouse	750,000

Mercer	Trenton City	Sacred Heart Church	Sacred Heart Church	282,953
Middlesex	New Brunswick City	Christ Episcopal Church	Christ Episcopal Church	416,391
Middlesex	Perth Amboy City	St. Peter's Episcopal Church	St. Peter's Episcopal Church	260,805
Middlesex	Piscataway Twp	Piscataway Twp	Metlar/Knapp/Bodine House	157,383
Union	Clark Twp	Clark Historical Society	Dr. William Robinson Plantation	<u>70,941</u>

TOTAL \$ 5,001,083

b. There is appropriated from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of P.L. 1999, c.152 (C.13:8C-21), to the New Jersey Historic Trust the sum of \$290,538 for the purpose of providing historic site management grants, as awarded by the New Jersey Historic Trust, for historic preservation projects listed in this subsection. The following projects are eligible for funding with the moneys appropriated pursuant to this subsection:

County	Municipality	Name of Organization	Project Name	Grant Award
Bergen	Edgewater Boro	Edgewater Boro	Edgewater Municipal Building	\$ 50,000
Camden	Collingswood Boro	Friends of the Collings-Knight House	Collings-Knight House	10,500
Cumberland	Bridgeton City	First Presbyterian Church	Old Broad Street Presbyterian Church	47,632
Essex	Glen Ridge Boro Twp	Glen Ridge Boro Twp	Glen Ridge Municipal Building	29,265
Hudson	Jersey City	Grace Church Van Vorst	Grace Church Van Vorst	23,625
Mercer	Trenton City	Masonic Temple Association	Trenton Masonic Temple	50,000
Middlesex	Piscataway Twp	Piscataway Twp	Metlar/Knapp/Bodine House	39,641
Middlesex	Woodbridge Twp	Woodbridge Twp	Barron Arts Center	9,000
Salem	Salem City	Mt. Pisgah African Methodist Episcopal Church	Mt. Pisgah African Methodist Episcopal Church	10,875
Union	Plainfield City	Crescent Avenue Presbyterian Church	Crescent Avenue Presbyterian Church	<u>20,000</u>
TOTAL				<u>\$ 290,538</u>



c. Any transfer of any funds, or change in project sponsor, site, or type, listed in subsection a. or b. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

d. To the extent that moneys remain available after the projects listed in subsection a. or b. of this section are offered funding pursuant thereto, any project of a local government unit or qualifying tax exempt nonprofit organization that previously received funding for historic preservation purposes appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Historic Preservation Trust Fund, or that receives funding pursuant to this act or pursuant to P.L.2003, c.134, shall be eligible to receive additional funding, as determined by the New Jersey Historic Trust, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1987, c.265.

2. This act shall take effect immediately.

Approved July 30, 2003.

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## CHAPTER 136

AN ACT exempting rentals between certain closely related business entities from the sales and use tax, supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).

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

**C.54:32B-8.53 Rentals between certain closely related business entities, exemption.**

1. a. Receipts from the rental of tangible personal property, on which sales tax was paid or use tax obligations have been satisfied, between related persons, not engaged in the regular trade or business of renting that property to other persons, are exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. For the purposes of this section, "related persons" means persons that are 80% or more owned by each other or that are 80% or more owned by the same third parties.

2. This act shall take effect immediately but remain inoperative until the first day of the third month following enactment.

Approved August 1, 2003.

## CHAPTER 137

AN ACT concerning victims of sexual assault and supplementing chapter 14 of Title 2C of the New Jersey Statutes.

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

**C.2C:14-2.1 Victim of sexual assault may consult with prosecutor on plea negotiations.**

1. Whenever there is a prosecution for a violation of N.J.S.A.2C:14-2, the victim of the sexual assault shall be provided an opportunity to consult with the prosecuting authority prior to the conclusion of any plea negotiations.

Nothing contained herein shall be construed to alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate.

2. This act shall take effect immediately.

Approved August 1, 2003.

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CHAPTER 138

AN ACT concerning powers of attorney and supplementing Title 46 of the Revised Statutes.

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

**C.46:2B-8.13a Power of attorney; gift of principal's property; prohibited.**

1. A power of attorney shall not be construed to authorize the attorney-in-fact to gratuitously transfer property of the principal to the attorney-in-fact or to others except to the extent that the power of attorney expressly and specifically so authorizes. An authorization in a power of attorney to generally perform all acts which the principal could perform if personally present and capable of acting, or words of like effect or meaning, is not an express or specific authorization to make gifts.

2. This act shall take effect on the 180th day following enactment and shall apply only to powers of attorney executed on or after the effective date.

Approved August 1, 2003.

## CHAPTER 139

AN ACT concerning certain federal law enforcement officers and amending P.L.1983, c.268.

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

1. Section 1 of P.L.1983, c.268 (C.2A:154-5) is amended to read as follows:

**C.2A:154-5 Empowerment of federal law enforcement officers.**

1. The following persons employed as full-time law enforcement officers by the Federal Government, who are empowered to effect an arrest with or without warrant for violations of the United States Code and who are authorized to carry firearms in the performance of their duties, shall be empowered to act as an officer for the arrest of offenders against the laws of this State where the person reasonably believes that a crime of the first, second or third degree is or is about to be committed or attempted in his presence:

Federal Bureau of Investigation special agents;

United States Secret Service special agents;

Immigration and Naturalization Service special agents, investigators and patrol officers;

United States Marshal Service deputies;

Drug Enforcement Administration special agents;

United States Postal inspectors;

United States Postal police officers while in the performance of their official duties;

United States Customs Service special agents, inspectors and patrol officers;

United States General Services Administration special agents;

United States Department of Agriculture special agents;

Bureau of Alcohol, Tobacco and Firearms special agents;

Internal Revenue Service special agents and inspectors;

Department of the Interior special agents, investigators, park police and park rangers; and

Federal Reserve law enforcement officers while in the performance of their official duties.

2. This act shall take effect immediately.

Approved August 1, 2003.

## CHAPTER 140

AN ACT concerning the Prosecutors Part in the Public Employees' Retirement System of New Jersey and amending P.L.2001, c.366.

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

1. Section 2 of P.L.2001, c.366 (C.43:15A-156) is amended to read as follows:

**C.43:15A-156 Prosecutors to be member of Prosecutors Part; PERS credit.**

2. a. Notwithstanding the provisions of any other law, prosecutors shall be members of the Prosecutors Part, established pursuant to P.L.2001, c.366 (C.43:15A-155 et seq.), of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), and shall be subject to the same membership and benefit provisions as State employees, except as provided by P.L.2001, c.366. Membership in the retirement system shall be a condition of employment for service as a prosecutor. Any service credit which has been established in the Public Employees' Retirement System by a prosecutor prior to the effective date of this act shall be established in the Prosecutors Part without further assessment of cost to the prosecutor; provided, however, any service credit which has been established in the Public Employees' Retirement System by a member of the retirement system in any position prior to service as a county prosecutor, nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, shall be established in the Prosecutors Part without further assessment of cost to the prosecutor.

b. All outstanding obligations, such as loans, purchases and other arrearage, shall be satisfied by a prosecutor as previously scheduled for payment to the Public Employees' Retirement System.

2. This act shall take effect immediately.

Approved August 1, 2003.